

Municipal Election Financing

Discussion Paper

Prepared by the
Toronto Election Finance Review Task Force
March 2004

Mandate

At its April 14, 15 and 16, 2003 Meeting, Toronto City Council appointed the Toronto Election Finance Review Task Force. The mandate of the Task Force is to examine all aspects of municipal election campaign financing and make recommendations to City Council on legislative amendments and process improvements that will enhance the public accountability of candidate financial disclosure. It is not within the mandate of the Task Force to review the administrative procedures for the conduct of an election that are delegated to the City Clerk under the Municipal Elections Act, 1996 such as choosing voting locations, hiring voting place staff and tabulating election results.

Consultation process

The Task Force will conduct public meetings in April to obtain input from members of the public on election finance reform. The City Clerk will advertise these public meetings in community newspapers. This notice will advise the members of the public that, if they are unable to attend a public meeting, they can file a written submission.

Dates and Locations of Public Meetings – All meetings begin at 7 p.m.

Monday, April 5, 2004	Scarborough Civic Centre	Committee Room #2
Thursday, April 8, 2004	Etobicoke Civic Centre	Committee Room #1
Wednesday, April 14, 2004	Toronto City Hall	Committee Room #2
Thursday, April 15, 2004	North York Civic Centre	Committee Room #3

Task Force Members

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INTRODUCTION

The Toronto Election Finance Review Task Force (Task Force) has reviewed the issues identified by the Toronto City Council (Council) and has developed some initial recommendations and identified some issues that need additional study and input from the public before final recommendations to Council are prepared. The Task Force believes that wide public consultation will enhance the quality of its recommendations.

PART 1: INCOME

1.1 LIMITING THE AMOUNT CONTRIBUTED BY A DONOR

Present legislation allows an individual, corporation or trade union to contribute up to \$750 to any one candidate. However, there is no limit to the number of candidates to whom a donor can contribute \$750. It would be possible for a wealthy donor to contribute \$750 to many candidates for office in a municipality. An example of this occurred in the 2000 Toronto elections where a single corporation contributed to the campaigns of 18 candidates. Some people believe that this may unduly influence the decision-making process in matters affecting that donor and thus erode confidence in the democratic process. It may be appropriate to limit the total contributions that a donor can make to all candidates for public office in a municipality.

Recommendation 1.1 – Amend the Ontario Municipal Elections Act (Act) to limit contributions to all candidates for councillor by a donor to \$1000 with a maximum of \$750 to any one candidate and to limit contributions for all candidates for mayor by a donor to \$2,500.

1.2 ALTERNATIVES TO THE CURRENT REBATE PROGRAM

While not widely in use, both Toronto and recently Ottawa are two municipalities with rebate programs. The fact that corporate and trade union contributions are given mostly to successful candidates who tend to be incumbents is not fair to all the candidates. For example, a staff handout (see Appendix I) showed that candidates elected to the City of Toronto Council in 2000 received 59.6% of their contributions from corporations and trade unions while only 40.4 % of their funding came from individuals. This has contributed to a belief by some voters that “City Hall” is more responsive to the demands of corporations and of trade unions than it is to the voters of the city.

The same Administration Committee handout in October 2002 reported that unsuccessful candidates received only 37.9% of their funding from corporations and trade unions while 62.1% of their contributions came from individuals. There is a concern among some voters that the system of election financing is biased in favour of corporations and trade unions and places individuals, especially those with low or modest incomes, at a disadvantage in financing and electing candidates of their choice.

The implementation of rebate programs was supposed to make it easier for individuals, especially those with limited resources, to finance candidates of their choice. The Work Group

which studied this issue believes that the rebate plan has proven a disappointment in this regard and that it has funnelled millions of dollars towards corporations and trade unions that have no difficulty funding contributions while being of limited value in assisting low-income people to contribute. This is because it requires an up-front payment of a total amount with a rebate coming a year or so later. For low-income families, it is very difficult to find significant amounts of money to contribute to a candidate's campaign even if most of it will be rebated some time in the future.

Alternative 1.2.1 Matching Grant Program with No Rebates for Corporate or Trade Union Contributions.

An alternative is a program that will supply matching grants to contributions from individuals, thus giving an immediate multiplier effect to their contributions. The matching grant programme is outlined in some detail in this paper because, unlike the rebate programme, it has not been available to municipalities in Ontario.

Since corporations and trade unions have no difficulty funding contributions to candidates of their choice, the Work Group studying this issue felt that there is no need to supply matching grants to contributions from corporations and trade unions. In addition, the matching grants would only apply to contributions of money, not to contributions of goods or services. A matching grant program is currently in operation in New York City (See website www.nyccfb.info).

Present legislation permits plans such as that of the City of Toronto that rebates 75% of contributions up to \$300 and lesser percentage rebates as the amount of the contributions increases. The maximum rebate is \$1000 on a contribution of \$2,500. A matching grant program could operate in a similar fashion by providing a grant to the candidate of three times the contribution up to \$200 contributed and no grants for larger contributions. Thus the maximum matching grant would be \$600. A requirement could be that, in order to qualify for matching grants, the candidate would have to provide evidence of a minimum number of individuals (possibly 50) contributing at least \$25 to ensure that only serious candidates are able to participate in a matching grants program.

The advantage of a matching grant program would be threefold. First, it would make it easier for low and modest income individuals to become involved in financing the election of their candidate of choice in a meaningful way without undue financial hardship. Second, a matching grant program is much easier and far less expensive to administer. It would require a candidate to supply documentation of contributions at specific intervals (possibly three) during the election campaign and require only three grant cheques to be issued to each candidate's campaign account rather than the 40,000 or more cheques that must be written to individual contributors at a cost of approximately \$20 per cheque under the current rebate program. Third, it would make it easier for a community-based candidate to raise funds for a campaign, as contributions from individuals would have greater weight because of the matching grants than contributions from corporations and trade unions.

Alternative 1.2.2 Matching Grant Program with Prohibition on Corporate and Trade Union Contributions

The Matching Grant program would only provide matching grants on contributions of money from individuals. Corporations and trade unions would be prohibited from making contributions.

Alternative 1.2.3 Modified Rebate System with No Rebates for Corporate or Trade Union Contributions

The Rebate Program would provide rebates of 75% on contributions up to \$200 with no rebate on contributions above \$200. Rebates would be offered for contributions of money only (not for goods or services) from individuals. Corporate and trade union contributions would not be eligible for rebates.

Alternative 1.2.4 Modified Rebate System with Prohibition on Corporate and Trade Union Contributions

The Rebate Program would provide rebates of 75% on contributions up to \$200 with no rebate on contributions above \$200. Rebates would be offered for contributions of money only (not for goods or services) from individuals. Corporate and trade union contributions would be prohibited.

Alternative 1.2.5 Rebate Program for Contributions from Individuals, Corporations and Trade Unions

Some Task Force members believe that corporations and trade unions should continue to be entitled to make contributions to candidates' campaign funds, some believe that the current rebate programme is satisfactory and some believe that corporate and trade union contributions should continue to be eligible for rebates. This option represents a continuation of the existing system.

Alternative 1.2.6 Matching Grant Program for Contributions from Individuals, Corporations and Trade Unions

Some Task Force members believe that corporate and trade union contributions should be eligible for matching grants.

1.3 DISPOSITION OF SURPLUSES

The current Municipal Elections Act provides that surpluses from one election would be held in trust by the clerk and that if, in the next regular election or in an earlier by-election, the candidate is nominated for an office on the same council or local board, the clerk shall pay the amount held in trust to the candidate, with interest.

It is not unknown for candidates to have huge surpluses, especially those that have been elected or re-elected. It gives these candidates, most of whom are incumbents, a huge advantage over

those who are running for municipal office for the first time. This is patently unfair. Contributions are made to a candidate for a specific election. Those contributing to a candidate at one election could change their mind and not want their contributions to support the same person in the next election or, as sometimes happens, in a future election. The municipality substantially funds surpluses when there is a rebate or matching grant program in operation. Surpluses should become the property of the municipality or local board, as the case may be, if they are not used in the election for which they were raised.

The implementation of Recommendation 1.3 will remove the incentive to raise funds in excess of the maximum amount of allowable election expenses to use in the next election. It will also eliminate the situation where an individual who does not intend to stand for election nominates him or herself and then withdraws in order to insure that a surplus from the previous election will continue to be held in trust for a future election.

Recommendation 1.3 Amend the Act so that surpluses would become the property of the municipality or local board, as the case may be, if they were not used in the election for which they were raised.

PART 2: ELECTION CAMPAIGN EXPENSES

2.1 REDEFINING ALLOWABLE CAMPAIGN EXPENSES

The amounts of contributions that candidates are currently allowed to raise and spend in many cases far exceed the actual spending limits imposed by the regulations. This occurs where candidates either spend large amounts of funds for fundraising or fundraising events or for holding parties and making other expressions of appreciation after the close of voting. These activities are not currently subject to the allowable expenses limitation. It would appear that some candidates also raise money in excess of their expenditure limits so that the clerk will retain these funds in trust for their future campaigns.

For example, in the 2000 Toronto election, one candidate for Councillor raised \$110,058 when his spending limit was \$28,044. In the same election in the City of Toronto, 23 of the 44 successful candidates for Council raised more than twice their campaign spending limits. The same excessive fund raising has occurred in other municipalities and provides an unfair advantage for incumbents as well as being a drain on the finances of a municipality that is providing rebates for contributions.

To help correct the problems of excessive fundraising, it will be necessary to redefine expenditures to include the cost of holding fund-raising functions and the cost of holding parties and making other expressions of appreciation after the close of voting as campaign expenses. To offset this additional election expense, it is proposed that the maximum amount of allowable election expenses be increased by 25%.

Recommendation 2.1 – Amend the Act to include the cost of holding fund-raising functions and the cost of holding parties and making other expressions of appreciation after the close

of voting as campaign expenses and thus subject to the maximum expenditure limit. Amend the General Regulation under the Act to increase the maximum expenditure limit by 25% to allow for the increased expenditures required by making the above expenditures subject to the maximum expenditure limitation.

PART 3: REPORTING

3.1 TRANSPARENT REPORT FORMS

The Task Force believes that the reporting of election revenues and expenditures should be made more transparent. A number of changes are proposed, including mandatory electronic filing, the use of more detailed report forms by all candidates and a continuation of the requirement that audits be conducted for campaigns with \$10,000 or more in revenues or expenditures. Electronic filings will not only provide for easy public access but will also support compliance efforts. Additional expense categories are needed on the summary statement of income and expenses and additional schedules should be provided detailing all expenses of \$100 or more. Definitions should be provided for expense categories describing the types of expenditures to be included in each category as a means of improving consistency in the filings and facilitating comparisons.

Recommendation 3.1 The reporting of revenues and expenditures should be made more transparent by implementing the changes outlined above.

3.2 JOINT CAMPAIGNS

It is evident that some candidates for municipal office are operating joint campaigns. However, there is currently no regulation of such activities and there have been concerns expressed of possible abuses with respect to allotting and reporting of expenses. The Task Force thinks that they should be regulated to protect the public interest.

Recommendation 3.2 That joint campaigns be recognized in the Municipal Elections Act, be subject to written agreements between the participant, that a joint bank account be opened with specific rules set out for the operation of the account and a provision that all joint expenditures be paid only through this account, that the agreement be filed at the time the bank account is opened, and that a separate filing be made for each joint account and each participant should attach a copy of the filing to the participant's return.

PART 4: COMPLIANCE AND ENFORCEMENT

4.1 ESTABLISHMENT OF AN ELECTION FINANCE REVIEW BOARD

There have been concerns expressed that the present system of the municipal council being responsible for monitoring and enforcing elections financial activities is inappropriate and ineffective. A solution would be the establishment of an independent monitoring body called the Election Finance Review Board to act as an oversight body to monitor election finance activities in the City of Toronto. Such a body must be given adequate staffing and other resources and support to ensure its effectiveness. As well, the civilian members appointed to serve on the

Election Finance Review Board must be free from political influence and must be provided with per diem remuneration while serving on the Board. The Election Finance Review Board should be empowered to deal with complaints arising from the election campaign of any candidate. (It is interesting to note that the New York City Campaign Finance Board was created in 1988 as an independent, non-partisan city agency and the website at www.nyccfb.info gives a comprehensive look at the operation of such a board.)

Recommendation 4.1 That an independent Election Finance Review Board be established to act as an oversight body which will review all data based on all returns filed; compile aggregate data for reports to Council; recommend amendments to the legislation, financial reporting system and rebate program for approval by Council; and review and report to Council on complaints concerning possible infractions of the legislation and Council's guidelines concerning election finance issues.

4.2 ALTERNATIVES TO THE ESTABLISHMENT OF AN ELECTION FINANCE REVIEW BOARD

Option 1: Transfer this Function to a Provincial Body

Under this option, the legislation would be amended to provide that monitoring of election finance activities would be considered by one of the provincially appointed quasi-judicial boards, such as the Ontario Municipal Board (OMB). The OMB already has responsibilities for some municipal matters and is accustomed to conducting public hearings.

The argument for this option is that it would increase the public's confidence in the process, as Council would not be policing its own members.

On the other hand, to implement this option would require legislative amendments that the Province may or may not be willing to enact. It would also remove the decision-making process from an elected body with political accountability. Finally, it might lead to an increase in the number of compliance audit requests as electors may feel the process is subject to a more independent review and, therefore, have greater success in receiving a favourable decision on their request. As well there would be a time delay in considering the matter as the majority of the provincial boards have busy calendars.

Option 2: Transfer this Function to Elections Ontario

Under this option, the legislation would be amended to provide that monitoring of election finance activities would be considered by Elections Ontario, which now has the responsibilities of the former Commission on Election Finances.

In addition to the arguments listed above, the additional advantage of this option is that staff at Elections Ontario is familiar with election campaign finances rules and are accustomed to reviewing candidates' campaign financial statements.

4.3 ELECTORAL INFORMATION

The Task Force is very supportive of easy access to election financing information by the general public. The City of Toronto website offers extensive information for candidates and voters about the electoral processes. However, there is no reporting on the website of the revenues and expenses filed by the candidates. Currently there is no requirement that candidates have to file reports on revenues and expenses prior to Election Day. However, it should be possible to include such information in a timely fashion after candidates have filed their reports, especially if provision is made for electronic filing. The New York City Campaign Finance Board's website provides a good model for the types of information that should be available to the public.

Recommendation 4.3 Elections financing information, including information concerning individual candidates' contributors, revenues and expenses, should be available to the public in different formats including online in a timely and easily accessible fashion.

OTHER ISSUES

The Task Force will also be recommending a number of changes of a housekeeping nature and some issues that the Task Force members have not resolved. These are outlined below.

OTHER RECOMMENDATIONS

The Task Force would be pleased to receive input on these recommendations.

- 1. That receipts continue to be issued for all contributions of money, goods and services.**
- 2. Retain the existing system of reporting names and addresses of all contributors of money, goods and services.**
- 3. Soft money (contributions of goods and services) must be reported and receipted as campaign contributions using provincial laws as the standard but soft money, although receipted, shall not be eligible for the election rebate or matching grant programme.**
- 4. That legislation to fit the specific needs of the City of Toronto and large urban municipalities be enacted.**
- 5. Require the names of the principal shareholders of a numbered company where that company has made a contribution to a candidate.**
- 6. That the debts of a candidate remaining unpaid 12 months after voting day will be deemed to be a contribution unless the candidate can show the Election Finance Review Board that he/she cannot afford to pay these debts.**

ISSUES CONSIDERED BY THE TASK FORCE BUT NOT RESOLVED

The Task Force would welcome input from the public on these items.

- 1. Length of Campaign Period.** There was some discussion that the length of the campaign period that commences as early as the beginning of January in an election year is too

long. There was some discussion among Task Force members that a starting date such as the 1st of June might be more appropriate but no recommendation was approved.

- 2. Other methods to increase voter participation.** Besides rebates or matching grant programmes to provide incentives for individuals to participate in the election process, other suggestions for increasing voter participation in elections would be appreciated.

The Task Force would appreciate input into the draft recommendations and issues outlined in this discussion paper. Keeping in mind our mandate, the Task Force would welcome suggestions of election financing recommendations that are not included in this discussion paper but that should be part of our recommendations to Toronto City Council.

Are there other issues you think need to be addressed?

What specific changes to Provincial Legislation would address these issues?

Are there non-legislative options for addressing these issues?

Please fill in the form below and include it with your submission.

<p>Name: _____</p> <p>Organization (if applicable) _____</p> <p>Address: _____</p> <p>_____ Postal Code: _____</p> <p>Phone: _____ E-mail: _____</p>
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**Please return your comments before April 16, 2004
by post to:**

**Toronto Election Finance Review Task Force
Clerk's Office c/o Pauline McAdam
City of Toronto
100 Queen Street West, 5th Floor, West Tower
Toronto, Ontario
M5H 2N2**

or email: elections@toronto.ca

APPENDIX I

CONTRIBUTIONS FROM CORPORATIONS AND TRADE UNIONS

The following information is derived from a staff handout in October 2002 to the Administration Committee of the City of Toronto with data from the 2000 election:

Chart 1 – Source of Candidates’ Contributions

Type of Contributor	Contributions to all candidates		Contributions to elected candidates		Contributions to non-elected candidates	
	\$	%	\$	%	\$	%
Corporations/trade unions	\$ 2,372,471	54.36	\$ 1,970,180	59.62	\$ 402,291	37.96
Individuals	\$ 1,991,713	45.64	\$ 1,334,249	40.38	\$ 657,464	62.04
Totals	\$ 4,364,184	100.00	\$ 3,304,429	100.00	\$ 1,059,755	100.00

It is evident that non-elected candidates receive a larger percentage of their total contributions from individuals (62%) than the elected members (40%) and that elected members receive a larger percentage of their total contributions from corporations/trade unions (60%) than the non-elected members (38%).

Chart 2 – Destination of Contributions

Type of Contributor	Total Contributions		Contributions to elected candidates		Contributions to non-elected candidates	
	\$	%	\$	%	\$	%
Corporations/trade unions	\$ 2,372,471	100.00	\$ 1,970,180	83.04	\$ 402,291	16.96
Individuals	\$ 1,991,713	100.00	\$ 1,334,249	66.99	\$ 657,464	33.01

67% (2/3) of contributions by individuals went to winning candidates and only 33% (1/3) to losing candidates. In contrast, 83% of contributions by corporations/trade unions went to winning candidates and only 17% to losing candidates.

These numbers do not include contributions made to candidates who did not participate in the rebate programme.