

Amendment to the Donations to the City for Community Benefits Policy

Date:	September 24, 2012
To:	Executive Committee
From:	Director, Toronto Office of Partnerships Treasurer
Wards:	All
Reference Number:	

SUMMARY

The purpose of this report is to seek approval to amend the “*Policy on Donations to the City for Community Benefits*”. The amendment seeks to replace the existing Donor Declaration Form with additional criteria related to the documentation and communication of terms and requirements of the donation. The amendment will align the policy with the City of Toronto Sponsorship Policy adopted by Council on November 29 and 30, 2011, and facilitate the donations process while maintaining proper financial controls and disclosure.

The Toronto Office of Partnerships (TOP) is responsible for the development and management of corporate infrastructure and capacity to engage, secure and maintain relationships with private and not-for profit partners in order to advance priority City initiatives. This includes developing policies, procedures and supporting documentation requirements for Divisions and Accounting Services to ensure management controls are in place and adhered to, as well as providing staff training to build competency and capacity related to partnership management.

TOP reports annually on donations received by the City of Toronto. These recommended changes are intended to improve transparency and accountability.

The Lobbyist Registrar and the Integrity Commissioner have reviewed and agreed to the recommendations contained in this report.

RECOMMENDATIONS

The Director, Toronto Office of Partnerships and the Treasurer recommend that:

1. City Council adopt the amended “*Policy on Donations to the City for Community Benefits*” attached as Appendix 1 to this Report, deleting the requirement for donors to complete the Donor Declaration Form (as was contained in section 4.4 of the policy) and substitute the following requirements:
 - (1) All donations must be documented by the recipient division in the following form, and reported through the variance reporting for donations under \$50,000 and to City Council for donations above \$50,000:
 - a. Cash and in-kind donations of \$100 or more and under \$50,000 must be documented and the terms and requirements communicated to the donor.
 - b. Cash and in-kind donations of \$50,000 or more must be documented through a legal agreement to the satisfaction of the City Solicitor.
 - c. The donation communication to donors should:
 - i. Convey the terms and requirements of the donation, including donor contact information, the purpose of the donation, the value of the donation, information about the tax receipt, how unused funds will be dealt with and the responsibilities of the respective parties.
 - ii. A statement acknowledging that the donation may be subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.
 - iii. For in kind donations, include where necessary in the opinion of the City Solicitor a waiver of liability and an indemnity clause
 - iv. Include the following statement:

“All donations and/or in-kind donations, made to the City of Toronto and its agencies must be given unconditionally and voluntarily without any expectation of benefit. A donation cannot be used to influence the outcome of an outstanding approval, permit or license application or award of a procurement call. You must advise the City in writing if you, your organization or company is currently involved in a planning approval or procurement process with the City or one of its agencies”
 - (2) All donors must advise the City if a donation is being made concurrently with a planning approval or procurement process in which the donor is involved.
 - (3) As part of its due diligence, prior to proceeding with a donation, the recipient Division is responsible for consulting with the Lobbyist Register and

relevant stakeholders, where necessary, and conducting a risk/benefit assessment.

2. City Council authorize the appropriate officials to take the necessary action to give effect hereto.

Implementation Points

The Toronto Office of Partnerships (TOP) will be responsible for this revised policy. TOP will develop procedures for the implementation of these recommended changes including the provision of donation documentation and donor correspondence templates, training and support to City divisions to ensure adherence to the policy. TOP will work with Purchasing and Materials Management Division to add information in all City call documents to advise perspective bidders that donations cannot be used to influence the decision making processes. TOP will also work with City Planning on how to advise individuals and organizations seeking approval for planning permits on this matter.

Financial Impact

There are no financial impacts to current or future year budgets that arise from the recommendations in this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on September 25, 26, 27 and 28, 2006, City Council adopted the “*Policy on Donations to the City for Community Benefits*” (Clause 3, Report 7). This is a City-wide policy that identifies suitable circumstances for requesting or accepting donations, and applicable approval requirements.

The “*Policy on Donations to the City for Community Benefits*” is available at <http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/cl1003.pdf>

At its meeting on May 26 and 27 2008 City Council, approved the report “*Delegation of Authority to Receive and Spend Donations to the City for Community Benefits*” which recommended amendments to the “*Policy on Donations to the City for Community Benefits*”. Amendments were made to allow a \$50,000 threshold for delegated authority by Divisions to accept and spend donated funds. Additional criteria related to determining when donations can be accepted and the creation of a centralized tracking system for donation and sponsorship revenue received by the City of Toronto were also adopted.

The Policy “*Delegation of Authority to Receive and Spend Donations to the City for Community Benefits*” is available at:

http://www.toronto.ca/top/pdf/revised_donation_policy.pdf

ISSUE BACKGROUND

Since its creation in 2007, the Toronto Office of Partnerships has developed policies to enable City Divisions to raise revenue through donations and sponsorships.

In 2008, TOP recommended amendments to the “*Policy on Donations to the City for Community Benefits*” in the report “*Delegation of Authority to Receive and Spend Donations to the City for Community Benefits*” to address the issue of consistency for delegated authority for City Division Heads. These amendments were approved by City Council.

In 2011, Council adopted the *Sponsorships and Naming Rights: Partnership Policies to Promote and Recognize Contributions to the City*. The policies provide specific criteria to document the terms and conditions of sponsorships and ensure sponsors are aware that the sponsorship cannot be used to gain any benefit by directly or indirectly influencing any City decision-making process. This streamlines the process by eliminating the need for a donor declaration type form for sponsorships.

The current Donations Policy is inconsistent with the Sponsorship Policy in that it requires that a Donor Declaration Form to be signed by the donor and submitted prior to the acceptance of any gift with a value at or above \$500. The intent of the form was to ensure the donor agreed that the donation could not be used to gain any benefit by directly or indirectly influencing the City decision-making processes. (The Donor Declaration Form is attached in Appendix 2).

The proposed amendments to *the Policy on Donations to the City for Community Benefits* will align it with the new sponsorship policy, and eliminate the need for the Donor Declaration Form.

Link to Sponsorships and Naming Rights: Partnership Policies to Promote and Recognize Contributions to the City:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.EX12.2>

COMMENTS

Donations are encouraged and welcomed by the City of Toronto. Contributions, grants, gifts, bequests or other such donations augment the City’s ability to provide services and programs to residents. Donations also provide citizens with the opportunity to contribute to their City.

The *Policy on Donations to the City for Community Benefits* was designed to facilitate new partnerships and secure revenue to advance City priorities while ensuring that donations do not interfere with its independence in decision making, specifically around planning and procurement. The policy provides guidelines to ensure that donations are: free from conflicts of interest; are from reputable sources; do not commit or expose the City to unplanned/unbudgeted future expenditures, risks or obligations that cannot be absorbed; are not in the form of real property; do not involve naming rights; are used for purposes consistent with the City's approved programs, services and activities; and do not involve commercial product or service endorsements. Each donation offer is evaluated by staff for potential application and benefit to the City.

The policy requires that the Donor Declaration Form be signed by the donor and submitted to the City prior to the acceptance of the donation. The form was used to document a donor's understanding that their donation could not be used to interfere with the City's independence in decision making, particularly around planning and procurement.

The amendment to section 4.4 of the "*Policy on Donations to the City for Community Benefits*" will streamline the donations process while continuing to ensure that donors, both organizations and individuals, are aware of the legal requirements and limitations imposed by Canada Revenue Agency and the City's lobbyist and procurement policies and practices, in addition to aligning this Policy with the Sponsorship Policy.

The amendment will also delete section 1.3 of the policy and add a new section 1.13. Section 1.3 of the policy did not distinguish between small park permits for a family picnic and significant planning or procurement decisions.

Section 1.13 will now specify that "Donors are required to advise the City if a donation to the City or an agency, board or commission of the City is concurrent with a planning approval or procurement process in which the donor, or the donor's organization or company, is involved."

The recommendations of this report will require that all donors understand that the donation cannot be used to influence City decision making processes. The highest risk of influence is during planning and procurement processes and therefore this report recommends that in such cases the donor inform the City in writing if they or their organization or company are involved in a planning or procurement decision. This will protect the City from possible influence to decision making process while at the same time streamlining the process for most donors.

This report recommends the introduction of new criteria to the donation policy. These additions will require staff to document and communicate with the donor regarding the terms and requirements of the donation, specify how the donation will be used, advise the donor that the donation cannot be used to influence City decision making processes, and inform them of additional policies that pertain to donations including the lobbyist registry

and the *Municipal Freedom of Information and Protection Act*. With the addition of these requirements the Donor Declaration Form will no longer be required.

These changes are being recommended to align the Donations Policy with the 2011 Sponsorship Policy and prepare the process for the upcoming e-donations and volunteer management system.

2011 Sponsorship Policy

In 2011, Council approved the Sponsorship Policy. The policy provides guidelines which facilitate and support opportunities for sponsorship and creates a systematic approach to soliciting, managing and reporting on sponsorships. The policy requires that all sponsorships be documented and communicated to the sponsor. Cash sponsorships with an estimated value over \$50,000 are to be documented through a contract developed in consultation with Legal Services Division. The recipient division is responsible for consulting with the Lobbyist Register and relevant stakeholders and where necessary, conducting a risk/benefit assessment of the sponsorship offer. The policy specifies that the sponsorship must not result in, or be perceived to result in, any competitive advantage, benefit or preferential treatment for the sponsor outside of the sponsorship agreement and cannot be used to influence city decision making processes.

With the incorporation of these requirements it was determined that a form such as the Donor Declaration Form was not required.

Tax Receipts

The City has authority under section 110.1(1)(a) of the Canadian *Income Tax Act* for corporate donations, and under section 118.1(1) of the Canadian *Income Tax Act* for individuals' donations to issue tax receipts for donations made to it.

To be eligible for an Income Tax receipt, donations must be for more than \$20.00 and should be given voluntarily and unconditionally. Sponsorship arrangements with benefits exchanged such as brand/company name advertising and donations of services in-kind (intangible) are excluded.

Tax receipts can be issued for in-kind donations, based on appraised values. It is the responsibility of the City staff to arrange for written appraisal reports.

The issuing of income tax receipts is currently a manual and time intensive process. The accepting division is required to send a covering memo the Manager of Financial Reporting indicating the purpose of the donation, amount donated, donor names and full addresses, and the instruction for mailing out the tax receipt(s). The cheque copies, SAP document number(s) and/or appraisal report(s) for the in-kind donation(s) must also be attached. In addition the recipient division must forward a signed Donor Declaration Form, declaring that the donation is being made unconditionally and not in concurrence with an approval or procurement process.

The recommended amendment will streamline the donations processes with a standard information collection process and letter advising donors of the terms and requirements of the donations as well as information on how the donation will be used. In 2013, this standardized approach to communicating with donors will be automated with an online Donation and Volunteer Management System

Voluntary Contribution Option on Property Tax Bills

On November 29 and 30, 2011 Council approved the report titled "*Voluntary Contribution Option on Property Tax Bills*" from the City Treasurer. The report recommended that a voluntary contribution option be offered on property tax bills with an approved list of contribution options (i.e., programs and/or services). This was intended to provide additional methods to receive donations, and augment the City's current donation opportunities already available to residents. These voluntary contributions are treated as donations to the City and must therefore conform to City's Donations Policy and other internal policies administered by Accounting Services Division.

In 2011, the City of Toronto introduced the process to allow residents to make voluntary contributions (donations) towards specific City programs and services with their property tax bill payment. The 2012 interim tax bill was mailed to more than 700,000 households advising them of Voluntary Contribution Option

The voluntary contribution option process collects information on the amount being donated, the program area(s) to which the donation is being made, contact information for the donor. The donation form also contains an acknowledgement that the donation is being given voluntarily and unconditionally, and that the donation cannot be used to influence City decision making processes. The information collected on each donation form is used to generate a tax receipt.

The amendment to the Donations Policy will require that a communication for all donations received through the voluntary contribution option be generated with the tax receipt confirming the details of the donation and terms and requirements related to the acceptance of the donation.

Donation and Volunteer Management System (DVMS)

In 2013, it is anticipated that the City of Toronto will launch a Donation and Volunteer Management system (DVMS). The DVMS will provide residents with an accessible and easy-to-use process to learn about, engage with and contribute to their City. It will also automate processes such as issuing charitable tax receipts and donation confirmation and thanks letters, increasing the City's ability to provide improved customer service.

The recommendations in this report will complement the DVMS on-line e-donations system by revising and streamlining the way in which the City communicates with donors and advises them of the terms and requirements governing the receipt of their donation.

The Lobbyist Registrar and the Integrity Commissioner have been consulted on this amendment.

The Italicized sections in the attached “Policy on Donations to the City for Community Benefits” represent the additions to the policy.

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SIGNATURE

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ATTACHMENTS

Appendix 1- Recommended Donations to the City for Community Benefits Policy (2012)
Appendix 2 - Donor Declaration Form
Appendix 3 - Sponsorship Policy