



Commonwealth of Massachusetts  
Office of the State Auditor  
Suzanne M. Bump

*Making government work better*

Official Audit Report - Issued September 14, 2011

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## State Election Campaign Fund

For the period April 1, 2007 through January 31, 2011



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### **INTRODUCTION**

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In accordance with Chapter 11, Section 12, and Chapter 10, Section 42C, of the General Laws, the Office of the State Auditor (OSA) conducted an audit of the State Election Campaign Fund (SECF) for the period April 1, 2007 to January 31, 2011. The purpose of our review was to determine whether the SECF's accounting records were complete, accurate, and up-to-date; disbursements relating to the 2010 statewide elections were made in compliance with applicable laws, rules, and regulations; and these disbursements were properly recorded and any unused funds were properly returned to the SECF. Chapter 10, Section 42C, of the General Laws requires the Office of the State Comptroller (OSC) to conduct a post-audit of the accounts and transactions of any candidate for State Auditor. On May 5, 2011, the State Comptroller issued a letter to the Director of Office of Campaign and Political Finance (OCPF) indicating that the OSC's post audit of accounts and transactions of candidates for State Auditor disclosed no areas of noncompliance.

Based on our review we have determined that, for the period April 1, 2007 through January 31, 2011, except for the matters discussed in the Audit Results section of the report, the SECF was in compliance with applicable laws, rules, and regulations relative to the accuracy of the fund for the areas tested.

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#### **1. INACCURATE STATE ELECTION CAMPAIGN FUND BALANCE**

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Prior audits conducted by the OSA disclosed that improvements were needed in the reporting, recording, and accounting for the SECF balance and the SECF's central oversight and coordination of its accounting transactions and investment income. Due to a lack of coordination and communication among OCPF, the OSC, and the OST, the SECF fund balance recorded on the Massachusetts Management Accounting and Reporting System (MMARS) and the OST's investment fund balance were inaccurate. Our current review disclosed that although communication and coordination has improved between the agencies regarding reconciliation of the fund balances, additional improvements are still needed to ensure their accuracy.

Our prior review disclosed that oversight improvements were made, including the agencies' conducting various meetings/e-mail communications regarding reconciling the fund balance and OCPF's receipt of monthly investment statements and access to the monthly Blue Book (Monthly Report of Collections and Refunds, published by the Department of Revenue). As part of the management action plan, OCPF agreed to communicate authorized disbursements and investments of funds to the OST. However, our current review noted that, as of January 31, 2011, the SECF fund balance of \$243,114 recorded on MMARS was overstated by \$1,074 and should have been recorded as \$242,040. The SECF overstatement was due to various errors in the calculation of interest. These errors occurred because OCPF did not promptly notify the OST to transfer receipts from the General Fund to the investment account, resulting in the loss of investment income, or because funds were not promptly withdrawn from the

investment account to cover disbursements to candidates, resulting in excess interest credits to the fund. In addition, the OST processed an interest adjustment of \$12,605 based on monthly Massachusetts Municipal Deposit Trust (MMDT) rates, which are higher than the actual rate received by the fund. In its response to the audit report, OCPF stated that it has developed a policy to ensure that fund transactions are processed in a timely manner and that this policy will ensure that the SECF balance certified by the OSC is accurate.

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## **2. CANDIDATE CAMPAIGN EXPENDITURE REPORTS NOT ON FILE**

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Our review of candidate reporting compliance revealed that OCPF could not provide certain candidate forms and supporting schedules required to be filed for the 2010 state election. Specifically, for the nine candidates required to file a Form CPFA 30: Post Primary Expenditure Statement for the 2010 primary election, OCPF could not locate the forms for four candidates, and one candidate form lacked the supporting schedules required to be filed in compliance to campaign regulations. For the remaining four candidates, candidate campaign forms required to be filed for the primary and general elections were on file and provided.

Massachusetts regulations (CMR) 4.13, et. seq., Post Primary and Election Reports, requires each candidate who is subject to a campaign expenditure limit to file on a form (CPFA 30), prepared by the Director of OCPF, the campaign expenditure report provided for in 970 CMR 4.13(3). The 970 CMR 4.13(3) requires candidates to submit the campaign expenditure reports required to be filed after the primary and general election that includes the campaign expenditure limit applicable to the candidate or the candidate team; itemized expenditures, including date paid, amount paid, and the purpose of the payment; in-kind contributions itemized by the date received, the person making the contribution, the amount or value, and the purpose of the contribution; and liabilities itemized by the date incurred, the person to whom the liability is owed, and the amount and purpose of the liability. In response to the audit report, OCPF stated that it was strengthening its internal control processes by establishing a more comprehensive receipt log for all required statements, and would maintain duplicate copies of all reports in the OCPF Director's office.

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### **Summary of Fund Activity-State Election Campaign Fund Revenue, Expenses, and Changes in Fund Equity, April 1, 2007 through January 31, 2011**

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## INTRODUCTION

### *Background*

The State Election Campaign Fund (SECF), established by Chapter 774 of the Acts of 1975 and codified as Chapter 10, Sections 42 through 45, of the Massachusetts General Laws, was created to provide limited public financing for candidates seeking statewide office. The SECF's principal source of revenue consists of voluntary contributions by individuals filing state income tax returns. Originally, individual filers could voluntarily contribute \$1 and joint filers could contribute \$1 each to the SECF.

In June 1994, Chapter 62, Section 6C, of the General Laws was amended by Chapter 43, Sections 46 and 47, of the Acts of 1994. This amendment provided that taxpayer contributions to the SECF from individual and joint filers would no longer increase the amount of state tax owed or reduce a refund, similar to the federal tax system. The new law came into effect for any taxable year ending on or after December 31, 1994.

The passage of a ballot question on November 3, 1998 enacted Chapter 395 of the Acts of 1998, which changed the name of the SECF to the Massachusetts Clean Elections Fund (MCEF) and required the transfer of fund balances to the MCEF. In addition, Sections 42 through 45 of Chapter 10 of the General Laws were deleted and a newly worded Chapter 10, Section 42 was implemented establishing new oversight responsibilities for the Director of the Office of Campaign and Political Finance (OCPF), new public funding requirements for candidates, and new guidelines for the distribution and use of funds. The law also requires the Office of the State Comptroller (OSC) to prepare and issue an annual report detailing revenue and expenditures of the MCEF. Public financing of the 2002 statewide election was processed under the MCEF laws.

The MCEF laws were repealed by Chapter 26, Section 43, of the Acts of 2003, with an effective date of July 1, 2003. The law rescinded the name change and required the transfer of fund balances from the MCEF back to the SECF, repealed Chapter 55A of the General Laws, inserted a new Chapter 55C of the General Laws, and amended Chapter 10 of the General Laws to include Sections 42 and 42A through 42C.

Chapter 55C, Section 3, of the General Laws - Limited Public Financing Eligibility - established specific responsibilities for the Director of OCPF, including: (1) determining and certifying to the

State Treasurer candidate eligibility and amounts of public financing to receive, (2) prescribing stipulations for filing and eligibility requirements for candidates, (3) establishing guidelines for the distribution of funds to candidates, (4) establishing candidate expenditure limits and matching fund requirements, and (5) preparing and submitting a report relating to fund matters on or before January 30 of any year following a year in which elections were held for statewide elective office.

Chapter 10, Section 42, of the General Laws has specific statutory provisions requiring the Office of the State Treasurer (OST) to invest SECF funds in such manner as will secure the highest interest rate available consistent with the safety of the fund. In addition, the OSC is required to determine the fund balance available for distribution to candidates as of June 30th of the statewide election year and to divide the SECF funds into primary and state election accounts.

Chapter 10, Section 42B, of the General Laws states that the OST shall distribute from each primary or state election candidate account the amounts then certified by the Director of OCPF.

### ***Audit Scope, Objectives, and Methodology***

In accordance with Chapter 11, Section 12, and Chapter 10, Section 42C, of the General Laws, the Office of the State Auditor (OSA) conducted an audit of the SECF for the period April 1, 2007 to January 31, 2011. The purpose of our review was to determine whether the SECF's accounting records were complete, accurate, and up-to-date; disbursements relating to the 2010 statewide elections were made in compliance with applicable laws, rules, and regulations; and these disbursements were properly recorded and any unused funds were properly returned to the SECF. During the review, we examined whether (1) all contributions received by the Department of Revenue (DOR) were properly credited to the fund, (2) interest income earned by the OST on behalf of the fund was accurate and properly credited, (3) public financing was distributed to qualified candidates in accordance with legislation and properly recorded, (4) candidates' refunds were properly returned to the fund, and (5) the fund balances were accurate as of June 30, 2010 and January 31, 2011. Chapter 10, Section 42C, of the General Laws requires the OSC to conduct a post-audit of the accounts and transactions of any candidate for State Auditor. On May 5, 2011 the State Comptroller issued a letter to the Director of OCPF indicating that the OSC's post-audit of accounts and transactions of candidates for State Auditor disclosed no areas of noncompliance.

We conducted this performance audit in accordance with generally accepted government auditing standards<sup>1</sup>. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit procedures consisted of the following:

- Discussing certain fund activities and procedures with the OCPF, DOR, the OSC, and the OST.
- Analyzing fund income and expenditures posted to the Massachusetts Management Accounting and Reporting System (MMARS) for the SECF.
- Confirming the accuracy of MMARS reports by comparing transactions recorded in MMARS to the information processed by state agencies, including DOR, the OST, OCPF, and the OSC.
- Verifying that all funds available were distributed to candidates by reviewing the OSC's calculation of funds available for the primary and general elections for 2010.
- Reviewing compliance to campaign filing requirements for the 2010 primary and general elections.

Based on our review we have determined that, for the period April 1, 2007 through January 31, 2011, except for the matters discussed in the Audit Results section of the report, the SECF was in compliance with applicable laws, rules, and regulations relative to the accuracy of the fund for the areas tested.

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<sup>1</sup> Generally accepted government auditing standards (GAGAS) require that audit organizations be free from organizational impairments to independence with respect to the entities they audit. In accordance with Chapter 10, Section 42C, of the General Laws, the accounts and transactions of candidates for State Auditor were examined by the Office of the State Comptroller, an independent governing body, and were not the subject of our review. Accordingly, our audit was free of organizational impairments to independence in conformance with GAGAS.

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## AUDIT RESULTS

### 1. INACCURATE STATE ELECTION CAMPAIGN FUND BALANCE

Prior audits (No. 07-0969-3S, No. 99-5032-2, No. 95-5032-2, and No. 91-0969-2) conducted by the Office of the State Auditor (OSA) disclosed that improvements were needed in the reporting, recording, and accounting for the State Election Campaign Fund (SECF) balance and the SECF's central oversight and coordination of its accounting transactions and investment income. Due to a lack of coordination and communication between the Office of Campaign and Political Finance (OCPF), the Office of the State Comptroller (OSC) and the Office of the State Treasurer (OST), the SECF fund balance recorded on the Massachusetts Management Accounting and Reporting System (MMARS) and the OST's investment fund balance were inaccurate. Our current review disclosed that although communication and coordination has increased between the agencies regarding reconciliation of the fund balances, additional improvements are still needed to ensure their accuracy. Specifically, improvements are needed in the timely notification of transfer of receipts to, and withdrawals from, the investment account at the OST. As of January 31, 2011, the fund balance of \$243,114 as recorded on MMARS was overstated by \$1,074 and should have been recorded as \$242,040.

Chapter 10, Section 42, of the Massachusetts General Laws established the SECF, consisting of all revenues received under Chapter 62, Section 6C, of the General Laws and all other amounts credited or transferred to the fund from any other fund or source pursuant to law. Chapter 29, Sections 34, of the General Laws requires the OST to invest SECF funds in such manner as will secure the highest interest rate available consistent with the safety of the fund and with the requirement that all amounts on deposit be available for immediate withdrawal at any time after June 30 in any year in which elections are held for statewide elective office. Although the enabling legislation did not specify principle oversight and maintenance responsibilities for the fund, four agencies share responsibility for the SECF, as follows:

- Department of Revenue (DOR): Reports the total contributions made by taxpayers to OSC on a monthly basis through a MMARS interface so that the SECF is properly credited.
- Office of the State Comptroller: The OSC determines the SECF balance available for disbursement to political candidates as of June 30 in a statewide election year.

- Office of the State Treasurer: As the custodian of funds, the OST shall make deposits to the fund in a manner that will secure the highest interest rate available consistent with the safety of the fund. The OST also distributes to the candidates amounts warranted by the Director of the Office of Campaign and Political Finance.
- Office of Campaign and Political Finance: The Director of OCPF certifies each candidate's eligibility for and the amounts to be received from public financing. The OCPF is responsible for reviewing candidate eligibility, including the candidate's list of qualifying contributions, statement of expenditure limits, and bonds posted.

The SECF is processed in MMARS, consisting of DOR's monthly taxpayer contribution receipt information, OCPF's candidate disbursement information, and the OST's monthly investment income and fund balances.

Our prior audit report noted that more efficient communication and sharing of fund documentation was needed between OCPF, the OST and the OSC to better ensure the accuracy of SECF reporting and recording. In a joint response to our prior audit finding of an inaccurate SECF fund balance, OCPF, the OST and the OSC agreed to implement a management action plan that included increased communication and cooperation among the agencies in reconciling the fund balance and processing fund activity. As part of the plan, OCPF agreed to communicate authorized disbursements and investment of funds to OST. Our review noted improvements were made in the oversight of the fund, including OCPF's receipt of monthly fund investment statements and OCPF access to the monthly Blue Book (Monthly Report of Collections and Refunds, published by DOR), and periodic communications/meetings held among the three agencies to reconcile fund balances and process adjustments as needed to the investment account. However, our current review revealed that, due to untimely communication between OCPF and the OST regarding investment activity and an interest adjustment determined by the OST using interest rates higher than actual rates received, the SECF fund balance recorded in MMARS was inaccurate. As of January 31, 2011, the SECF fund balance should have been \$242,040. However, the SECF fund balance per MMARS was \$243,114, an overstatement of \$1,074. Moreover, the OST Massachusetts Municipal Deposit Trust (MMDT) Investment Balance was \$217,029, which is understated by \$25,011.

Our review of SECF activity from April 1, 2007 to January 31, 2011 noted that monthly DOR contribution receipts and other amounts received for the fund, such as repayments by candidates, were only transferred three times from the General Fund to the MMDT investment



account, resulting in the loss of investment income. The three transfers to the MMDT investment account occurred as follows: \$473,964.73 on January 21, 2009, \$278,993.89 on November 20, 2009 and \$133,424.58 on May 4, 2010. Per the OST, funds will only be transferred to investments upon direct notification and explicit directions by the agency responsible for the fund. In accordance with the agreement between the agencies, OCPF is responsible to notify the OST to transfer the funds.

In addition, the SECF investment balance was not reduced in a timely manner for funds that were disbursed to candidates for the 2010 election cycle, resulting in overinvested funds and the posting of excess interest to the MMARS account balance. OCPF's notifications to the OST to withdraw funds for disbursement for the 2010 elections occurred on September 1, 2010 for funds totaling \$525,163 disbursed during July and August of 2010, and on January 20, 2011 for funds totaling \$894,691 disbursed during October 2010 for the general election. As a result, the SECF was earning excess interest.

Finally, the OSC did not process a \$32,351 credit due the fund that was identified in the prior audit report until September 15, 2009, 14 months after the report was issued. Additionally, the OST completed an interest adjustment of \$12,605 on November 19, 2009 for interest due the fund from April 1, 2007 to September 31, 2009. That interest credit was based on the monthly MMDT rates, which are the 30-day average yield rate published for bond investors; however, our review noted that the actual interest rate the fund received monthly per the investment account statements was lower. As a result, the fund was credited interest at a higher rate than the actual interest rates the fund earned.

Due to the untimely transfer of funds between the General Fund and the OST's MMDT investment account and the interest adjustment processed based on the higher MMDT rate, the MMARS balance of the SECF fund and the OST investment portfolio fund balance are inaccurate. As a result of the inaccuracies, the possibility exists that eligible candidates may receive fund payments in excess of the actual SECF balance or may receive payments that are less than what they are entitled to receive.

**Recommendation**

OCPF should implement procedures to improve communication between OCPF and the OST to ensure that fund transactions are processed in a timely manner to and from investments so that the MMARS fund balance is accurate and complete. This should include notifications to transfer receipts monthly to the investment account and timely notifications of funds disbursed to candidates so that funds are transferred timely from investments. In addition, the OST should review procedures for crediting fund investments to ensure that the fund properly receives the actual rate of interest earned.

**Auditee's Response**

In its response, OCPF officials stated the following:

*OCPF has developed a policy to ensure that fund transactions are processed in a timely manner. It has transmitted this policy to OST and OSC and this policy is currently working well. On a monthly basis, OCPF reviews the Blue Book published by DOR and determines the amount contributed by taxpayers in the previous month. OCPF then sends a communication via e-mail to OST requesting that the amount noted be released from the General Fund and be transferred into the SECF (MMDT). In the same communication, OCPF notes when the funds will next be needed for distribution and requests that OST invest the entire amount available until that date.*

*To ensure that funds are properly allocated during the election season, OCPF, after OSC determines the amount available in the SECF (MMDT), will certify participating candidates, authorize the distribution of funds, and instruct OST to make the payment(s). In a separate communication, OCPF will also ask OST to transfer funds in that amount from the SECF (MMDT) to the General Fund. This will reduce the amount available in the SECF (MMDT).*

*If and when a refund is received from a candidate, OCPF will deposit the refund in its sweep account. OCPF will also complete an Expenditure Refund request to MMARS to send the refund to the General Fund. OCPF will also inform the Treasurer that the refund amount should then be released from the General Fund and deposited back into the SECF (MMDT). Any other funds (court judgment, etc.) shall be handled in the same manner.*

*These steps should ensure that the amount certified by OSC is accurate.*

**2. CANDIDATE CAMPAIGN EXPENDITURE REPORTS NOT ON FILE**

Our review of candidate reporting compliance revealed that OCPF could not provide certain candidate forms and supporting schedules required to be filed for the 2010 state election campaign. Specifically, for the nine candidates required to file a Form CPFA 30: Post Primary Expenditure Statement for the 2010 primary election, OCPF could not locate the forms for four

candidates, and one candidate form lacked the supporting schedules required to be filed in compliance with campaign regulations. All other candidate campaign forms required to be filed for the primary and general elections were on file and provided for the review.

The 970 Code of Massachusetts Regulations (CMR) 4.13 requires candidates to submit certain campaign expenditure reports after the primary and general election that include the following information: the campaign expenditure limit applicable to the candidate or the candidate team; itemized expenditures, including date paid, amount paid, and the purpose of the payment; in-kind contributions itemized by the date received, the person making the contribution, the amount or value, and the purpose of the contribution; and liabilities itemized by the date incurred, the person to whom the liability is owed, and the amount and purpose of the liability.

Candidates are required to file various forms by deadlines during the election cycle. OCPF provides candidates a Public Finance Handbook detailing the Commonwealth's system of limited public financing of statewide campaigns, including a list of all required forms and filing deadlines. As part of the SECF compliance review, we requested OCPF's letters issued to candidates related to public financing compliance and the various candidate forms and supporting schedules required to be filed by the candidates. OCPF could not locate a Form CPFA 30 (which is required to be filed by any primary candidate subject to a statutory or self-imposed spending limit) for four candidates, and the filed CPFA 30 Form for one candidate did not include the required supporting schedules attached. The form includes a detailed report of all expenditures made, in-kind contributions received and liabilities incurred during the primary election campaign period. This report covers the period from June 2, 2010 through September 14, 2010. Expenditures, in-kind contributions, and liabilities count toward a candidate's campaign expenditure limit, and candidates may report expenditures exempt from the campaign expenditure limit.

Per 970 CMR 4.13(1):

*Each candidate, including each candidate for governor and each candidate for lieutenant governor of a candidate team who is subject to a campaign expenditure limit shall file on a form prepared by the director the campaign expenditure report provided for in 970 CMR 4.13(3).*

Per 970 CMR 4.13(4):

*The primary and general election public financing reports and campaign expenditure reports provided for in 970 CMR 4.13 shall be filed with the director on or before the second Tuesday following the primary or the general election. The reports required by 970 CMR 4.13 shall be signed by the candidate and treasurer under the penalties of perjury.*

The deadline for filing the CPFA 30 reports was September 28, 2010.

OCPF personnel stated that although these forms were filed by the candidates and received by OCPF, they could not be located in OCPF's files. OCPF date stamps the documents when received, however, OCPF does not have adequate internal controls whereby it maintains a log or electronic record for receipt of forms. As a result, OCPF could not provide evidence that the forms were properly filed by the candidates in compliance with campaign requirements. (At the conclusion of the audit, OCPF provided one of the forms, which was signed on March 17, 2011 and receipt date-stamped by OCPF on March 23, 2011.)

#### ***Recommendation***

OCPF should ensure that forms are properly filed in compliance to campaign regulations and that procedures are in place to properly secure documents filed with the agency. Also, internal controls should be implemented to track the receipt of required forms either by maintaining a receipt log or entering the receipt information into a database system.

#### ***Auditee's Response***

OCPF stated that it agreed that certain Form CPFA 30: Post Primary Expenditure Statements could not be located. It further indicated that it is currently strengthening its internal control processes, has developed a more comprehensive receipt log for all required statements, and will maintain duplicate copies of all reports in the OCPF Director's office.

## APPENDIX

### Summary of Fund Activity State Election Campaign Fund Revenue, Expenses, and Changes in Fund Equity April 1, 2007 through January 31, 2011

Fund Equity April 1, 2007		\$ 528,128
Revenue:		
Taxpayer Contributions April 1, 2007 to January 31, 2011		1,030,377
Prior Repayment of Candidate Funds		2,100
Investment Income April 1, 2007 to January 31, 2011	\$ 59,456	
Additional Interest Per OST – Prior Audit Adjustment	12,605	
Additional Interest Not Credited to MMARS April 1, 2007 to January 31, 2010	6,357	
Excess Interest Recorded in MMARS	(7,431)	<u>70,987</u>
Total Revenue, Investment Income, and Fund Equity		\$1,631,592
Expenses:		
Distributions to Candidates July 1, 2010 to October 31, 2010	\$1,419,854	
Less: Repayment by Candidates	<u>30,302</u>	
Total Expenses		<u>\$1,389,552</u>
Fund Equity Balance January 31, 2011		<u>\$ 242,040</u>