



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony before the City Council Committee on Governmental Operations
New York City's Campaign Finance Program in the 2021 Citywide Elections

City Hall
December 13, 2022

Good morning members of the New York City Council Committee on Governmental Operations. My name is Ben Weinberg, and I am the Director of Public Policy at Citizens Union. Citizens Union is an independent and nonpartisan good government group dedicated to making democracy work for all New Yorkers. For 125 years, we have worked to expand voter participation, reduce the impact of big money in elections, and open the city's political system. We thank you for the opportunity to speak today about the 2021 election cycle.

This election was historic for several reasons. Because of term limits, the cycle ushered one of the largest turnovers in city government New York has seen. With the introduction of Ranked Choice Voting, voters and candidates faced a new way to vote and campaign. And the expansion of public funding for campaigns made it easier for more people to run for office with the support of their community.

Under these circumstances, New York City's unique system of campaign finance provided the democratic infrastructure that allows our city to hold healthy, competitive, diverse, and fairer elections.

This testimony provides a short analysis of the impact of the campaign finance program on electoral competitiveness, representation, and type of donations. We recommend reforms concerning pay-to-play issues and super PAC spending (Independent Expenditures), brought to light during the 2021 cycle.

Citizens Union also supports the preconsidered legislation before the committee today, T2022-2607, to expand disclosure requirements for independent expenditures spending on municipal ballot proposals. A memo of support for this legislation is found at the end of this document.

Public campaign finance led to a competitive and diverse pool of candidates

The 2021 election cycle election saw unprecedented democratic gains. The total number of candidates soared, with the primary field having more than double the candidates than the 2013 primary. On average, 7.5 people ran for every open seat in 2021 compared to 4.1 people in 2013. In addition, The number of female candidates almost tripled. 152 women ran for city offices in the 2021 primary, compared to 52 candidates in 2013. In 2013, only 35 women ran in open-seat races; in 2021, that

number was 116 – 231% higher.¹ Furthermore, more women and people of color won elections, with the City Council becoming the most diverse and representative in New York City’s history.²

There are several reasons for those democratic gains, including the introduction of Ranked Choice Voting and the renewed interest in local politics in recent years. But it is New York City’s generous public campaign finance system that allows a broader spectrum of candidates to run for office.

Indeed, more people enjoyed public campaign funds in 2021 than ever before: a total of 308 candidates were paid public funds in 2021, more than double the 149 candidates who received public dollars in 2013. Participation in the voluntary matching funds program became the norm, with 94% of candidates on the primary ballot and 81% of general election candidates participating. In fact, all 59 current city elected officials were matching funds program participants.³

A small-donor, local election

The expansion of public funding in the 2021 cycle led candidates to rely less on private donations and spend more with voters and their communities. With more candidates running than ever before, the total dollars fundraised from private individuals actually decreased in this election: candidates raised a total of \$72.8 million in private funds, compared to \$94.8 million in 2013.⁴

The private money raised to fund our candidates is of a particular kind: most of it comes from local, individual, small-donor contributions. 84.6% of all donations in the 2021 primary were small, compared to 65.7% in the 2013 primary election. And NYC residents were the source of 71.6% of primary contributions, compared to 66.2% in the 2013 primary. Notably, almost all contributions in the 2021 municipal election came from individuals.⁵ This is vastly different than state election, where corporations, political committees, and unions make up the majority of donations in some races.

The public campaign finance program improves accountability in New York City government by crowding out large donors and empowering constituents to participate in local campaigns.

Independent spending in our local elections – and how to protect fair elections

Super PAC spending in New York City elections significantly increased in the last decade. Independent Expenditures (IEs) spent over \$40 million in the 2021 municipal election - more than double that in 2013 - including spending in 48 out of the 51 Council races. The same IEs are also spending more and more money on state assembly and senate races in New York City.

With the continuing proliferation of outside money into our local elections, the council members should consider the following measures to help protect our democracy and level the funding playing field:

¹ Ranked Choice Voting in the 2021 Primary Election: Preliminary Analysis of Turnout, Candidate Diversity, and Voters’ Impact on Results. Citizens Union, July 2021. <https://citizensunion.org/wp-content/uploads/2021/07/RCV-Analysis-After-June-2021-Primary-Turnout-Candidates-Voters-Impact.pdf>

² Small Donor Public Financing Plays Role in Electing Most Diverse New York City Council. Brennan Center for Justice, November 2021. <https://www.brennancenter.org/our-work/research-reports/small-donor-public-financing-plays-role-electing-most-diverse-new-york>

³ New York City Campaign Finance Board 2021 Post Election Report http://www.nycffb.info/PDF/2021_Post-Election_Report.pdf

⁴ New York City Campaign Finance Board, Campaign Finance Summary.

⁵ New York City Campaign Finance Board 2021 Post Election Report

1. Improve regulation of “coordination” between IEs and campaigns

In the 2021 primary, every leading mayoral candidate had their own “personal” IE established only to support them, despite participating in the campaign finance program. In fact, most IE spending in the mayoral race came from single-candidate super PACs. Some were heavily funded by candidates’ immediate family members.⁶

The vast use of candidate-specific IEs in the mayoral race creates an alternative spending universe to the CFB-regulated one, and throws a wrench in our campaign finance system. We must do more to limit this practice, which allows candidates to circumvent the program’s spending limits and puts in question the separation between campaigns and the IEs that support them.

New York City Charter only forbids coordination by “candidate, [or] any agent or political committee authorized by a candidate.”⁷ The Charter should be amended, or regulations should be promulgated, to clearly define coordination between the Independent Expenditure entity and candidate. They should also include specific reference to the candidate’s family members as well as their former government or campaign staff.

2. Ease spending limits for matching funds program participants who face negative, high-spending, IE-funded campaigns

IE spending occurred in virtually every council race: Independent organizations spent in 48 out of the 51 Council races, with the three others being uncontested or very closed seats. Negative IE-funded campaigns were a major issue in some council races. All negative IE spending came from just three groups, which spent hundreds of thousands of dollars to defeat 11 City Council candidates, mostly in Brooklyn and Queens.⁸

Candidates participating in the voluntary matching funds program are at a disadvantage when IEs, not bound by city or state limits, spend heavily in their race to oppose them. City law currently provides relief for participating candidates who face high-spending *opponents* who do not take part in the program by gradually raising the spending limit for the program participants.⁹

Citizens Union believes the Council should consider extending a similar spending limit relief to small-donor campaigns that face high-spending and negative independent expenditure opposing them, in order to allow candidates to access more funds to respond to outside spending. This legislation should be drafted in a targeted and effective way.

3. Expand donor disclosure rules for independent expenditures on municipal ballot proposals

The City has strict disclosure requirements for IEs that spend money on candidates, but those rules do not apply to IE spending intended to influence municipal ballot proposals. Citizens Union supports the legislation before the Council today, which would require similar disclosure rules for IE

⁶ ‘Climate mayor’ bankrolled by dad with massive carbon footprint. New York Post, May 2021
<https://nypost.com/2021/05/31/climate-mayor-bankrolled-by-dad-with-massive-carbon-footprint/>

⁷ New York City Charter §1052(a)(1)(15)

⁸ New York City Campaign Finance Board 2021 Post Election Report

⁹ §3-706(3)

spending on city ballot proposals, including funding sources, owners and officers of IEs, and a “paid for by” disclosure in communications.

Although there was no municipal ballot proposal before the voters in 2021, independent expenditures have been involved in the last few municipal ballot proposals. Extending these rules to ballot proposal campaigns is a reasonable response to new challenges facing our campaign finance system. Similar disclosure rules in elections for city offices have helped voters learn who is funding campaigns and reduced the effect of “dark money” in our city.

Reduce pay-to-play practices related to campaigns

Elections provide the opportunity for special interests to gain access and leverage with future and current elected officials through campaign donations and support. Previous election cycles exposed loopholes in the City’s laws that were used to foster disproportionate influence for the well-connected few at the expense of the public. The 2021 election revealed similar issues concerning the involvement of lobbyists and people with business before the City in campaigns. Citizens Union recommends the following reforms:

1. Prohibit the use of public funds to purchase campaign services from firms that also lobby

Citizens Union believes that participants in the city’s campaign finance program should be banned from using public matching funds to purchase strategic campaign consulting services from firms that also lobby the City. We have recommended implementing such a provision before.

This practice received renewed public attention in the 2021 election after multiple leading mayoral candidates entrusted their campaigns to powerful lobbying firms. For example, Andrew Yang’s campaign was led by employers of Tusk Strategies, the largest lobbying firm in the city in 2020.¹⁰ Eric Adams’ senior political consultants operated Pitta Bishop & Del Giorno, a lobbying outfit representing clients with business before the City.¹¹ Other candidates hired similar advisors.¹² And this practice is common in down-ballot races as well: The Advance Group provided campaign consultancy services for borough president candidates and a dozen candidates for City Council.¹³ It lobbies the Council, borough president offices, and city agencies on behalf of dozens of clients.

Campaign advisors develop unique relations with candidates and receive an easier access to their office if the candidate wins.¹⁴ We are concerned about the possibility of lobbyists having undue influence with the politicians they helped to elect. While there may be limits on what the law can regulate - we do not take the position that campaigns cannot hire these lobbyists - we do believe

¹⁰ Andrew Yang’s Mayoral Campaign is Being Run by a Lobbying Firm. City & State New York, April 2021.

<https://www.cityandstateny.com/politics/2021/04/andrew-yangs-mayoral-campaign-is-being-run-by-a-lobbying-firm/182966/>

¹¹ Eric Adams Gets NYC Mayoral Campaign Advice from Lawyers Who Lobby Him. The City, May 2021.

<https://www.thecity.nyc/2021/5/31/22462414/eric-adams-gets-nyc-mayoral-campaign-advice-from-lobbyists>

¹² See for example, Consultants, Advisors and Staff: Who’s Running the Democratic Mayoral Campaigns. Gotham Gazette, May 2021. <https://www.gothamgazette.com/city/10486-consultants-advisors-staff-who-is-running-mayoral-candidate-campaigns>

¹³ New York City Campaign Finance Board Follow the Money database.

¹⁴ See for example: Emails Show Lobbying Firm Had Wide Reach During de Blasio’s First Term. Politico NY, August 2017.

<https://www.politico.com/states/new-york/city-hall/story/2017/08/16/emails-show-lobbying-firm-had-wide-reach-during-de-blasios-first-term-113937>

that taxpayer dollars should not be used to foster a practice that is going to give a disproportionate influence to the few at the expense of the public.

2. Ban bundling by lobbyists and people on the Doing Business with the City Database

To limit real or perceived pay-to-play, donation limits for individuals with business ties to city government and registered lobbyists are substantially limited, and those donations are not matched. But those individuals can still bypass those restrictions by “bundling” donations from others.

Our analysis found over 50 individuals on the Doing Business Database—including lobbyists and owners of companies with substantial contracts with city government—who acted as bundlers in the 2021 election, most of them fundraising for mayoral campaigns. For example, a president of a company with contracts before the City, whose donation limit is set at \$400, bundled \$47,500 for a mayoral candidate. A registered lobbyist from Queens who represents several real-estate companies and can legally give only up to \$250 for a City Council candidate, managed to bundle over \$13,000 in donations for the reelection campaign of Chair of the Land Use Committee. And some lobbyists bundled for multiple candidates, getting thousands of dollars for each. In total, bundlers, or intermediaries as they are officially called, have raised over \$1.4 million in the 2021 election cycle.

Bringing in large amounts of dollars to a campaign increases the chances for the bundler to receive access to the officeholder. Allowing people on the Doing Business Database to use this loophole undermines the goals of the campaign finance law.

3. Improve the regulation of nonprofits affiliated with elected officials

In 2016, Local Law 181 brought nonprofits that are affiliated with elected officials under certain campaign finance regulations. However, the law missed some opportunities to ensure that organizations under the influence of an elected official are appropriately regulated to prevent the circumvention of campaign finance rules, or the appearance, thereof.

First, although the law restricts the acceptance of certain donations to affiliated organizations, and conflict of interest rules prohibit officeholders from soliciting donations from anyone with a pending issue before them, fundraising for affiliated organizations still creates ethical problems. Press reports revealed these nonprofits raised hundreds of thousands of dollars from entities who have lobbied the City, and that elected officials ignored ethics guidelines issued by the Conflicts of Interest Board by contacting donors who had business before the City.¹⁵ **The law should be amended to prohibit elected officials from soliciting funds for affiliated organizations.**

¹⁵ De Blasio Fought for 2 Years to Keep Ethics Warning Secret. Here’s Why. The New York Times. December 2021 <https://www.nytimes.com/2021/12/08/nyregion/bill-de-blasio-donors-nyc.html>. Eric Adams’ Campaigns and Nonprofit Reaped Big Bucks from Lobbyists and Developers Seeking Help. The City, April 2021. <https://www.thecity.nyc/2021/4/18/22391194/eric-adams-campaign-contributions-lobbyists-developers>. Brooklyn BP Eric Adams Uses Nonprofit to Raise from Donors with Business Before City – Skirting Campaign Finance Rules in Quest for City Hall. New York Daily News, August 2019. <https://www.nydailynews.com/news/politics/ny-eric-adams-nonprofit-donors-business-before-city-campaign-finances-20190811-ifhehrejuri7l3pswqza6hjua-story.html>.

Second, community programs organized by affiliated nonprofits are often used to promote an elected official's image.¹⁶ The official's presence in printed and digital communications could overshadow the information about an event, suggesting the aim of the communications is self-promotion rather than informing the public. **Citizens Union believes the law should be amended to limit how prominently an elected official is featured in communications of their affiliated nonprofit.**

Third, under current law, an organization affiliated with an elected official is defined as an entity for which the official or their agent is the principal officer with control over the organization, or which was created by the official or their agent in recent years. This definition is too narrow. **To properly determine whether an official "controls" an organization or whether it is independent, we recommend that additional factors be considered**, including whether the official's political operation and the organization share office space, other resources, or consultants; whether the organization sponsors programs prominently featuring the official; and whether the organization has directors or managers with close ties to the official. The law does, however, leave open the possibility for the Conflicts of Interest Board to develop criteria to define "control" in such a way.

Administrative and budgetary independence

Finally, the success of New York City's campaign finance system also depends on the independence and effective administration of the program by the Campaign Finance Board (CFB). The agency's independence from political pressure results from nonpartisan, well-respected appointments to the Board and legal provisions that protect the CFB from politicization. Top among those is the unique budgetary protection that prohibits the mayor from modifying the CFB's proposed budget. That Charter provision, approved by voters in 1998, is essential for the regular functioning of the system and the trust New Yorkers entrust in it, and the Council should maintain it.

The New York City campaign finance system has been a national model for decades, thanks in part to ongoing reforms implemented by the City Council. Previous reforms helped to curb outside spending, limit pay-to-play practices, and level the electoral playing field. We thank the Council for conducting a post-election review process and working to improve the campaign finance system.

¹⁶ How a Top New York Mayoral Candidate Used a Charity to Boost His Profile. Politico NY, April 2021. <https://www.politico.com/news/2021/04/30/eric-adams-charity-485070>



MEMORANDUM OF SUPPORT
Preconsidered Intro. T2022-2607

A Local Law to amend the New York city charter, in relation to requiring disclosure of the identity of contributors to entities making independent expenditures in support of or in opposition to any municipal ballot proposal or referendum

December 13, 2022

Summary of provisions

Preconsidered Intro. T2022-2607 (Brooks-Powers) would require independent expenditure entities (IEs) that spend money on municipal ballot proposal elections to disclose certain donors in the same manner IEs that spend money on city offices are required to do. These include the funding sources of IEs that spend more than \$50,000, the owners, officers, and board members of IEs, and a “paid for by” disclosure, with names of donors, on campaign material.

Statement of Support

This bill would strengthen New York City’s robust campaign finance system by expanding disclosure requirements for independent spenders to campaigns for municipal ballot. Similar disclosure rules in elections for city offices have helped voters learn who is funding campaigns and reduced the effect of “dark money” in our city. Extending these rules to ballot proposal campaigns is a reasonable response to new challenges facing our campaign finance system. Citizens Union notes certain parts of the bill’s language should be changed before approval.

Details of Position

New York City has some of the strictest disclosure rules in the country concerning unlimited outside spending. Under City Charter Section 1052(a)(15), every independent spender must disclose how much they have spent, what they have spent money on, and whether it was in support of or in opposition to a candidate or ballot initiative. However, contribution and donor disclosure are not as strict when it comes to ballot initiatives. IEs that spend money on ballot initiatives are exempt from disclosing most of their donors and funding sources. They are not required to post “paid for by” notices on their campaign material, as other IEs do.

The results of the 2021 November vote on statewide ballot proposals have demonstrated the significant impact that big-money spending can have on a referendum. According to news reports, 3 million dollars were spent on an opposition campaign through one political party’s “housekeeping” account, funded by one individual billionaire.¹⁷ Popular voting reforms were ultimately rejected on the ballot.

¹⁷ Why New Yorkers Rejected Ballot Proposals on Voting and Redistricting, New York Times, 11/03/21 <https://www.nytimes.com/2021/11/03/nyregion/ny-ballot-measures.html>; Billionaire funded barrage of ads against ballot questions, Times Union, 11/12/21 <https://www.timesunion.com/state/article/Billionaire-funded-barrage-of-ads-against-ballot-16616524.php>

Independent expenditures have been involved in the last few municipal ballot proposals as well. In 2018, voters were asked to vote on three ballot questions. Independent expenditures spent a total of \$125,659 on supporting and opposing the questions, but only \$1,241 was reported as contributions. In 2019, five questions were on the ballot. Independent expenditures supporting and opposing the questions totaled \$1,279,388, yet \$0 of contributions were reported.¹⁸ Clearly, the amount of outside money making its way into our city elections is on the rise.

Citizens Union supported some of the above-mentioned ballot proposals and opposed others. But no matter what one's position on those questions might be, **New York voters have a right to know who is funding the campaigns to convince them to vote one way or another. Independent expenditures should disclose their source of funding when spending on ballot proposals.**

However, Citizens Union notes that the current bill deletes the words "in any covered election" from City Charter Section 1052(a)(15)(b). This change could be interpreted to mean that disclosure rules apply to non-city elections, which are not under the jurisdiction of the City Charter. The Council should redraft that section before moving the bill forward.

¹⁸ NYCCFB Independent Expenditure Summary data for 2019 and 2018.