

Election Related Information Requests

Date: May 11, 2021
To: Executive Committee
From: City Clerk
Wards: All

SUMMARY

The purpose of this report is to provide information on a number of City Council requests, including:

- information about the New York City Matching Funds Program;
- a comparison of the number of Toronto-area voting places used in Federal, Provincial and Municipal elections;
- information related to the calculation of spending limits for candidates; and,
- research of alternative voting methods used in other jurisdictions during the pandemic.

RECOMMENDATIONS

The City Clerk recommends that City Council receive this report for information.

FINANCIAL IMPACT

There are no financial implications associated with the recommendation outlined in this report.

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

DECISION HISTORY

At its meeting on November 26, 2019, City Council adopted item GV5.1 and requested the City Clerk review and report back to the Executive Committee on moving to a New York City Campaign Finance Authority model of financing Toronto Municipal Elections, including:

- a. an outline of the components of the model including pre-election day accountability and disclosures, grant campaign financing, nomination procedures to take part in grant financing, etc.;
- b. a review of the impacts of the New York City model on post-election compliance challenges and legal challenges; and
- c. a detailed estimate of the cost of a 26 member Council election under this model.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GV5.1>

On July 20, 2004 the City Clerk submitted a report to City Council on information regarding a matching grant program as opposed to the Contribution Rebate Program for municipal election candidates. The report outlined the requirements of the New York City matching grant program and identified that legislative change would be required to implement a similar program in Ontario. City Council received the report for information.

At its meeting on September 30, 2020, when considering "The Impact of COVID-19 on 2022 Election Preparation Activities" report from the City Clerk, City Council requested the City Clerk to report back on several matters including:

- The number of polls in each ward for municipal elections as compared to federal and provincial elections;
- Measures that can be undertaken to increase municipal election spending limits in areas of the city with historically low elector numbers and low voter numbers; and
- Alternative voting methods used in other jurisdictions that may provide electors with additional options during a pandemic.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EX16.8>

COMMENTS

1. New York City Matching Funds Program

New York City's Matching Funds Program provides public matching funds to qualified municipal election candidates. Candidates who opt into the program must comply with expense and contribution limits, and in return the City matches small contributions to their campaigns--up to \$175 per contributor--in an 8:1 ratio. For example, a \$100 contribution to a participating candidate can be worth up to \$900 to that candidate's campaign: the \$100 from the contributor plus \$800 from the City in matching funds. The program is meant to limit the role and influence of private money in the political process, help candidates without ties to moneyed interests run competitive campaigns, and make candidates more responsive to citizens rather than special interests.

To qualify for the program, participants must abide by program requirements, face opposition on the ballot, and meet a two-part fundraising threshold that requires a minimum number of contributions and a minimum total amount of funds raised. They must also adhere to set contribution and spending limits and additional ongoing reporting requirements that are over and above the financial reporting required of all candidates.

Candidates who do not participate in the New York Matching Funds Program are not subject to spending limits, have higher contribution limits, and have fewer financial reporting requirements.

New York City designates the Campaign Finance Board to manage the administration and payments of the Matching Funds Program. This Board is not responsible for election administration but rather enforces contribution and spending limits, reviews contributions and expenses to ensure compliance, notifies candidates of any discrepancies, and audits candidates' financial statements. The Campaign Finance Board publishes financial filings on their website throughout the election cycle. They are also responsible for administering penalties and have the authority to lay charges against candidates for non-compliance. The Campaign Finance Board has their own legal staff to address potential violations.

Following the 2013 New York City election—the most recent election for which the audit process has reached its final stages—54% of all candidates incurred penalties, with individual fines ranging from \$50 to \$10,000. 42% of all candidates had total penalties between \$1 and \$10,000, while 11% of candidates incurred total penalties over \$10,000. Larger penalties are typically levied for issues such as exceeding expenditure limits, material misrepresentation, or fraud. Candidates facing violations have the opportunity to appear before the Campaign Finance Board before a penalty determination is made. Violations that have not been resolved are referred to Board legal staff, who may recommend further penalties or legal action.

Total payout costs to candidates participating in the Matching Funds Program varies depending on the particulars of each election—including the number of participating candidates and the competitiveness of the races—but have averaged \$25 million (USD) across the last four elections. In 2017, \$17.7 million USD was paid out to 104 participating candidates. In addition to the payouts to candidates, significant resources are required to administer the program. In 2019, the Campaign Finance Board's annual administration costs were approximately \$20.9 million USD. These costs include policy and procedure development, implementation, record keeping, and analysis, auditing and other compliance functions, including enforcement.

Implementing a similar program in Toronto, whereby funds are distributed to candidates would require legislative amendments to the Municipal Elections Act, 1996 as subsection 70(4) currently prohibits a municipality from making contributions to municipal candidates. The Contribution Rebate Program meets many of the same policy objectives as the New York Matching Funds Program, particularly in incentivizing grassroots contributions to candidate campaigns. Furthermore, the New York Matching Funds Program imposes spending limits and stricter contribution limits on participants, whereas the Municipal Elections Act, 1996 already imposes spending and contribution limits on all candidates.

Toronto City Council has authorized a Contribution Rebate Program for all general elections and applicable by-elections since 1997. For the 2018 Toronto municipal election, a total of 146 candidates participated in the program and almost \$3 million in rebates were paid out to 10,500 individual contributors. Staff resources required to administer the program included 2 full time staff for approximately one year and 6

temporary staff for approximately 6 months as much of the program administration is manual in nature. Toronto Elections is exploring options to digitize the rebate application and associated processes for the 2022 municipal election, which may reduce the staffing required to administer the program going forward.

Without knowing the exact parameters of a provincially-enabled matching grant program, it is impossible to provide an accurate estimate of costs of pay outs or the staffing required to administer it. However, if the program has similar provisions and uses the same New York City formula of 8:1 for the first \$175 of a contribution, it is estimated that the payout for the 2018 municipal election would have been approximately \$17 million. This does not include the additional administrative costs to implement and manage the program.

Please see Appendix 1 for a summary of program parameters for the New York City Matching Funds Program.

2. The Number of Voting Places at the Federal, Provincial and Municipal Level

The City of Toronto provides more voting places during municipal elections than the other levels of government do during their elections. In the 2018 general election, the Clerk established 1,700 voting places compared to 1,465 voting places for the 2018 Provincial election and 1,441 voting places for the 2019 Federal election.

The Municipal Elections Act, 1996 authorizes the City Clerk to establish the number and locations of voting places most convenient and accessible for voters. The Clerk considers a variety of factors when determining voting places including population distribution, reasonable travel distance for voters, accessibility, parking, geographic limitations in the area (e.g., major arterial roads to cross) and adequate space for a voting place.

There are some differences in the number of voting places between the levels of government at a ward level. The Clerk has already started planning for the 2022 municipal election and will continue to apply the above noted criteria with a lens on leveraging other locations used by other levels of government as appropriate.

Appendix 2 provides the number of voting places in Toronto, by ward, used in each level of government's most recent election.

3. Spending Limits for Candidates

Spending limits for candidates are set by the Municipal Elections Act, 1996 using a formula that considers the number of eligible electors within a ward. Pursuant to Ontario Regulation 101/97, this formula consists of a base amount (\$7,500 for the office of Mayor, \$5,000 for the offices of Councillor and School Board Trustee) plus 85 cents per elector entitled to vote for that office. The Municipal Elections Act, 1996 does not give authority to the City Clerk to alter this formula, nor to apply different spending limit rules to different City wards.

Similarly, as of 2018, the City of Toronto Act, 2006 requires that ward boundaries in Toronto be identical to the electoral districts used by the Province of Ontario. As the City of Toronto no longer has jurisdiction over how its wards are divided, the number of electors who live within each ward cannot be controlled nor re-distributed. Elector turnout has no bearing on the calculation of spending limits.

An accurate voters' list is a vital part of delivering an election. The municipal voters' list is currently a shared responsibility between the Municipal Property Assessment Corporation and the City Clerk. The City Clerk has worked closely with the Municipal Property Assessment Corporation for many years to improve the accuracy of the voters' list.

In 2018, the City Clerk entered into a data sharing agreement with the Chief Electoral Officer of Ontario to leverage their voters' list which had recently been updated for the June 2018 Provincial election. Access to the Provincial voters' list added 150,000 additional eligible electors and reduced the number of revisions by 45% compared to 2014. The City Clerk will again pursue a data sharing agreement with the Chief Electoral Officer of Ontario to leverage their voter list information for the 2022 municipal election.

In addition, the Province of Ontario passed legislative changes in October 2020 that will create a single register of electors for municipal and provincial elections that will be managed by Elections Ontario. A single list of electors is expected to be more accurate and reduce the number of corrections for electors at voting places on election day. This single list of electors comes into effect for any by-elections commencing in 2024 and for the 2026 general municipal election. The City Clerk will work closely with Elections Ontario on these changes and any required transition activities.

4. Alternative Voting Methods during the Pandemic

Toronto Elections staff have continued to monitor and research alternative voting methods used in other jurisdictions during the pandemic. Overwhelmingly, jurisdictions across the world have been using mail-in voting as an alternative or complement to in-person voting.

Mail-in voting was implemented in the Ward 22 Scarborough-Agincourt by-election held in January 2021 as a complement to in-person voting. This was the first time that Toronto used mail-in voting and it was administered successfully. Although the total number of electors that chose to vote by mail was only 29% of people who voted, almost 90% of electors who requested to vote by mail, returned their ballot. Of returned ballots, 99% were able to be tabulated and counted with very few ballots requiring adjudication.

To facilitate mail-in voting for the by-election, a software application was purchased, tested and installed for \$125,000 with a view towards its continued use in future elections. Elections staff are currently undertaking a feasibility analysis in order to offer mail-in voting in the 2022 general election, and anticipate reporting to City Council by the end of 2021 with further information.

CONTACT

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SIGNATURE

John Elvidge
City Clerk

ATTACHMENTS

Appendix 1 - Summary of the Parameters of New York City's Matching Funds Program
Appendix 2 - Number of Toronto Voting Places across Governments