

# **Small Donors, Fair Elections: The Changing Nature of Financing D.C. Elections**

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## **ABSTRACT**

The District of Columbia experienced its first full election cycle in the 2020 elections under its new small donor public financing program, known as the Fair Elections Program (FEP). The Fair Elections Program is a hybrid model consisting of an initial bloc grant of public funds to boost the campaigns of qualified candidates early in the election, followed with a 5-to-1 matching grant system for small donations for the remainder of the campaign. The small donor public financing program was adopted unanimously by the District Council in the wake of serious election scandals, and with specific objectives in mind: (i) Increase candidate participation and diversity; (ii) amplify the voices of small donors; (iii) increase donor diversity; and (iv) shift to whom elected officials are accountable. The results of the special, primary and general elections in 2020 indicate that the Fair Elections program has largely met these objectives.

### **A. Introduction: The Emergence of Fair Elections in the District of Columbia**

The financing of elections in the District of Columbia has long been a sordid affair, minimally regulated and frequently roiled in scandal. Elected officials in the District have been besieged by one campaign finance scandal after another, with special interests seeking favors and government contracts by laundering large campaign contributions and often concealing the true sources of the money from the public. Over just that last decade at least a half dozen D.C. Mayors and Councilmembers, and many more campaign aides, have been charged with serious misconduct in the handling of campaign finances. Some have been convicted and sentenced to prison. Others have faced sanctions or have seen their political careers destroyed.

“Politicians will say there’s a culture of corruption, and often people say it is rhetoric,” said Brian Weaver, a Democratic party activist, years ago. “But when it comes to D.C., there’s a culture of corruption that really exists. What gets passed off as politics as usual are huge ethical lapses.”<sup>2</sup>

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<sup>1</sup> This study is authored by Craig Holman, Ph.D., Government affairs lobbyist for Public Citizen, with research contributions by Kwame Newton, Research Analyst, Public Citizen. For full disclosure, Holman assisted in the drafting and passage of the Fair Elections Program of the District of Columbia.

<sup>2</sup> Paul Schwartzman and Mike DeBonis, “D.C.’s political corruption has deep roots,” Washington Post (June 9, 2012), available at: [https://www.washingtonpost.com/local/dcs-political-corruption-has-deep-roots/2012/06/09/gJQAqvL9QV\\_story.html](https://www.washingtonpost.com/local/dcs-political-corruption-has-deep-roots/2012/06/09/gJQAqvL9QV_story.html)

Recent corruption allegations involving Councilmember Jack Evans using of his official position to dole out government contracts in exchange for personal favors (including such favors as lucrative future employment for himself and an internship for his son) were just too much for the D.C. Council and voters. The Council voted unanimously, including with the vote of Evans, to enact a comprehensive small donor public financing program as well as a sweeping pay-to-play ethics package.<sup>3</sup>

The stated objectives of the Fair Elections Program of the District of Columbia include:

- Increasing candidate participation and diversity.
- Amplifying small donors and reducing the importance of large donors.
- Increasing civic engagement and donor diversity.
- Shifting the constituency base to whom elected officials are accountable.

The 2020 election cycle was the very first test of the District's new small donor public financing program. This study is an assessment of how well that program has met its objectives so far.

## **B. How The D.C. Fair Elections Programs Works**

The Fair Elections Program (FEP) of the District of Columbia is a hybrid voluntary public financing program for most elective District offices. The program was years in the making. The first iteration of the public financing program, which was not approved by the District Council, was a full public financing model in which qualified candidates would have received nearly all of their campaign budgets in a lump sum of public funds in exchange for forgoing private fundraising (otherwise known as "Clean Elections").

Subsequent Supreme Court decisions – such as *Arizona Free Enterprise Club PAC v. Bennett*,<sup>4</sup> which prohibited public financing programs from awarding additional funds to participating candidates facing big-spending opponents – rendered the Clean Elections model unattractive to many candidates. Participating candidates would be locked into a spending cap, unable to raise or spend any more money to address excessive spending by wealthier opponents.

The D.C. Fair Elections Coalition, consisting of more than 70 civic organizations, looked to the small donor public financing model of New York City. Eventually a hybrid model was developed, consisting of an initial bloc grant of public funds to boost the campaigns of qualified candidates early in the election, followed with a 5-to-1 matching grant system for small donations for the remainder of the campaign. The new Fair Elections Program model was approved unanimously by the D.C. Council on May 5, 2018, with even those Councilmembers at the heart of recent election scandals voting in support. The measure first took effect for the Special, Primary and General 2020 elections.

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<sup>3</sup> Despite unanimously approving both the campaign finance reforms and the ethics package, the Council has not yet agreed to fund the ethics package and so it remains dormant as of this writing.

<sup>4</sup> *Arizona Free Enterprise Club's Freedom Club PAC v. Bennett*, 564 U.S. 721 (2011).

The Fair Elections Program allows candidates for the office of Mayor, Attorney General, Council Chairman, At-Large and Ward Council, and At-Large and Ward State Board of Education to seek small donor public financing to fund their campaigns in exchange for accepting only small donations from individuals. The Fair Elections Program does not apply to such advisory positions as Advisory Neighborhood Commissions (ANCs). Contributions from corporations, labor unions, party committees, and PACs (other than small donor “People PACs”) are prohibited for participating candidates. Personal funds donated to the campaign from the candidate and the candidate’s immediate family are also strictly limited. FEP candidates must also agree to participate in at least one debate in a contested election for the office sought.

Candidates who seek certification to the Fair Elections Program must participate in a training session within 15 days of filing.

Only small contributions from in-district residents are matchable with public funds and count toward qualification to the program, though participating candidates may also seek unmatchable small dollar contributions from individuals outside the District.

Candidates seeking certification as participating candidates in the Fair Elections Program must obtain the following “qualified small dollar contributions” within the specified qualifying period:

- Mayor: 1,000 contributions of \$200 or less from D.C. residents, totaling at least \$40,000.
- Attorney General: 500 contributions of \$200 or less from D.C. residents, totaling at least \$20,000.
- Chairman of the Council: 500 contributions of \$200 or less from D.C. residents, totaling at least \$15,000.
- At-Large Councilmember: 250 contributions of \$100 or less from D.C. residents, totaling at least \$12,000.
- Ward Councilmember or At-Large member of the State Board of Education: 150 contributions of \$50 or less from D.C. residents, totaling at least \$5,000.
- Ward member of the State Board of Education: 50 contributions of \$20 or less from D.C. residents, totaling at least \$1,000.

The “qualifying period” begins from the day after the last general election for the office sought and ends on the last day to file nominating petitions. The qualifying period for special elections begins the day the special election is called and ends on the last day to file nominating petitions.

Personal funds of the candidate or candidate’s immediate family for certified FEP candidates may not exceed \$5,000 for Mayor or \$2,500 for Attorney General, Council and Board of Education.

A candidate who has been certified as qualifying for the Fair Elections Program, and who has qualified for the ballot, receives an initial bloc grant payment of \$160,000 for Mayor, \$40,000 for Attorney General and Council seats, and \$10,000 for Board of Education positions. Base payments are only made in contested elections. The Office of Campaign Finance issues these base payments in two separate bloc grants to help monitor compliance.

Small dollar contributions from in-district residents (which are set at the same levels as qualifying small dollar contributions), are then matched on a 5-to-1 basis with public funds. The total amount of public funds a participating candidate may receive is capped at 110 percent of the average expenditures of winning candidates for the same office in the previous four election cycles for Mayor and Attorney General, and the previous two elections cycles for Council and Board of Education.

Participating FEP candidates may receive match payments following monthly reporting periods through the election year. These reports must be filed electronically. Cash contributions are also matchable if the proper identification form is submitted.

Surplus funds must be returned to the Fair Elections Program fund, and any equipment purchased by the campaign is to be donated to any eligible charity in which the candidate or candidate's immediate family holds no financial interest following the election or decertification from the program.

### **C. Findings: A Robust Performance**

In its very first election cycle, the Fair Elections Program (FEP) of the District of Columbia exceeded expectations. Most public financing programs across the nation take several election cycles to develop and have a dramatic impact on the elections. Not so in D.C.

By most standards of comparison, FEP in the District's 2020 election cycle appears to have been a game-changer. As documented in this study, the Fair Elections Program met or exceeded most of its intended goals, which include:

- Encouraging a high participation rate among District candidates.
- Expanding candidate diversity.
- Providing participating candidates with sufficient funds to wage competitive campaigns.
- Amplifying small donors in the electoral process.
- Reducing the importance of fundraising in District elections.

In the 2020 election cycle in D.C., due in no small part to the small-donor public financing program, significantly more candidates ran for public office than in previous cycles. And, surprisingly, more candidates opted into the public financing program than chose to conduct a traditionally private financing campaign, including two incumbents.<sup>5</sup> Among the three dozen FEP participating candidates, seven won their elections.<sup>6</sup> Furthermore, FEB candidates raised and spent just as much campaign funds as their traditional counterparts, all the while relying on

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<sup>5</sup> The two incumbent who participated in the public financing program in the 2020 election cycle include: Ward 8 Councilmember Trayon White, and Ward 2 Councilmember Jack Evans.

<sup>6</sup> The seven winning FEP candidates included: D.C. Council At-Large candidate Christina Henderson, Ward 4 Council candidate Janeese Lewis George, Ward 8 Council candidate Trayon White, Ward 2 Board of Elections candidate Allister Chang, Ward 4 Board of Elections candidate Frazier O'Leary, Ward 7 Board of Elections candidate Eboni Thompson, and Ward 8 Board of Elections candidate Carlene Reid.

an average small donor base in the neighborhood of \$20 to \$50 per donor, depending on office sought.

### ***1. Candidate Participation Rate***

As shown in Figure 1, more than half of the candidates who filed to run for public office in the District's 2020 elections registered for the FEP program. Several candidates who registered either as FEP candidates or traditional candidates did not qualify for the ballot or meet the certification threshold for public financing.

**Figure 1.**  
**Initial Filings for Candidacy**

<b>Total number of FEP registrants</b>		<b>Total number of Traditional registrants</b>	
General Election	31	General Election	19
Primary Election	18	Primary Election	25
Special Election	6	Special Election	2
<b>TOTAL</b>	<b>55</b>	<b>TOTAL</b>	<b>46</b>

Source: D.C. Office of Campaign Finance

Like most jurisdictions, the ballot access requirements in the District of Columbia then weed out less serious candidates from the ballot. For access to the ballot, a candidate must file a notarized declaration of candidacy, an affidavit of qualifications, and a nominating petition with the D.C. Board of Elections at least 90 days before the election. For party candidates that is 90 days before the primary election; for minor party and independent candidates that is 90 days before the general election. Depending on the level of office, nominating petitions must be signed by anywhere between 200 to 3,000 registered voters.

As shown in Figure 2, the final tally of candidates that qualified for ballot access in the 2020 election was tied between FEP candidates and traditional candidates at 44 each.

**Figure 2.**  
**Registrants Qualifying for the Ballot**

<b>Total number of FEP registrants</b>		<b>Total number of Traditional registrants</b>	
General Election	25	General Election	28
Primary Election	14	Primary Election	14
Special Election	5	Special Election	2
<b>TOTAL</b>	<b>44</b>	<b>TOTAL</b>	<b>44</b>

Source: D.C. Office of Campaign Finance

But the ultimate final winnowing of serious versus frivolous candidates are those who actively raise and spend money to promote their campaigns. For traditional candidates this simply means organizing a campaign organization and soliciting funds for the purpose of making campaign expenditures. For FEP candidates this means raising enough Qualified Small Dollar Contributions to pass the threshold for certification to receive public matching funds. To qualify for public financing for Council-At-Large candidacy, FEP registrants must raise at least \$12,000

in small dollar contributions of \$250 or less from District residents; for Ward Council and At-Large Board of Education candidacy, registrants must raise at least \$5,000 in small dollar contributions of \$150 or less; and for Ward Board of Education candidacy, registrant must raise at least \$1,000 in small dollar contributions of \$50 or less.

As shown in Figure 3, that brought the final tally of actively financed candidates who qualified for the ballot to a 36-to-29 majority of FEP candidates over traditional candidates.

**Figure 3.**  
**Financially-Certified and Active Candidates on the Ballot**

<b>Total number of FEP registrants</b>		<b>Total number of Traditional registrants</b>	
<b><i>General Election</i></b>		<b><i>General Election</i></b>	
At-Large Council	9	At-Large Council	10
Ward 2 Council	2	Ward 2 Council	2
At-Large Board of Election	1	At-Large Board of Election	4
Ward Board of Election	8	Ward Board of Election	3
<b><i>Primary Election</i></b>		<b><i>Primary Election</i></b>	
Ward Council	12	Ward Council	9
<b><i>Special Election</i></b>		<b><i>Special Election</i></b>	
Ward 2 Council	4	Ward 2 Council	1
<b>TOTAL</b>	<b>36</b>	<b>TOTAL</b>	<b>29</b>

Source: Holman and Newton, Public Citizen

Consequently, the candidate participation rate in the D.C. Fair Elections Program in its first election cycle was 65 percent of all active and certified candidates for District public office – a very high participation rate compared to early experiments with public financing in most other jurisdictions.

## ***2. Candidate Diversity***

Significantly more candidates ran for public office in the D.C. 2020 election than in recent election cycles. According to a report on the impact of the D.C. Fair Elections Program by the D.C. Auditor, there were 25 candidates for two At-Large seats on the Council and 12 for the ward 2 Council seat in 2020, more than at any point in the last decade. From 2012 to 2020 there was an increase of 33 candidates seeking public office in the District. Since 2012, the number of candidates running for D.C. Council seats alone remained relatively constant, reaching a high point of 44 candidates in 2014. In 2020, there were 53 candidates on the ballot for D.C. Council.<sup>7</sup>

Different factors may have played a role in boosting candidate competition, such as the recent corruption scandals, but the small donor public financing program certainly appears to be a

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<sup>7</sup> Kathleen Patterson, District of Columbia Auditor, Fair Elections Program Amplifies “Voices of Everyday Voters,” (Aug. 2, 2021), available at: <https://dcauditor.org/report/fair-elections-program-amplifies-voices-of-everyday-voters/>

significant factor. Fair Elections appears to not only have boosted the number of candidates, but also enhanced candidate diversity.

As shown in Figure 4, the total number of candidates, and candidates of color as well as by gender, have remained fairly similar in number from comparable elections in 2016 through 2018. Suddenly, the total number of candidates and candidate diversity increases significantly in 2020 primary and general elections.

**Figure 4.**

**Candidate Diversity in D.C. Council and Board of Election Races  
2016 – 2020  
(race and gender overlap)**

<b>Election</b>	<b>Women</b>	<b>Person of Color</b>	<b>White</b>	<b>TOTAL CANDIDATES</b>
<b>2016 Primary Election</b>	<b>5</b>	<b>15</b>	<b>4</b>	<b>19</b>
<b>2016 General Election</b>	<b>10</b>	<b>15</b>	<b>8</b>	<b>23</b>
<b>2018 Primary Election</b>	<b>10</b>	<b>12</b>	<b>9</b>	<b>21</b>
<b>2018 General Election</b>	<b>12</b>	<b>14</b>	<b>14</b>	<b>28</b>
<b>2020 Primary Election</b>	<b>10</b>	<b>19</b>	<b>9</b>	<b>28</b>
<b>2020 General Election</b>	<b>16</b>	<b>38</b>	<b>15</b>	<b>53</b>

Source: Holman, Public Citizen

The Fair Elections Program has enabled some candidates to run for public office who otherwise lack the resources in a traditional financing environment. Persons who may not be wealthy, or lack being part of a network of wealthy interests, now find it possible to find a large enough group of small donors to pass the threshold to qualify for public financing, and thus wage competitive campaigns even against wealthier opponents.

Of course, this does not mean that anyone could run for office. Participating candidates must still demonstrate a significant breadth of community support to qualify for the public financing program, but they no longer need rely on the wealthy to do so. Community leaders and activists from all walks of life who are respected within the community are given an opportunity to run for public office. This is not only intuitively the case; it can be seen in the numbers.

In personal interviews with candidates who participated in the D.C. Fair Elections Program in 2020, D.C. Auditor Kathleen Patterson found this confirmed by many of the candidates themselves. The Fair Elections Program provided an opportunity that was not previously available. One candidate noted that “[FEP funding] really jumpstarted my campaign. I don’t know where I would be if the program wasn’t in place.” Another added “Instead of focusing on a few people who would give a large chunk of money, I focused on small donors. It pushed me to

think about a broader diversity of people to solicit from and it really focused my efforts on D.C.”<sup>8</sup>

### **3. Competitive Funding**

Not only did FEP candidates outnumber the traditionally-financed candidates, FEP candidates tended to outraise and outspend the traditional candidates and, in no small part, enjoyed greater electoral success. Seven FEP candidates ultimately won their election to public office, taking three of the six Council races and four of the five Board of Education races in the 2020 election. Five traditionally-financed candidates won their elections, if one counts Brook Pinto twice for winning both her special election and the general election for the same Council seat.

The seven winning FEP candidates included: D.C. Council At-Large candidate Christina Henderson, Ward 4 Council candidate Janeese Lewis George, Ward 8 Council candidate Trayon White, Ward 2 Board of Elections candidate Allister Chang, Ward 4 Board of Elections candidate Frazier O’Leary, Ward 7 Board of Elections candidate Eboni Thompson, and Ward 8 Board of Elections candidate Carlene Reid.

The five winning traditional candidates included: Ward 2 Council candidate Brook Pinto, once in the special election and again in the general election; At-Large Council candidate Robert White; Ward 7 Council candidate Vincent Gray; and At-Large Board of Education candidate Jacque Patterson.

In no small part, the Fair Election Program candidates did so well because the public financing program provided these candidates with all the financial resources necessary to wage competitive campaigns. Frequently, FEP candidates outraised and outspent their non-participating opponents who turned instead to large campaign contributions from wealthy individuals, corporations and PACs.

As shown in Figure 5 and Figure 6, there almost always was no financial advantage in eschewing small donors under the public financing program and turning instead to large donors in the Traditional-financing system. FEP candidates held their ground in terms of campaign money, even while soliciting only small donations from in-district individuals.

**Figure 5.**

#### **Overall Contributions and Expenditures by Traditionally-Financed Candidates, 2020 General Election**

<b>Candidate</b>	<b>Office</b>	<b>Contributions</b>	<b>Expenditures</b>	<b>Win</b>
Kathy Henderson	At-Large Council	\$3,130.00	\$1,953.37	
Rick Murphree	At-Large Council	\$7,524.33	\$44,355.52	
Marya Pickering	At-Large Council	\$30,073.91	\$30,073.91	
Marcus Goodwin	At-Large Council	\$434,020.83	\$434,020.83	

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<sup>8</sup> Ibid.

Michangelo Scruggs	At-Large Council	\$1,568.46	\$1,523.93	
Calvin Gurley	At-Large Council	\$1,479.00	\$1,479.00	
Claudia Baragan	At-Large Council	\$5,134.05	\$4,790.83	
Alex Pedro	At-Large Council	\$51,165.00	\$43,344.09	
Robert White	At-Large Council	\$419,528.27	\$86,556.46	Won
Eric Rogers	At-Large Council	\$1,241.88	\$2,588.88	
<b>SUM</b>		<b>\$954,865.73</b>	<b>\$650,686.82</b>	
<b>AVERAGE</b>		<b>\$95,486.57</b>	<b>\$65,068.68</b>	
Brooke Pinto	Ward 2 Council	\$186,047.40	\$201,397.04	Won
Peter Bolton	Ward 2 Council	\$3,311.33	\$3,311.33	
<b>SUM</b>		<b>\$189,358.73</b>	<b>\$204,708.37</b>	
<b>AVERAGE</b>		<b>\$126,239.15</b>	<b>\$102,354.19</b>	
Jacque Patterson	At-Large BOE	\$31,359.19	\$28,383.84	Won
Ravi Perry	At-Large BOE	\$10,714.57	\$8,660.25	
Chris Martin	At-Large BOE	\$12,094.22	\$41,281.98	
Dorothy Douglas	At-Large BOE	\$1,920.00	\$2,226.30	
<b>SUM</b>		<b>\$56,087.98</b>	<b>\$80,552.37</b>	
<b>AVERAGE</b>		<b>\$14,022.00</b>	<b>\$20,138.09</b>	
Sarah Mehrotra	Ward 2 BOE	\$1,845.39	\$6,821.70	
Christopher Etesse	Ward 2 BOE	\$2,526.00	\$2,519.22	
Lajoy Johnson-Law	Ward 8 BOE	\$16,796.84	\$16,755.66	
<b>SUM</b>		<b>\$21,168.23</b>	<b>\$26,096.58</b>	
<b>AVERAGE</b>		<b>\$7,056.08</b>	<b>\$8,698.86</b>	

Source: Holman and Newton, Public Citizen

**Figure 6.**

**Overall Public Funds and Expenditures by FEP Candidates,  
2020 General Election**

<b>Candidate</b>	<b>Office</b>	<b>Public Funds</b>	<b>Expenditure</b>	<b>% Public Funds of Expenditure</b>	<b>Win</b>
Chander Jayaraman	At-Large Council	\$187,740.00	\$216,107.38	87%	
Christina Henderson	At-Large Council	\$305,665.00	\$364,953.06	84%	Won
Ed Lazere	At-Large Council	\$348,639.00	\$506,669.98	69%	
Franklin Garcia	At-Large Council	\$111,960.00	\$124,718.04	90%	
Jeanne Lewis	At-Large Council	\$136,355.00	\$178,658.47	76%	
Markus Batchelor	At-Large Council	\$170,045.00	\$116,664.91	146%	
Monica Palacio	At-Large Council	\$169,835.00	\$187,491.94	91%	
Vincent Orange	At-Large Council	\$202,435.90	\$240,041.70	84%	
William Merrifield	At-Large Council	\$171,675.00	\$195,748.44	88%	
<b>SUM</b>		<b>\$1,804,349.90</b>	<b>\$2,131,053.92</b>		
<b>AVERAGE</b>		<b>\$200,483.32</b>	<b>\$236,783.77</b>		
Martin Fernandez	Ward 2 Council	\$83,172.00	\$95,803.61	87%	
Randy Downs	Ward 2 Council	\$146,875.00	\$115,771.91	127%	

<b>SUM</b>		<b>\$230,047.00</b>	<b>\$211,575.52</b>		
<b>AVERAGE</b>		<b>\$115,023.50</b>	<b>\$105,787.76</b>		
Mysiki Valentine	At-Large BOE	\$31,877.00	\$45,352.51	70%	
<b>SUM</b>		<b>\$31,877.00</b>	<b>\$45,352.51</b>		
<b>AVERAGE</b>		<b>\$31,877.00</b>	<b>\$45,352.51</b>		
Allister Chang	Ward 2 BOE	\$21,550.00	\$21,627.28	100%	Won
James Harnett	Ward 2 BOE	\$17,285.00	\$13,457.50	128%	
Frazier O’Leary	Ward 4 BOE	\$11,250.00	\$13,291.01	85%	Won
Dontrell Smith	Ward 7 BOE	\$24,006.00	\$31,232.20	77%	
Eboni Thompson	Ward 7 BOE	\$24,006.00	\$30,990.46	77%	Won
Karen Williams	Ward 7 BOE	\$18,100.00	\$21,579.85	84%	
Carlene Reid	Ward 8 BOE	\$21,250.00	\$26,980.48	79%	Won
Ryan Washington	Ward 8 BOE	\$15,850.00	\$17,068.88	93%	
<b>SUM</b>		<b>\$153,297.00</b>	<b>\$176,227.66</b>		
<b>AVERAGE</b>		<b>\$19,162.13</b>	<b>\$39,161.70</b>		

Source: Holman and Newton, Public Citizen

The sheer lack of gaining a financial advantage by opting for traditional campaign financing raises the obvious question: Why opt out of the Fair Elections Program? The results of the 2020 election may well encourage an even higher participation rate, including by incumbents, in future election cycles.

While there were significant independent expenditures of nearly \$700,000 in the District’s 2020 election cycle – dominated mostly by two independent expenditure groups, Democrats for Education Reform and the D.C. Association of Realtors – these independent expenditures were made on behalf of both FEP candidates and traditionally-financed candidates.<sup>9</sup> At least in the 2020 election cycle, outside spending did not play a major role in disturbing the balance between publicly-financed candidates and traditional candidates.

The cost of the entire Fair Elections Program in the 2020 election was also very affordable, despite the high participation rate and generous grants and matching payments given to participating candidates. Total base grants amounted to \$1.1 million and total matching payments amounted to \$2.8 million, costing the District a grand total of \$3.9 million – a fraction of the District’s annual \$16.9 billion budget.<sup>10</sup>

#### ***4. Donor Diversity***

While the Fair Elections Program provided comparable spending levels between participating and non-participating candidates, that comparability does not carry over into the donor bases for the two types of candidates. Contributions to FEP candidates tend to be significantly smaller than

<sup>9</sup> DC Office of Campaign Finance, Post-Election Report, Part I (March 2021), available at: [https://ocf.dc.gov/sites/default/files/dc/sites/ocf/release\\_content/attachments/Part1\\_0.pdf](https://ocf.dc.gov/sites/default/files/dc/sites/ocf/release_content/attachments/Part1_0.pdf)

<sup>10</sup> D.C. Office of Campaign Finance, “Fair Elections Candidates Payment and Information,” available at: <https://fairelections.ocf.dc.gov/public/candidatepayment>

contributions to traditionally-financed candidates, originate exclusively from individuals rather than corporations, union and PACs, and are somewhat more likely to come from in-district residents.

As intended by the small donor public financing program, participating candidates complied with strict contribution limits from individuals and refused donations from corporations, unions and PACs. Participating candidates could not accept contributions from individuals in excess of \$100 per election for At-Large Council candidates; \$50 per election for Ward Council candidates and At-Large Board of Education candidates, and \$20 per election for Ward Board of Education candidates. These small donations will be matched in the public financing program only for those coming from in-district residents (though participating candidates may accept small donations from individuals outside the district as well).

Traditionally-financed candidates may accept considerably larger donations from individuals, corporations, unions and PACs. The contribution limits for traditional candidates range from \$1000 per election for At-Large Council candidates, \$500 per election for Ward Council and At-Large Board of Education candidates, and \$200 for Ward Board of Education candidates.

As shown in Figure 7 and Figure 8, the emphasis on small donations in the Fair Elections Program has resulted in a dramatic difference in the size of average donations between FEP candidates and traditional candidates. Depending on the level of office, the amount of the average contribution to traditional candidates is at least four to five times greater than for FEP candidates, sometimes even more than that. The average business contribution to a traditional candidates can be 20-times the average amount from individuals given to FEP candidates.

**Figure 7.**

**Average Donation Accepted from Individuals by FEP Candidates,  
2020 Primary and General Elections**

<b>Election</b>	<b>Candidate</b>	<b>Amount of Donation</b>	<b># of Donations</b>	<b>Average Donation</b>
<b>General Election</b>	<b>At-Large Council</b>			
	Chander Jayaraman	\$37,492	600	\$62.50
	Christina Henderson	\$77,235	1,258	\$61.40
	Ed Lazere	\$161,142	3,557	\$45.30
	Franklin Garcia	\$19,775	464	\$42.80
	Jeanne Lewis	\$37,781	673	\$56.14
	Markus Batchelor	\$39,322	906	\$43.40
	Monica Placio	\$33,667	579	\$58.15
	Vincent Orange	\$43,819	696	\$62.95
	William Merrifield	\$39,015	836	\$46.67
	<b>TOTAL</b>	<b>\$489,248</b>	<b>9,569</b>	<b>\$51.13</b>
	<b>Ward 2 Council</b>			
	Martin Fernandez	\$13,403	415	\$32.30
	Randy Downs	\$27,605	729	\$37.87
	<b>TOTAL</b>	<b>\$41,008</b>	<b>1,144</b>	<b>\$35.85</b>
	<b>At-Large BOE</b>			
	Mysiki Valentine	\$16,086	559	\$28.78
	<b>TOTAL</b>	<b>\$16,086</b>	<b>559</b>	<b>\$28.78</b>
	<b>Ward BOE</b>			

	Allister Chang	\$3,470	181	\$19.17
	James Harnett	\$2,517	144	\$17.48
	Frazier O’Leary	\$2,810	146	\$19.25
	Dontrell Smith	\$6,624	337	\$19.65
	Eboni Thompson	\$8,720	451	\$19.33
	Karen Williams	\$2,086	108	\$19.31
	Carlene Reid	\$6,289	325	\$19.35
	Ryan Washington	\$2,115	113	\$18.72
<b>TOTAL</b>		<b>\$34,631</b>	<b>1,805</b>	<b>\$19.19</b>
<b>Primary Election</b>	<b>Ward Council</b>			
	Jack Evans	\$12,770	270	\$47.30
	John Fanning	\$14,819	356	\$41.63
	Jordan Grossman	\$61,325	1,232	\$49.78
	Kishan Putta	\$32,301	921	\$35.07
	Patrick Kennedy	\$30,181	644	\$46.86
	Yelin Zhang	\$8,856	254	\$34.87
	Janeese George	\$70,141	1,813	\$38.69
	Anthony Green	\$14,821	474	\$31.27
	Kelvin Brown	\$11,913	383	\$31.10
	Michael Austin	\$9,845	271	\$36.33
	Trayon White	\$13,741	336	\$40.89
<b>TOTAL</b>		<b>\$280,713</b>	<b>6,954</b>	<b>\$40.37</b>
<b>Special Election</b>	<b>Ward 2 Council</b>			
	John Fanning	\$7,505	204	\$36.79
	Jordan Grossman	\$12,624	309	\$40.85
	Kishan Putta	\$12,492	346	\$36.10
	Patrick Kennedy	\$9,640	209	\$46.12
<b>TOTAL</b>		<b>\$42,261</b>	<b>1,068</b>	<b>\$39.57</b>

Source: Holman, Public Citizen

**Figure 8.**

**Average Donation to Traditionally-Financed Candidates,  
2020 Primary and General Elections**

<b>Office</b>	<b>Average Individual Donation</b>	<b>Average Organization/Business Donation</b>
At-Large Council	\$195.06	\$663.18
Ward 2 Council	\$194.51	\$475.11
Ward 4 Council	\$238.71	\$415.64
Ward 7 Council	\$268.31	\$418.06
Ward 8 Council	\$92.84	N/A
At-Large BOE	\$83.50	\$270.00
Ward 2 BOE	\$78.41	N/A
Ward 8 BOE	\$57.82	\$175.00
Ward 2 Special Election	\$340.12	N/A

Source: D.C. Office of Campaign Finance

The mere fact that the Fair Elections Program prohibits participating candidates from accepting contributions from corporations, labor unions and PACs in itself means that the donor pool for

FEP candidates is fundamentally different than the donor pool for traditional candidates. Subsequent research strongly suggests that even in terms of individual contributors this transition from large donors to small donors likely has also fundamentally changed the donor pool in terms of economic status, gender and race.

Large donors, especially in state and local elections, are far more likely to lobby elected officials after the election to further their particular interests in public policies.<sup>11</sup> Furthermore, research on the impact of New York City's small donor public financing program shows that small donors tend to have lower median incomes and include a higher percentage of non-whites.<sup>12</sup> Similar results have been found for the small donor qualifying pool underlying that city's publicly-financed voucher program.<sup>13</sup>

Extensive research of the traditional donor class in the District of Columbia prior to the 2020 elections found that larger contributors are decisively wealthier, more male and white than both the general population and smaller donors. A third of small donors (\$1-\$25) had an income below \$60,000 compared to just 12 percent of the largest donors (over \$1,000). Among the small donor pool, women and men were equally represented. But 69 percent of large donors were men. Among mayoral donors, 43 percent who gave less than \$50 were African-American, but only 27 percent of those who gave more than \$500 were African-American. A comparable racial divide was found for small versus large donors in Council races.<sup>14</sup>

D.C.'s Fair Elections Program has vastly increased the role of small donors in District elections and reduced the dominance of large donors and business interests in the donor pool. Evidence suggests that it has likely also enhanced the economic, gender and racial diversity of the new donor class.

The Fair Elections Program has also somewhat enhanced the role of in-district residents in the overall donor pool. It is worth noting, however, that most D.C. candidates historically as well as today have heavily relied on donations from D.C. residents more so than from donors outside the District. In the 2020 elections, both FEP candidates and traditional candidates received the bulk of their campaign money from D.C. residents. Nevertheless, FEP candidates exerted a greater effort to solicit from D.C. residents in both Council and Board of Education races.

As shown in Figure 9, FEP candidates enjoyed a notable advantage in fundraising from in-district residents.

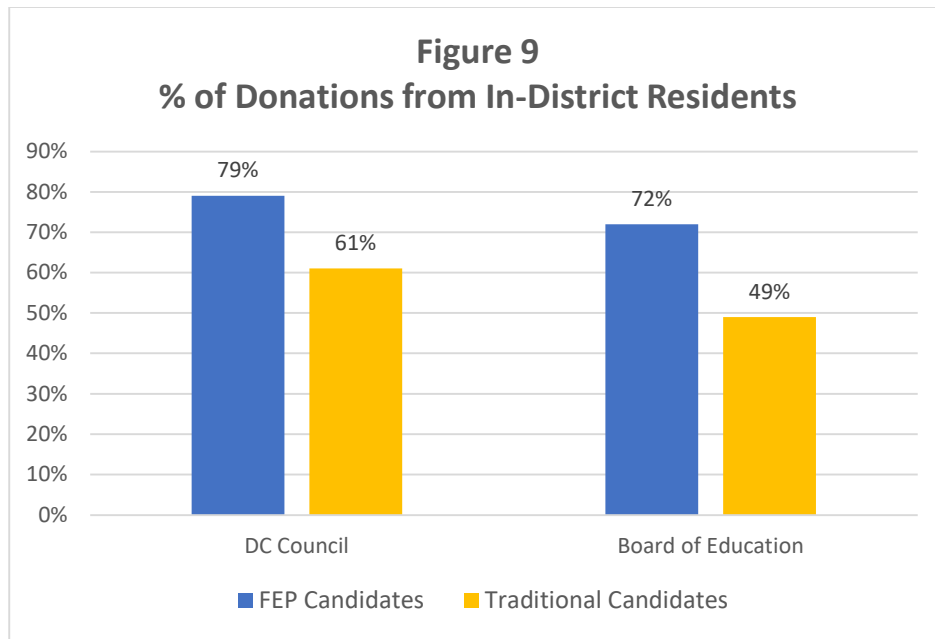
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<sup>11</sup> Michael Malbin, Peter Bruscoe and Brendan Glavin, "Small Donors, Big Democracy: New York City's Matching Funds as a Model for the Nation and States," *Election Law Journal* (March 2012), available at: <https://www.liebertpub.com/doi/10.1089/elj.2010.0099>

<sup>12</sup> Ibid.

<sup>13</sup> Brian McCabe and Jennifer Heerwig, "Diversifying the Donor Pool: How Did Seattle's Democracy Voucher Program Reshape Participation in Municipal Campaign Finance?" *Election Law Journal* (Dec. 2019), available at: <https://www.liebertpub.com/doi/10.1089/elj.2018.0534>

<sup>14</sup> Sean McElwee, Brian Schaffner and Jesse Rhodes, *D.C.'s White Donor Class*, Report by Demos (2016), available at: <https://www.demos.org/research/dcs-white-donor-class-outsized-influence-diverse-city>



Source: Kathleen Patterson, D.C. Auditor

It is also worth noting the change in self-funding by candidates presented by the D.C. Fair Elections Program. It is reasonable to allow candidates, especially those with limited networks to the donor class, some leeway in kick-starting their campaigns with some self-funding. But it is not reasonable to allow wealthy candidates to be awarded public funds when they have the personal resources largely to self-finance their campaigns. Consequently, the Fair Elections Program sets a \$2,500 cap on personal funds from a candidate or candidate's immediate family. (\$5,000 for candidates for mayor.)

Political science research has well documented that self-funded candidates fare poorly at the polls.<sup>15</sup> Nevertheless, self-funded wealthy candidates raise the financial stakes for all competitors and certainly are not entitled to tapping into the public dole.

The Fair Elections Program began with a rocky start on the self-funding limitation when the Office of Campaign Finance erroneously advised one participating candidate that the limit applied individually to each family member. That advice was promptly retracted.

As shown in Figure 10, there are occasional but significant gaps on self-funding between FEP candidates and traditional candidates. The low threshold is mandated for FEP candidates, but the lower self-funding by FEP candidates could also reflect their economic status. Though some traditionally-funded candidates enjoy considerably higher levels of self funding, the results of the 2020 elections does not suggest self financing was a major issue nor provided much of an advantage. This may become a greater issue in the upcoming 2022 mayoral election.

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<sup>15</sup> Jennifer Steen, *SELF-FINANCED CANDIDATES IN CONGRESSIONAL ELECTIONS*, Ann Arbor, University of Michigan Press (2009).

**Figure 10.**

**Total Contributions from Candidate and Immediate Family,  
2020 primary and General Elections**

<b>Election</b>	<b>Office</b>	<b>Total FEP Candidate Contributions</b>	<b>Total Traditional Candidate Contributions</b>
<b>General Election</b>	At-Large Council	\$7,066	\$80,010
	Ward 2 Council	\$985	\$0
	At-Large BOE	\$0	\$6,002
	Ward 2 BOE	\$290	\$609
	Ward 4 BOE	\$20	\$0
	Ward 7 BOE	\$240	\$0
	Ward 8 BOE	\$376	\$1,294
<b>Primary Election</b>	At-Large Council	\$0	\$9,503
	Ward 2 Council	\$14,696	\$22,460
	Ward 4 Council	\$5,015	\$53,708
	Ward 7 Council	\$20	\$36
	Ward 8 Council	\$1,351	\$61,643
<b>Special Election</b>	Ward 2 Council	\$85	\$2,000

Source: D.C. Office of Campaign Finance

#### **D. Potential Problems and Room for Improvement**

Perhaps the single greatest concern of any public financing program is that public dollars may be wasted supporting frivolous candidates. As a result, the threshold for qualifying for public funds by demonstrating a viable level of public support is often set appropriately high. That appears to be the case for D.C.'s Fair Elections Program as well. Fifty-six candidates sought public funds to run in either a primary or general election in 2020, but only 36 of these candidates could muster enough small donor contributions within the limited time period to qualify for the program. Nearly all of those candidates continued to work hard through the course of the election waging viable campaigns.

However, there was one exception: Renee Bowser for the Ward 4 Council seat in the 2020 primary election. Bowser (not related to Mayor Muriel Bowser) is fairly well connected politically in the District, serving seven terms as Advisory Neighborhood Commissioner in Petworth and as a Ward 4 Democratic State Committee member. But she is also somewhat of a perennial candidate for the Ward 4 Council seat, having lost five times prior to the 2020 election.<sup>16</sup>

Bowser decided to run again for a sixth time in the 2020 primary election, but entered the race late, lagging far behind her opponents who have been on the campaign trail for at least a month already. Nevertheless, she enlisted the consulting services of 51 Strategies, LLC, to help gather

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<sup>16</sup> Rachel Kurzius, "A Bowser (No Not That Bowser) Throws Her Hat Into the Ring for Ward 4 Seat," DCist (Dec. 5, 2019), available at <https://dcist.com/story/19/12/05/a-bowser-no-not-that-bowser-throws-her-hat-into-the-ring-for-ward-4-seat/>

the qualifying contributions. 51 Strategies provided its services on an unpaid charge system, allowing Bowser to rack up a debt of \$15,409 before she even qualified for the public financing program. She quickly raised enough small donor qualifying contributions to qualify as an FEP candidate and was awarded the first half \$20,000 base payment from the District on January 21, 2020, along with another \$36,975 in matching payments. Bowser raised some additional matching funds in the early stages of the campaign acquiring a total of \$58,400 in public funds but, facing insurmountable odds, Bowser stopped campaigning and fundraising altogether the following month<sup>17</sup> and formally withdrew from the race in March. Campaign finance records indicate she received a large check in public funds at the beginning of the month and deposited the check, which effectively eliminated her debts. She received a small matching fund check near the end of the same month but declined to cash the check since she was terminating the campaign. In the end, however, she collected enough public funds to pay off her campaign debt to 51 Strategies, and closed the early reporting period with \$15,940 cash-on-hand.

The D.C. Office of Campaign Finance issued an Order Revoking Certification on June 30, 2020, seeking a return of the \$15,940 surplus in Bowser's campaign account. She was also legally obligated to donate any equipment purchased by the campaign to charity, but it is unclear whether there were any such purchases.

There is no indication this was a deliberate effort to defraud the Fair Elections Program. But it was not an expense of public funds envisioned under the Fair Elections Program.

The Office of Campaign Finance should have played a more proactive role in addressing this aberrant case and others that may arise in the future. The qualification threshold for participation in the Fair Elections Program appears to be sufficiently strenuous and need not be adjusted at this point. But when it became evident that Bowser was no longer seeking election, particularly when she indicated on an early campaign finance filing that the campaign was hesitant to cash the matching fund check, OCF should have stepped in at that point and ended, if not recouped, the matching fund payments.

The Fair Elections Program specifies that any donation to charity of equipment purchased by the campaign, must be donated to a charity in which neither the candidate nor any immediate family member has a financial interest. Again, there is no evidence that Bowser had a financial stake in 51 Strategies, but that type of restriction should be applied to the use of public funds by qualified candidates across the board. FEP candidates should not be allowed to expend public funds on any business or service in which the candidate or an immediate family member has a financial interest.

Finally, some FEP candidates complained about the reporting process. In the 2020 election cycle, the D.C. Office of Campaign Finance reporting portal for FEP candidates was not compatible with large donation platforms, such as ActBlue. Candidates were required to input the data manually in a time-consuming manner. OCF should seek to improve its reporting portal,

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<sup>17</sup> Keith Ivey, "Map of DC Contributors: DC Campaign Contributions 2020 Council Ward 4," DCGeekery (Oct. 29, 2020), available at: <https://dcgeekery.com/dc-campaign-finance/2020/council-ward-4>

especially since FEP candidates are required to report many more donations since these are small donations.<sup>18</sup>

## **E. Conclusion**

In its first full election cycle in 2020, the Fair Elections Program (FEP) of the District of Columbia has shown impressive results in achieving its stated objectives of (i) increasing candidate participation and diversity; (ii) enhancing the voices of small donors; (iii) increasing donor diversity; and (iv) shifting the donor base to whom elected officials are held accountable.

More candidates ran for the offices of D.C. Council and Board of Education in the 2020 elections than in any recent election cycle. Furthermore, the candidate participation rate in the D.C. Fair Elections Program in its first election cycle was 65 percent of all active and certified candidates for District public office – a very high participation rate compared to early experiments with public financing in most other jurisdictions.

Not only did FEP candidates outnumber the traditionally-financed candidates, FEP candidates tended to outraise and outspend the traditional candidates and, in no small part, enjoyed greater electoral success. Seven FEP candidates ultimately won their election to public office as opposed to five traditionally-financed candidates.

Small donors became the primary donor base, displacing the traditional reliance on large donations from wealthy individuals, corporations, unions and PACs. These small donors are somewhat more likely to be in-district donors. Earlier research of who are these small donors also suggests small donors in the District tend to be more racially diverse and less wealthy than traditional large donors.

Given that FEP candidates generally raise and spend the same amounts as traditional candidates, and have enjoyed a solid track record at the polls, candidates may be even more inclined to participate in the small donor public financing program in the upcoming 2022 elections and beyond.

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<sup>18</sup> Kathleen Patterson, DC Auditor, op. cit.