Florida State University

MIAMI-DADE COUNTY’S ELECTION CAMPAIGN FINANCE
TRUST FUND:
An Analysis of Policy Options

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EXECUTIVE SUMMARY

In 2001, Miami-Dade County created the Election Campaign Finance Trust Fund (Trust Fund). The purpose of the Trust Fund is to encourage political participation, promote inclusion and reduce the influence of money in the county elections process by distributing public funds to eligible county level candidates, while simultaneously requiring that those candidates adhere to campaign contribution and expenditure limits.

The 2004 election cycle saw an unprecedented level of participation in the program. Along with that heightened participation came a number of cases of illegal activity, the aim of which was to fraudulently qualify candidates for public funds. After several months of discussion and debate on how to resolve these issues, the Miami-Dade Board of County Commissioners has begun to consider a number of possible solutions. Further compounding the issue is the fact that the Trust Fund was formed at the instruction of the citizens of Miami-Dade County, who approved its creation via ballot initiative in 2000.

This report addresses the recent misuse of the Trust Fund. Three policy options are presented and reviewed as possible solutions: not changing the program, implementation of a list of recommendations produced by the Miami-Dade Inspector General, and elimination of the program. Each option is analyzed using three criteria: fraud prevention, public interest, and accountability. Given that the campaign finance ordinance has been particularly susceptible to fraud, addressing this aspect of the program is a key component of all policy options to be considered. The public interest is manifested in the extent to which these policy options take into consideration the original desire of the people to create a public campaign finance program and how the election campaign finance
ordinance is affected by any proposed changes. Accountability measures are written into the ordinance to penalize those who violate the law. Accountability as an evaluative criterion analyzes to what extent accountability measures are strengthened by the respective policy options.

When the three policy options are examined in relation to the three evaluative criteria, it is determined that the recommendations of the Inspector General best address the incidence of fraud. Moreover, the recommendations do not suggest altering any of the key provisions in the ordinance, leaving the Trust Fund unaltered, and the interests of the public in this matter undeterred. This policy option does not however increase the penalties for violating the Trust Fund ordinance. This is a factor that commissioners may want to address when they make a decision on the Trust Fund.
I. PROBLEM STATEMENT

On February 23, 2005, Miami-Dade County’s Office of Inspector General (OIG) issued a report of observations, findings, and recommendations relating to the Miami-Dade County Election Campaign Financing Trust Fund (Trust Fund). Approved by voters in 2000, the Trust Fund is in place to provide an avenue of inclusion and participation into county government, and reduce the importance of fund raising and the influence of private entities in county politics through the distribution of public funds for election campaigns. The OIG investigation, conducted at the request of the Community Outreach, Safety, and Healthcare Administration (COSHA) Committee of the Miami-Dade Board of County Commissioners (Commission), focused on violations of the County’s election campaign finance ordinance, namely, numerous irregularities that surfaced during the 2004 election cycle. These irregularities included the distribution of public funds to a candidate who fraudulently qualified for Trust Fund monies and instances where multiple contributions from identical contributors where used to qualify for public funds. The OIG report directs its harshest criticism at the county Elections Department (Elections), the department charged with managing the Trust Fund and the process through which funds are disbursed to candidates.

The problems highlighted by the report have become a point of contention at the Stephen P. Clark Center, Miami-Dade County’s government center, and in the local news media. In September 2004, shortly after discussion of the Trust Fund began, the Miami Herald published an editorial stating:

“Miami-Dade County voters had an array of good candidates in the county mayor’s race and some commission contests this year. Till now, this level of quality has been the exception rather than the rule in county elections, but now the law that made this possible is in jeopardy.”
Several commissioners contend that the program is open to misuse and have proposed eliminating the program. Other commissioners recommend amending the law’s provisions to further prevent abuse and ensure that the underlying purpose of the Trust Fund is maintained. Proponents believe that citizens who would not usually have the resources to contribute to the debate and campaign process that shapes Miami-Dade County’s social and political landscape are awarded that opportunity through the Trust Fund. They maintain that the presence of new, innovative, and inspired voices in government are more often welcomed by the public and sometimes shunned by the status quo. Nevertheless, the fact that the 2004 election cycle included 12 candidates for mayor and county commission (including the eventual mayor-elect) who chose to use public funds to help finance their campaigns is a circumstance that demands attention, especially now that the program appears to be working, yet is facing elimination.

Opponents of the Trust Fund propose the elimination of a program that is intended to create a more open, accessible, and diverse political environment. Along with the belief that the program is open to fraud, they contend that the program does not work. An evaluation of potential policy options that may address the problem is warranted. While elected commissioners and administrative staff in a county the size of Miami-Dade may not find this issue to be as pressing as others, the fact remains that the Trust Fund was established after a vote of the people in a public referendum. Therefore, this problem is one that involves the will of the people and is indicative of how responsive county officials may be to the public interest of their constituents. This report will evaluate and examine three of policy options to be considered to address this issue facing the Commission as it enters the 2006 election cycle. The first is to leave the Trust Fund as is; the second is to
implement the suggested recommendations of the OIG, and the last is to eliminate the program.

II. BACKGROUND AND LITERATURE REVIEW

Background

After a proposed ordinance that would have created a public campaign finance program for commission and mayoral candidates was defeated by the Commission in early 2000, the issue was placed on the ballot as an initiative for the 2000 election. The referendum, which simply asked voters, “Limited Public Financing?”, passed by a vote of 57.7 percent. This initiative required the Commission to create a public campaign finance program. In March of 2001, Miami-Dade County Commissioner Jimmy Morales introduced an ordinance detailing the Trust Fund. Referring to his proposal, Commissioner Morales commented that one of the goals of the Trust Fund was to address the real and perceive affect of money in county politics and government (Ross, 2001). The proposal prompted discussion and debate among commissioners at the March 8, 2001 Commission meeting. Primary concerns revolved around what the funding source would be and various details concerning campaign contribution methods (i.e. personal checks, money orders, electronic transfers), which the ordinance as proposed by Commissioner Morales, did not address. Some small changes were made, including clarification of contribution methods. Commissioners passed an amended version of Morales’ proposal by a vote of 10-1.

*Miami-Dade Public Election Campaign Finance Program*

Miami-Dade’s program is similar to other programs around the county. The ordinance that created the Trust Fund has been amended on a number of occasions since its original passage in March 2001. The following is an overview of the key provisions
that currently make up Miami-Dade County’s election campaign finance ordinance.¹

The financing program is available to candidates for the office of County Mayor and County Commissioner. To qualify for funds all candidates must: 1) sign a statement of understanding which says that he or she has read the County’s election campaign finance ordinance; 2) qualify as a candidate under Florida Statutes² and the County’s Home Rule Charter; 3) limit loans and contributions from personal funds to $25,000; and 4) submit to audits of the campaign account by the Commission on Ethics and Public Trust (COE).

**Contribution Requirements**

Candidates wishing to receive public funds must receive a minimum number of outside financial contributions to their campaigns. Commission candidates must receive at least 200 separate contributions (from 200 separate contributors) between $15 and $250 from registered Miami-Dade voters. Mayoral candidates must receive at least 1,000 separate contributions between $15 and $250.

**Expenditure Limits**

A candidate who accepts money from the Trust Fund must adhere to expenditure limits. The total expenditure limitation for a regular election for mayoral candidates is $600,000. The total expenditure limitation for a regular election for commission candidates is $150,000. Mayoral candidates may also expend $400,000 in the case of a run-off election; commission candidates may expend $100,000 in a run-off. These expenditure limits are adjusted every four years using the consumer price index (CPI) for Miami-Dade County. Candidates who violate these expenditure caps must pay back an amount equal to the excess expenditures; these repayments must come from a candidate’s personal funds.

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¹ Section 12-22, Miami-Dade County Code
² Ch. 99, F.S.
Distribution of Funds

Commission candidates are entitled to $75,000 from the Trust Fund for regular elections and an additional $50,000 for run-off elections. Mayoral candidates are entitled to $300,000 for regular elections and $200,000 for run-off elections.

Role of the Elections Department

Elections is charged with reviewing all requests for distributions from the Trust Fund and ensuring that candidates are eligible for such distributions. Elections is tasked with adopting rules relating to campaigning financing reports and certification and distribution of monies from the Trust Fund. Such rules are to provide specifications for printed campaign treasurer reports, including what information is to be placed on required campaign account and treasurer forms. Elections also manages the distribution of funds from the Trust Fund to the campaign accounts of participating candidates.

The management of the Trust Fund has undergone great scrutiny and the opinion of Supervisor of Elections, Constance Kaplan, has voiced her opinion amid the criticism. Kaplan’s initial response to the OIG report was that her department did its best to apply an ordinance that is vague about how candidates should submit information on contributions (Schwartz, 2005).

Role of the Miami-Dade Commission on Ethics and Public Trust

The COE has the authority to review, interpret, and render advisory opinions and letters of instruction, and enforce the provisions of the campaign financing ordinance. In addition, the COE is charged with performing post-election audits of the campaign accounts of each candidate that receives funds from the Trust Fund. To allow for the COE to execute comprehensive audits of campaign accounts, candidates are required to submit

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3 Constance Kaplan resigned as Supervisor of Elections on March 31, 2005.
all original cancelled checks, invoices, bank statements, and receipts associated with campaign accounts. The COE is also authorized to fine anyone who is found to be in violation of the Trust Fund ordinance and may work in conjunction with the State’s Attorney Office (SAO) in the investigation and prosecution of violations. An addition to fines and prison time, those who are found to have violated the ordinance can be barred from receiving funds for a period of eight years.

Program Participation and Signs of Trouble

The Trust Fund has been in operation for one special election in 2001 and the 2002 and 2004 election cycles. At this point, there is very little information to determine a pattern of usage besides the recent increase in the 2004 election cycle. In the 2001 special election, only one candidate of the four who ran for the open District 6 Board seat, Ana Alliegro, used public funds to run her campaign (Ross, 2001). She received all $75,000 that she was eligible for from the Trust Fund; she lost the election with 31 percent of the vote. Similarly, in 2002, only one commission candidate, Peter England, received public funds. He received $50,000; he lost his election as well. The 2004 election cycle saw a more robust candidate field with 12 mayoral and Commission candidates qualifying for and receiving Trust Fund monies. The total public dollars given to all qualified candidates in these races was $2.75 million dollars (Ricker, 2005).

From the beginning, the Trust Fund program has been controversial. In 2001, a post-election audit of Ana Alliegro’s campaign account revealed that she did not submit required expenditure reports to explain the whereabouts of $34,283 of the $135,369 she raised (Ross, 2001). Alliegro was quoted by the Miami Herald as saying that “the Elections Department was incompetent” and that the numbers cited in the audit of her
campaign account were “way off.” She further stated that Elections did not “really know the law” and that she was “a guinea pig” for the new public funds ordinance.

**OIG Investigation**

In July 2004, the OIG was informed of various campaign contribution irregularities in two county commission district campaigns. An OIG investigation revealed that the campaigns in question had engaged in fraudulent activity to qualify for monies from the Trust Fund. While this investigation was taking place, the OIG determined that all campaigns qualifying for and receiving public campaign financing for the 2004 election cycle should be similarly examined. The OIG based its decision to examine all campaigns on four factors: 1) Observations made by the OIG and Miami-Dade Police that concluded that the Department’s verification procedures lacked the necessary controls to detect fraud; 2) All candidates requesting public funds to run campaigns should be subject to the same detailed examination of qualification submissions; 3) Post-election audits conducted by the COE could not be relied upon to protect the County’s interests in detecting irregularities or criminal activities because the audit method relied upon sampling; and 4) Post-election audits, occurring no earlier than 90 days after the election, could not prevent the unwarranted distribution of Trust Fund monies.

The OIG investigative and analytical personnel found what their report refers to as loopholes, deficiencies, inefficiencies, problems and otherwise notable concerns with the current procedures in place for the qualification of monies from the Trust Fund (OIG Memorandum, p. 3). The following are the findings of the OIG investigation as published in its memorandum to the Commission on February 23, 2005:
• Other than Section 12-22 of the Miami-Dade County Code, there are no other written procedures, guidelines or other instructions to guide the Elections Department when processing candidate qualifications or to guide candidates through the eligibility process;

• Current procedures, including the format of contribution submission paperwork, adversely impacts the ability of the Elections Department to adequately perform a verification review to determine that all required eligibility thresholds are met. The current process does not adequately detect duplicate submissions and other irregularities that may be indicative of fraudulent activity;

• There is no clear requirement regarding the maximum volume of contributions information to be submitted and reviewed in order to determine eligibility. These leads to non-uniform standards of review;

• Otherwise unacceptable check contributions for matching fund purposes were accepted by the Elections Department;

• The lack of signature requirement on contributions made by money order and electronic funds transfer undermines contributor/voter registration verification;

• Current procedures lack accountability measures requiring a basic attestation to truthfulness of the information;

• Current Elections Department internal processes have no built in accountability control to ensure that verification procedures are uniform and that review is consistent.

Changes Proposed

At the February 9, 2005 meeting of the COSHA committee, commissioners appeared to be leaning in different directions in trying to address the Trust Fund issue. At this meeting, two proposals were introduced that addressed the troubled Trust Fund ordinance. Commissioner Bruno Barriero introduced an agenda item that would have eliminated the ordinance. After stating that the program was open to fraud and that the County had other, more pressing, financial priorities, Commissioner Barriero reminded the committee that although the ordinance was implemented after a vote of the people, the program could be eliminated without voter approval. Commissioner Sally
Heyman, standing in contrast to Commissioner Barriero, highlighted and supported the program’s goals and acknowledged that changes had to be made. Commissioner Heyman offered her own agenda item which incorporated some recommendations by the OIG. The changes included in Commissioner Heyman’s proposal were part of a more comprehensive set of recommendations which were to be included in the OIG report of February 25th. At the committee meeting, two commissioners, both in support of eliminating the program, insisted that the 2004 election was evidence that the Trust Fund did not work and was poor policy decision. Other commissioners were reluctant to eliminate the program without an additional vote rescinding the ordinance. Both proposals were deferred until the committee had gathered more information and met with the OIG, Elections, COE, and SAO. In early April, the committee sent the two proposals to the Commission for consideration. At the April 13, 2005 Commission meeting, the two items were deferred. As this analysis was being prepared in July of 2005, the Commission had not taken action on the recommendations of the OIG or the two proposals addressing the Trust Fund.

Literature Review

Unfortunately, scholars of campaign finance generally have ignored local governments, while students of urban politics have produced limited research on elections in general and campaign finance in particular (Fleischmann and Stein, p. 673). The most telling and comprehensive research available on public campaign financing, at the local level, are evaluations of the three oldest operating programs: Tucson, New York City, and Los Angeles. With every election cycle, more information is gathered from these programs and more is learned. This information is used to determine how popular public financing is in these jurisdictions and emerging trends in campaign financing in general. The literature
reviewed for this study also examines three key factors: candidate participation, fraud prevention and accountability.

Public Campaign Financing at the Local Level

In 1974, in the wake of the election of 1972 and the abuses associated with the Watergate scandal, Congress amended the Federal Election Campaign Act (FECA) to set limits on contributions by individuals, political parties, and political action committees and to include a system of partial public financing for presidential election campaigns (National Civic Review, p. 3). The limits established by FECA were quickly challenged on the grounds that limiting financial contributions to political campaigns was a violation of the First Amendment. In the landmark case *Buckley vs. Valeo*, the U.S. Supreme Court held that limits were unconstitutional, but it also stated that public campaign financing could be used as a method to encourage candidates to accept voluntary spending limits. This decision laid the constitutional foundation for state and local governments to establish public campaign financing programs.

Indeed, state and local governments wasted very little time to experiment with public campaign finance. In 1974, Maryland, Minnesota, and New Jersey became the first states to establish campaign finance programs. And in 1978, Seattle, Washington, followed suit with the nation’s first local public campaign finance program.

There are currently 13 local jurisdictions which provide public campaign finance, or limited campaign finance, as some jurisdictions refer to it. There were, at one point, 16 local governments which offered public campaign financing. In 1985, Tucson, Arizona, established what is now the oldest operating public campaign finance program at the local level. Public financing has exploded in popularity in recent years with 8 of the

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13 currently active programs having been adopted since 1998 (*Investing In Democracy*, p. 31). The following is a list of currently operating public campaign finance programs and the year they were established:

- Tucson, AR 1985
- New York City, NY 1988
- Los Angeles, CA 1990
- Austin, TX 1994
- Long Beach, CA 1994
- Suffolk County, NY 1998
- Boulder, CO 1999
- Oakland, CA 1999
- Cary, NC 2000
- Petaluma, CA 2000
- San Francisco, CA 2000
- Miami-Dade County, FL 2001
- Sacramento, CA 2003

**Key Elements of Public Financing Systems**

Public campaign finance reforms are usually aimed at eliminating corruption, dishonesty, and fraud and at insuring equal protection of citizens with limited resources or of those who have been the intended victims of political discrimination (Crotty, 1977). According to the National Civic League, the more specific goals of public campaign finance programs are to:

- Provide strong incentives for complying with voluntary spending limits in a manner that has been upheld as being constitutional;
- Increase the total number and diversity of candidates that can afford to run for office;
- Mitigate the advantage of incumbency and the “wealthy candidate”;
- Increase the ability of viable challengers to compete;
- Reduce the influence and access of those making large donations.

To achieve these benefits, most local government public finance programs incorporate some, if not all, of the following elements: contribution limits, spending limits, qualification thresholds, high-spending trigger provisions, limits on a candidate’s use of public funds.

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5 Public financing in Seattle was terminated in 1992.
personal funds, and debate requirements. Miami-Dade County uses all of the above elements in its program.\(^6\) By managing the flow of money in campaigns, these programs attempt to reduce the impact of fundraising in the political arena. Public campaign finance programs emphasize the importance of the candidate’s message and political participation within the community.

**Candidate Participation**

Candidate participation in the public financing programs in Los Angeles, New York City, and Tucson has increased to nearly 100 percent in recent years (*Beyond BCRA*, p. 9). Participation in public financing programs is an indicator of program success and higher participation implies increased compliance with spending limits and the increase of different, new candidates in the political process.

Low participation in Miami-Dade’s first two elections with the Trust Fund was more than likely associated with lack of knowledge of, or confidence in, public financing. During a public financing programs nascent years, some candidates are reluctant to limit their spending in exchange for public funds before the program is proven to work (*Political Reform That Works*, pg. 19). Moreover, the increase in participation in 2004, in Miami-Dade County, demands attention and may be an indicator that the program has begun to gain popularity and may be seen as an effective tool by prospective candidates.

**Fraud Prevention**

Reinforcing rules and regulations associated with public financing programs is key to deterring fraud and protecting the integrity of these programs. New York City’s matching funds program is administered by the New York City Campaign Finance Board (Finance Board). Among the duties this board executes is the investigation and auditing of

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\(^6\) See description of elements in Appendix A
campaigns participating in the matching funds program to ensure compliance with program rules and regulations. In contrast to Miami-Dade County and other jurisdictions, which audit campaigns only after elections are complete, New York City administrators audit program participants during and after elections to ensure that rules and regulations are met throughout the elections process (A Statute of Liberty, p. 33).

The efforts of administrators in Tucson start well before the elections season by publishing updated candidate information pamphlets which detail all aspects of the elections process, including campaign finance laws, campaign financing reporting schedules and regulations related to campaign advertising (Political Reform That Works, p. 18). Tucson’s City Clerk, which administers the program, also performs audits before and after elections, and hires independent auditors to examine all candidates participating in the program. The city clerk’s staff reviews the rules and regulations of the program the year before an election and makes any necessary changes in an effort to constantly improve the program.

Accountability

Administrators in charge of public finance programs must sometimes go beyond the standard procedures of enforcement, which include ordering the repayment of distributed funds and freezing campaign accounts. Jurisdictions are authorized to impose fines for the most severe of violations. In New York City, the Finance Board may impose penalties on those who violate the campaign finance law in an amount not to exceed $10,000. A candidate who exceeds the spending limits tied to the public funds law may be fined up to three times the amount by which that limit was exceeded. The Finance Board is also authorized to publicize violations of the campaign finance law.
In Los Angeles, violators may be charged up to $5,000 per violation, or three times the amount unlawfully contributed, accepted, or reported, whichever is greater. In Miami-Dade, the COE may assess penalties for abuse of the Trust Fund that include a reprimand or public admonition and may or may not include a fine of $250 for the first violation and $500 for each subsequent violation. A heftier fine of $5,000 can be imposed by the SAO if prosecution in state court is pursued.

III. RESEARCH METHODOLOGY AND EVALUATIVE CRITERIA

Research Methodology

An analysis of scholarly literature helped provide the history and development of public campaign finance at the national, state, and local levels. Various reports issued by the Center for Governmental Studies and the National Civic League provided information and assessments of various local jurisdictions which currently manage public campaign financing programs. The National Civic Review, in particular, offered an overview of the history and status of public campaign financing around the country.

Articles from The Miami Herald provided background on the Trust Fund. Articles featuring the Trust Fund going back to 2000 and from early in 2005 were employed. Several county government documents were used for this analysis. An analysis by the OIG presented the results of a detailed forensic examination of the procedures used for distributing monies from the Trust Fund provided an overview of program inefficiencies and recommendations for addressing highlighted problems. A legislative analysis prepared by the Miami-Dade County Office of Legislative Analysis (OLA) of the original Trust Fund ordinance in 2001, provided an overview of the basic provisions of the Trust Fund.

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7 Los Angeles City Ethics Commission, CEC Case No. 2004-06
Commission meeting minutes were used to determine the opinions of commissioners regarding the Trust Fund, including the video taped proceedings of the COSHA meeting of February 9, 2005. Election results and statistics were accessed from the Elections website.

Various pieces of information not available through the Elections website, such as amounts of money distributed from the Trust Fund, were determined by contacting Elections personnel and officials within the Office of the Mayor. This information was obtained via telephone conservations or emails.

**Evaluative Criteria**

There were three criteria used to evaluate each of the proposed Trust Fund policy options. These criteria were fraud prevention, public interest, and accountability.

The phenomenon which has brought this issue to the surface in Miami-Dade County has been fraud. The attempt to defraud the Trust Fund goes against the efforts of public campaign financing which attempts to give a voice to those who feel disenfranchised and underrepresented by their local government structure. All policy options must be evaluated to determine whether they address current rules, regulations, and procedures used to implement the Trust Fund program, procedures that may not be adequate in the basic function of fraud prevention.

The public interest relates to the key purpose and motivation behind the passage of the Trust Fund, which are manifested in the provisions of the election campaign finance law. The law is what makes the underlying theory work. An important aspect of this analysis is how the potential policy options recognize and address the original and most basic provisions of the campaign finance law. Given that the public voted in favor of the Trust Fund, and the provisions of the law affect inclusion, participation, and the
influence of money among other factors, the degree to which a policy option changes the original law is vitally important.

All of the major public financing programs, in contrast to Miami-Dade County, have more severe accountability measures for those who violate and abuse the public finance ordinance. If a candidate violates provisions of the public finance laws in Los Angeles and New York they are likely to pay more than in Miami-Dade. It is then important to see which policy option toughens the penalties for violating Trust Fund provisions.

IV. MANAGEMENT POLICY OPTIONS

This report presents three potential policy options for the Trust Fund program. The first option is to leave the program unchanged, with the same management procedures and without amending the public finance ordinance. The second option is to implement the recommendations of the OIG. The third option is to eliminate the program. The pros and cons of each policy option will be presented vis à vis the aforementioned evaluative criteria.

OPTION 1: No Change to the Trust Fund Program

Maintaining the current administration of the Trust Fund, that is, not addressing or changing any of the procedures used by Elections or any of the provisions in the ordinance, may have several effects. The most prominent of these is that not making the procedures for evaluating contributions clearer and more specific may leave the program susceptible to fraud and misuse, as was proven by the incidents of the 2004 elections cycle.
**Fraud Prevention**

Revisiting the reasons why the OIG chose to launch an investigation of the program begins to reveal some of the inadequacies with the current procedures. The procedures lack the necessary controls to detect fraud and the examination of candidate qualification submissions is inconsistent and largely unregulated. In regards to the post-election audits conducted by the COE, they can not be relied upon to protect the County’s interests in detecting irregularities or criminal activities because the audit method relies upon sampling and executed no earlier than 90 days after the election (OIG Memorandum, p. 2).

The procedures, according to the OIG, may not provide enough safeguards to prevent the indiscretions of the 2004 election cycle. As highlighted by the OIG, the current procedures do not organize that information in a manner conducive to efficient examination in that vein. On this issue, the OIG reported the following:

“In reviewing the Trust Fund program files, there were occasions where the OIG had questions regarding the specific decision made about a certain contribution, such as why a contribution was allowed or disallowed. However, there was no way to tell which of the Election personnel had reviewed any particular Trust Fund contribution form since there is no place on the form for there reviewer to sign. In addition, there was no way to tell if an Elections supervisor had reviewed the results of the Elections eligibility review and agreed with the results” (p. 8).

The rules and regulations that candidates must abide by, and the procedures used by Elections, are the County’s first line of defense against malfeasance. Yet the OIG found that these rules and regulations have not been written down and instructions are not provided to candidates when applying to the program. The OIG report states:

“One of the first problems that the OIG discovered was that the Elections Department did not have any written procedures regarding the matching funds program. When asked how the Elections personnel knew how to determine if a candidate’s contributions are valid and eligible to be considered for public funds,
the OIG was advised that Elections personnel are trained on an individual basis with verbal instructions” (p. 4).

The issue that brought this topic before the Commission, and made it a hot topic in Miami-Dade County, was fraud and abuse. The procedural mechanism in place to ensure the integrity of the program and the security of the public’s financial resources has proven inadequate and this policy option leaves that flawed mechanism in place.

**Public Interest**

The unprecedented use of the Trust Fund program in 2004 points to a growth in program awareness by potential candidates and success, in terms of bringing new voices to Miami-Dade political environment. Moreover, the implication of higher candidate participation is that money may have been less of a factor in these races. A high level of candidate participation results in widespread compliance with spending limits and other campaign finance restrictions (*Beyond BCRA*, p. 9).

Fostering an environment of inclusion is one of the inherent goals of public campaign finance programs, and Miami-Dade’s program as currently regulated and administered appears to accomplished that. There is no indication that leaving the program unchanged will decrease participation. In its current state, the Trust Fund appears to have worked in encouraging participation and bringing forth new candidates into the County’s political arena, given the increase in participation from 1 candidate in 2002 to 12 in 2004.

**Accountability**

Accountability measures are included in these laws to ensure the integrity of public financing and protect public financial resources by punishing those who violate the law. This option would make no change to the accountability measures already included in the
County Code. Comparatively, Miami-Dade has moderately stringent consequences for those who violate the public finance law. The Finance Board in New York has more discretion when dealing with fines; as does Los Angeles, which is at liberty to impose a fine of up to $5,000 per violation.\(^8\)

**OPTION 2: Implementation of Inspector General Recommendations**

The OIG report, along with presenting numerous investigative findings also provides a list of potential changes or recommendations for the Trust Fund. The recommendations as presented in the OIG report are as follows:

- All operational procedures or supplemental instructions to the candidates should be clearly established in writing and well prior to the qualification period and eligibility reviews.

- Uniform reporting or performance criteria should be established that lays out the criteria to use when verifying the contribution submissions and how to document and report the results of the verification process. Clear steps, or a check list, should be implemented to prevent the counting of duplicate contributions and the acceptance of other ineligible contribution types. All personnel involved in this review must be knowledgeable of the procedures and consistent in its application.

- More precise definitions of allowable contributions should be established either in the County Code or by Administrative Order. A definitive statement regarding checks from business, corporate, and trust accounts should be included.

- Establish a contributor signature requirement for contributions made via money order and credit card/electronic fund transfer.

- Establish a supervisory review process. In the event of exceptions to the public finance ordinance, a procedure of how to document them and how exceptions should be reported to supervisory personnel should be included. The identity of the reviewer, the supervisor, and the certifier of said results should also be recorded.

- Establish an electronic reporting format that combines all information necessary for candidates to meet both the requirements for periodic campaign financing report submissions and their applications for matching funds from the Trust Fund.

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\(^8\) Los Angeles County Administrative Code – Section 24.5(r)
• Along with electronic reporting, all candidates should submit all documentation supporting eligible contributions, and thereby meeting the qualification requirement. All supporting documentation should be submitted together in order to avoid piecemeal reviews.

• There should be a signature requirement that identifies the person responsible for submitting the contribution paperwork and attesting to its truthfulness.

• Prior to the disbursement of any funds, an independent review should be conducted by the appropriate agency to be determined by the Commission.

• The County Code should contain a cause of action that would allow the County to freeze funds and recoup monies in the event that funds are disbursed and violations are found.

*Fraud Prevention*

The OIG recommendations may be the appropriate steps in reducing the various procedural deficiencies which allowed for the misuse of the Trust Fund. Implementing these suggestions would tighten Election’s procedures for evaluating applications, disbursing funds, and make the reviewing of campaign accounts more efficient. An electronic reporting system would bring the program closer in line with it’s counterpart in New York City, where the use of electronic disclosure by the Finance Board has been praised by candidates and incumbents alike. Finance Board Director Nicole Gordon commented on the importance of the electronic disclosure software used to manage the public finance program:

“At the citywide level, the program’s been tremendously effective on disclosure. There’s no question now that we are light years away from where we were before the program was in place. And part of the effectiveness of the disclosure is the incentive that candidates have to do it right, because is they don’t, they won’t get public funds”(*A Statute of Liberty*, p. 27).

The need to resolve problems and inconsistencies can be seen as a normal stage in the evolution of the program. For instances, New York City did not originally have an electronic disclosure system, but administrative needs eventually required it. Similarly, the
need for an electronic disclosure system was not originally foreseen in Miami-Dade County. The need for it now is clear to the OIG. In addressing the topic of change and the need for public finance programs to evolve, Paul Ryan states the following:

> “Campaign finance practices are constantly evolving. As voters, elected officials, and administrative agencies adopt policies to limit the undue influence of money in politics, candidates, political committees, and wealthy special interests find new ways to exert influence within the political process. Local government public financing programs have evolved and must evolve in order to address new problems as they arise “(Beyond BCRA, p. 3).

This policy option appears to be initiating the first step that will allow the Trust Fund program to evolve and function as intended.

**Public Interest**

Beside recommending that a provision to the County Code be added to officially allow Elections to freeze disbursed campaigns funds, this policy option does not alter any of the original provisions of the election campaign finance ordinance. If in fact the provisions are working, if participation, inclusion, and the influence of money on the political process have been affected as intended by the those who voted in a favor of the program, that pattern of success should continue. Moreover, those interested in participating may find it easier to comprehend and follow procedures if written instructions are provided to participants as the OIG recommends.

**Accountability**

Similar to option 1, this option does not strengthen the ordinance’s accountability measures. The consequences for violating provisions would remain the same, which are, as mentioned in option one, acceptable, but are not as stringent as other jurisdictions with similar programs.
OPTION 3: Eliminate Trust Fund Program

Eliminating the Trust Fund is an option that is currently under consideration by the Commission. Claiming that the program does not work, is open to fraud, and the funds diverted from County coffers would be better appropriated to other programs, a number of commissioners have been moving towards repealing the 4 year old ordinance. It is immediately apparent that eliminating the program would remove the possibility of fraud and dispel any need for accountability. However, going forward with this option would resolve a problem while simultaneously ignoring a mandate from the voters of Miami-Dade County.

Fraud Prevention

Elimination of the program would certainly extinguish the possibility of fraud. This option appears to be a simple adjustment and would certainly address the question of fraud. Without a Trust Fund to defraud, there can be no instances of fraud. However, simply saying that the program is open to fraud appears to be a short and preliminary assessment. The procedures in place to administer the program are notably inadequate and appear to be the true problem with the issue. As the OIG examination has shown, the problem does not lie with the provisions in the ordinance; the problems lie with the procedures through which Elections personnel administer the program. Reassessing the merits of those procedures, and perhaps recommending new ones, is a step this option does not visit.

Public Interest

Three of the four public campaign programs that have been eliminated were ended by ballot measures. Eliminating the program from the dais, by a vote of the Commission, would deny the public access to a decision for which they have a vested interest. Outright
elimination by the commission would in many ways negate the validity of the referendum which led to the creation of the Trust Fund and it points to a possible fracture between the interests and will of the electorate and those who are elected. This option does not consider the opinion of Miami-Dade County’s voters and as noted by a *Miami Herald* editorial in September 2004, it could be a poor move on the part of the Commission. In part, the editorial read:

“The commission is using a county charter rule that allows it to repeal a voter-approved initiative after it has been in effect one year. This should outrage voters who approved public financing. At an Oct. 12 public hearing, residents should give commissioners an earful on this cynical move to reduce competition at election time.”

If the provisions that were set in place by the ordinance are seen as the interests of the people of Miami-Dade County, this option seriously undermines and disregards those interests. With several commissioners expressing interest in this option in committee and full Commission meetings, this option will be given considerable attention as commissioners approach a decision on the Trust Fund issue.

*Accountability*

Since this policy option would eliminate the Trust Fund, and the County Code dictating the accountability attached to it, accountability does not apply as an evaluative criteria in this option.

V. CONCLUSION

After considering the literature and weighing the three criteria of fraud prevention, public interest, and accountability, it is clear that one of three options presented here would be a more appropriate course of action for addressing the problems troubling the Trust Fund. All three options have positive and negative attributes, but as reflected in the matrix
below, the second policy option, the implementation of the OIG recommended administrative procedures, best addresses the key factors at the core of the inefficiencies that have enveloped the Trust Fund. The following are the results of analyzing the three policy options with the three evaluative criteria:

<table>
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<th>Policy Option</th>
<th>Public Interest</th>
<th>Fraud Prevention</th>
<th>Accountability</th>
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<tr>
<td>Current Program</td>
<td>High</td>
<td>Low</td>
<td>Moderate</td>
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<tr>
<td>OIG Recommendations</td>
<td>High</td>
<td>High</td>
<td>Moderate</td>
</tr>
<tr>
<td>Program Elimination</td>
<td>Low</td>
<td>High</td>
<td>NA</td>
</tr>
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Evaluative Criteria Matrix

When the three policy options are examined in relation to the three evaluative criteria, policy option two, the OIG recommendation, is the only option to show high scores in two of the criteria. Option two scores moderately on accountability, given that no increases are proposed to the penalties assessed to those found to have violated the law. The current procedures have proven ineffective in preventing fraud, this as exemplified by the 2004 election cycle, and other instances of questionable use of the Trust Fund. Leaving the program unchanged cannot be seen as an acceptable way of preventing fraud. Eliminating the program would prevent fraud but at the risk of alienating the will of the people who voted in favor of the finance program.

The OIG report outlines the reasons why the Trust Fund is susceptible to fraud and recommends several key procedural changes that can move the program to where it should be, in terms efficiency and protecting it from fraud. The recommendations address the program’s discrepancies and loopholes while ensuring that it remains a conduit to political participation and electoral reform, as originally intended by the voters. The lack of more stringent accountability measures is something the Commission may want to address if
they consider this a viable policy option, but overall, implementation of the OIG recommendation is clearly the appropriate action to take in this matter.
REFERENCES

Center for Governmental Studies. (2001). Eleven Years of Reform: Campaign Finance in the City of Los Angeles. Los Angeles, CA.


APPENDIX

PUBLIC CAMPAIGN FINANCE PROGRAM ELEMENTS

Contribution limits

The U.S. Supreme Court has ruled that reasonable contribution limits are a constitutional means of avoiding political corruption or the appearance of corruption. Most jurisdictions’ contribution limits apply to candidates whether or not they choose to participate voluntarily in the jurisdiction’s public financing program. In some jurisdictions, however, candidates who participate in the public financing program are subject to different contribution limits than those who do not.

Spending limits

All jurisdictions with public financing systems for candidates also have spending limits. Spending limits apply only to candidates who voluntarily participate in the public financing program. Spending limits vary dramatically from one jurisdiction to another, with the size of the jurisdiction being the most significant factor. At the local government level, limits range from a low of $10,000 per election for a council candidate in the Town of Cary, NC, to $5.7 million per election for a New York City mayoral candidate (Investing in Democracy, p. 17).

Qualification thresholds

Public financing programs require participants to raise a specified number of small contributions to ensure that recipients of public funds have substantial popular support.

High-spending trigger provisions

Many public campaign finance programs have provisions which release participants from compliance with spending limits if a participants opponent receives contributions or makes expenditures in excess of the spending limit (National Civic Review, p. 8).

Limits on personal fund usage

The U.S. Supreme Court has interpreted the Constitution to protect a candidate’s right to spend as much personal wealth as he or she chooses. Voluntary public financing programs, on the other hand, typically limit the amount of personal wealth a candidate may spend.

Debate requirements

Several jurisdictions, including Arizona and the cities of Austin, Los Angeles, New York and San Francisco, require some or all candidates participating in the public financing program to participate in public debates. In Miami-Dade County, those receiving funds from the Trust Fund are required to participate in debates sponsored by the League of Women Voters.
ABOUT THE AUTHOR

Alex Dominguez has been involved in Miami-Dade County and Florida politics and government since his graduation from Florida International University with a Bachelor of Arts degree in Psychology and a Minor in Political Science. Alex has been an aide to both local and state level elected officials and is an alumni of the Speaker’s Fellowship Program at the Florida House of Representatives where he served under the tenure of Speaker Allen Bense. He also holds a Master of Public Administration from The Florida State University.
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