

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON JANUARY 24, 2017</b>
<b>FROM:</b>	<b>CATHY SAUNDERS CITY CLERK</b>
<b>SUBJECT:</b>	<b>MUNICIPAL ELECTION CAMPAIGN CONTRIBUTOR REBATE BY-LAW</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the City Clerk, the Municipal Council **BE REQUESTED** to advise the City Clerk with respect to whether or not it wishes to proceed with a Municipal Election Campaign Rebate Program; it being noted that should the Municipal Council wish to proceed with a Campaign Rebate Program, a public participation meeting will have to be held to seek public comment on a draft Contribution Rebate By-law and the Civic Administration will need to report back with respect to placing campaign donation information on the City of London’s website.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- Board of Control – September 30, 2009 – Municipal Election Campaign Contributor Rebate By-law
- Board of Control – September 16, 2009 – Governance Review Implementation
- Committee of the Whole – March 10, 2009 – Final Report on the Governance Task Force

<b>BACKGROUND</b>
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Section 88.11 of the *Municipal Elections Act, 1996* (the “Act”) provides that the municipality or local board may enact a by-law that allows for the “payment of rebates to individuals who made contributions to candidates for office on the municipal council”. Such by-laws shall establish the eligibility and calculation criteria under which a contributor is entitled to a rebate and the amount of rebate they are entitled to receive for their contribution to a candidate’s campaign.

On March 30, 2009, Municipal Council considered recommendations of the Governance Task Force on the matter of municipal election campaign donations. The report of the Governance Task Force stated that the rationale for a contribution rebate program would be to widen the participation of individual citizens in municipal campaigns, and to level the playing field between the influence of interest groups and individuals in campaign financing. Civic Administration reported back to Council on September 30, 2009 regarding a Rebate Program in London and on October 5, 2009, London City Council resolved that no action be taken at this time with respect to the establishment of a Municipal Election Campaign Rebate Program.

Council’s 2015-2019 Strategic Plan makes a commitment to “Open, accountable and responsive government”, which includes a strategy to “explore opportunities for electoral reform”. One tool available to municipalities is campaign finance and donor rebates for future elections. It is, however, entirely up to each municipality to determine if this tool is one that would be advantageous for its constituents.

At the present time, only seven (7) municipalities out of 444 municipalities in Ontario have passed campaign contribution rebate by-laws: the Cities of Toronto, Ottawa, Markham, Vaughan and the Towns of Ajax, Oakville and Whitby.

Participation of candidates in the Contribution Rebate Program is at the discretion of each candidate in all of the communities with rebate by-laws.

Appendix “A” summarizes some of the details of the Contribution Rebate Programs in the listed municipalities. In each municipality, contribution rebates are provided only to individuals and in most cases rebate programs do not permit rebates to the candidate, their spouse, common law spouse, or children of the candidate. The City of Toronto permits candidates and their spouses to apply for rebates. The City of Markham has no restriction on rebates to a candidate, their spouse, or child. Given that the primary purpose of the rebate program is to foster participation in the electoral process by individuals in the community, the program’s benefit realized by candidates,

their spouse or children would appear to be unnecessary given that these individuals are already fully engaged in the process by virtue of the fact that they are running for office.

Additionally, the Cities of Markham, Ottawa, and Toronto provide rebates to contributors who reside within the Province of Ontario, whereas Ajax, Oakville, and Vaughan provide rebates only to eligible electors residing within their municipality. While the Act allows for a candidate in a municipal election to receive a contribution from an individual in Ontario, limiting contributors eligible for a rebate to resident or non-resident owners or tenants of property in the City of London ensures the program is primarily benefiting London taxpayers, the same taxpayers who would be required to cover the cost of the program. This approach would also reduce the total value of rebates paid by the City of London and resultant impact on taxpayers, while still fostering greater participation in the electoral process among Londoners.

Only monetary contributions are eligible for rebate in any of the seven (7) municipalities with a rebate program. Contributions of goods and services are not eligible for rebate. Three of the municipalities require minimum contributions of \$50 to qualify for municipal rebate, two require a minimum of \$25 and Oakville requires a minimum of \$100. If Council were to proceed with such a program, it should consider the appropriate level of minimum contribution for eligibility, and its impact on the administrative costs of the rebate program, particularly in the view of the significant transactional costs to process rebate applications and issue cheques to each contributor.

The maximum rebate amount ranges from \$75 to \$375 for all municipalities with Contribution Rebate Programs, excluding City of Toronto, which has a maximum rebate amount of \$1000. Council should also consider the appropriate maximum contribution for eligibility and the formula for calculating the rebate. Municipalities with existing rebate programs typically refund 25%, 50%, or 75% of the contribution up to the maximum allowable rebate of \$1000.

The cost of the rebate program varies significantly among the municipalities with existing rebate programs, and is largely driven by a large number of factors that are difficult to determine with certainty, such as the number of candidates opting into the program, the intensity of the election campaign, the number of contributors, the total contributions from each contributor, the administrative costs of administering the program including staffing, dissemination of information, software, cheques and postage, and the overall impact of the rebate program itself.

<b>DISCUSSION</b>
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**Administrative Impact**

A Campaign Contribution Rebate Program requires a significant amount of staff time and resources to administer. The process begins with the candidate registering to participate in the rebate program upon filing their nomination papers. At the time of their financial statement filing, the candidate provides staff with their contributor's information (full name, mailing address, and amount of contribution). Staff are then required to conduct a review of the information provided. The process for the review is outlined below and must be completed within 90 days after the deadline for filing financial statements:

- Step 1: Staff will determine who is eligible for a rebate based on the City's Campaign Contribution Rebate By-law and what amount they are entitled to receive.
- Step 2: Staff must ensure the contributor is only receiving one contribution rebate from the City as they may have made a number of contributions during the campaign period.
- Step 3: Staff will determine whether or not each eligible payee is already set up on the City's accounts payable system and, if not, complete the necessary paper work to have them added.
- Step 4: Once a list of contributors eligible for rebate and the rebate amounts have been established, the cheque issuing process will commence
- Step 5: After the cheque has been processed in the system, the cheque will be mailed to the contributor.

The City of Markham estimated that City Clerk's and Finance staff spent 90 hours for the 2014 Municipal Election from the time the contributor information was received and contribution rebates were issued. During the supplementary financial filing period, these steps would have to be repeated on a smaller scale.

Once all rebates have been issued, it is not unusual for staff to have to spend additional time following up with some contributors who have misplaced their contribution rebate, have not received their contribution rebate, do not remember if they have already received their contribution rebate or are confused about the rebate process. In some cases, if the contributor's information was incorrect or the original contribution was lost, the contribution rebate would have to be reissued to the contributor.

Other municipalities with rebate programs have experienced the following common misunderstandings that would require public outreach to properly inform potential candidates and contributors:

1. The rebate is not a property tax credit but a direct financial rebate and is therefore not eligible as a claim on an individual's tax return.
2. Rebate applications cannot be processed until the candidate has filed his/her campaign expenses and the period for a compliance audit has expired. This results in rebate cheques being issued no sooner than late June of the year following the election, much later than what is generally assumed by a contributor,
3. As the program is voluntary for each candidate, electors who contribute to campaigns are sometimes unaware that their campaign contributions are not necessarily eligible for a contribution rebate, unless the candidate they contributed to is participating in the program.

The additional work load created by a rebate program would be such that the City Clerk's Office would require an additional staff resource in order to have sufficient resources to administer the program, in addition to fulfilling its other statutory responsibilities.

**Budget Impact**

Estimating the costs of a rebate program in London is difficult due to the significant number of variables that influence any municipal election campaign, particularly in the first election with a Contribution Rebate Program in place. Therefore, any estimate is likely to be incorrect. However, based on the 2014 Municipal Election in London, 102 municipal candidates filed Campaign Financial Statements as required by the *Municipal Elections Act, 1996*, and 49 of those candidates listed contributions from individuals of \$100 or more. They reported campaign contributions totalling approximately \$220,000. The *Act* requires disclosure of the name of each contributor of more than \$100, but does not require the disclosure of the name or the number of contributors contributing \$100 or less.

The Civic Administration cannot predict whether there will be an increase or decrease in the total number of candidates seeking municipal office, the total number of candidates who register to participate in the Rebate Program, the number of campaign contributors, or the total amount contributed. In London's 2009 report on a Municipal Election Campaign Contributor Rebate By-law, the cost of the rebate program was estimated to range from \$100,000 to \$175,000, based on the 2006 campaign information, depending on assumptions made regarding the number of individual contributors and size of their donations. The following rebate calculation formula was applied:

1. The minimum contribution qualifying for a rebate shall be \$50.00;
2. If the total of the applicant's contributions to all candidates is not more than \$100.00, the rebate is 75% of \$100.00 plus 50% of the difference between the total contributions and \$100; and
3. The maximum total rebate to any individual eligible contributor, regardless of the number of contributions made, shall be \$200.00.

Since the 2006 Municipal Election, four fewer council positions have been on the ballot. In the 2009 report, a preliminary estimate of the cost of delivering a contribution rebate program based on the rebate calculation formula above was \$250,000 for the 2010 Municipal Election. Civic Administration used the 2014 campaign information to estimate the total refund amounts based on a 25%, 50%, and 75% rebate formula. Only monetary contributions from individuals other than the candidate and spouse, totaling more than \$100 were included in these calculations.

**Table 1: Total Estimated Cost of Rebates based on 2014 Candidate Financial Statements**

Amount of candidates with eligible	Number of contributions eligible for rebate	25% rebate	50% rebate	75% rebate
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<b>contributions (2014)</b>				
49	753	\$ 56,835.81	\$ 93,332.17	\$118,651.27

\* These calculations are based on the assumption that all candidates who received individual contributions during their campaign period will participate in the rebate program and that a 100% return rate to contributors will be achieved.

\* Based on the *Municipal Elections Act, 1996*, corporations and trade unions are not eligible for a contribution rebate. However, it is expected that many individuals will begin contributing on behalf of their corporations and trade unions to be eligible for rebate.

According to the 2013 OMBI report, the operating cost per invoice was \$7.97. This cost was utilized for calculation purposes. The OMBI report includes EFT (Electronic Funds Transfer) payments that reduces the overall operating costs. For the Contribution Rebate Program, EFT payments will not be issued to contributors as they are reimbursed one time or once every four years and are therefore not a regular, ongoing payee of the City. This operating cost does not include postage costs to mail the cheque to individual contributors. The Civic Administration estimates that it costs the City \$1 to mail each cheque.

The table below shows the total estimated cost of the Contribution Rebate Program based on the three rebate formula percentages:

**Table 2: Total Estimated Cost of the Program based on 2014 Candidate Financial Statements**

	<b>25% rebate</b>	<b>50% rebate</b>	<b>75% rebate</b>
<b>Total Rebate Cost (\$)</b>	56,836	93,332	118,651
<b>FTE Employee Salary (\$)</b>	40,000	40,000	40,000
<b>Operating Cost to Process Cheques (753 x \$7.97)</b>	6,001	6,001	6,001
<b>Postage Cost (753 x \$1)</b>	753	753	753
<b>Total Estimated Cost of Program</b>	\$ 103,590	\$ 140,087	\$165,406

The City of London has, for many years, funded the conduct of municipal elections by setting aside monies over each term of Council to avoid a “budget bomb” in election years. It is proposed that a similar method be utilized to fund any rebate program adopted by Council. The draft London by-law, consistent with the practice in other municipalities with contribution rebate programs, would provide that eligible contributors may apply for rebates in 2019 after the close of campaign period and upon filing of Financial Statements by candidates registered to participate in the rebate program. That would mean that the cost of the program could be budgeted over the 2018 and 2019 budget years. Enactment of a rebate by-law would, once the campaign period commences in January 2018, require this and future Municipal Council’s to budget sufficient funds to comply with the Program.

<b>CONCLUSION</b>
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If the decision of Council is to implement this program, the following eligibility and calculation criteria are recommended. The Civic Administration will bring forward the necessary by-law for a public participation meeting to seek public comment.

It is suggested that if Council were to proceed with a rebate program, the guidelines for any rebates to eligible individuals who make a monetary contribution to a candidate of the City of London Council should be as follows:

1. A minimum contribution of \$100.00 would be required to be eligible for a rebate;
2. *(To be determined by Council)* per cent of the contribution would be eligible for rebate;
3. A maximum allowable contribution rebate would be \$200 based on all contributions made to all candidates in the election;

4. Only eligible electors who are residents or non-residents who are owners of property or tenants within the City of London would be permitted to receive a contribution rebate from the City;
5. Contributions made to a candidate between the date on which a candidate files a nomination form to the close of voting on Voting Day would be eligible for rebate;
6. Eligible electors who are not a candidate, their spouse, common law spouse, or children of the candidate would be eligible for rebate;
7. Rebates would be paid if:
  - a. The application complies with the provisions of the applicable by-law.
  - b. The candidate has complied with the provisions of the *Act* and section 8 of the applicable by-law.
  - c. The Clerk is satisfied that the candidate has filed the documents required by section 88.26 of the *Act* by the relevant filing date, and that no such document shows on its face that the candidate has incurred expenses exceeding what is permitted under section 88.21 of the *Act*.
  - d. The Clerk is satisfied that the receipt filed by the applicant and copy filed by the candidate are consistent.
  - e. The Clerk is satisfied that the candidate has paid any campaign surplus to the Corporation.
  - f. The candidate has agreed to participate in the rebate program established by the by-law.

The participating candidate provides audited financial statements; it being noted that the requirement for audited financial statements ensures appropriate financial oversight of the allocation of tax base funds.

<b>PREPARED BY:</b>	<b>RECOMMENDED BY:</b>
<b>JACLYN RODRIGUES ELECTIONS INTERN</b>	<b>CATHY SAUNDERS, CITY CLERK</b>
<b>SUBMITTED BY:</b>	
<b>SARAH CORMAN MANAGER, LICENSING &amp; ELECTIONS</b>	

**Appendix "A" - Municipal Election Contribution Rebate Programs in Ontario**

<b>Municipality</b>	<b>Ajax</b>	<b>Markham</b>	<b>Oakville</b>	<b>Ottawa</b>	<b>Toronto</b>	<b>Vaughan</b>	<b>Whitby</b>	<b>London - Proposed</b>
<b>Eligible Recipients</b>	Eligible elector in Ajax	Ontario resident	Eligible elector residing in the Town of Oakville	Ontario resident	Ontario resident	Eligible elector residing in the City of Vaughan	Eligible Elector in Whitby	Eligible Elector in London
<b>Contributor must apply for contribution rebate directly to the municipality</b>	Yes	No	Yes	Yes	Yes	Yes	No	Yes
<b>Deadline to apply for contribution rebate</b>	12 noon Dec. 1 the year following an election	Not applicable	90 days after financial filing deadline	4:30 pm on the 90th day after the last financial filing deadline	December 31 of the year following an election	December 31 of the year following an election	Not applicable	June 27 of the year following an election
<b>Timeframe for a contribution to be made &amp; qualifying for a contribution rebate</b>	Between candidates nomination filing and Voting Day	No restriction	Between candidate's nomination filing and final financial filing	Between candidate's nomination filing and supplementary period, if applicable	Between candidate's nomination filing and supplementary period, if applicable	Between candidate's nomination filing and supplementary period, if applicable	Between the date of candidate's nomination filing up to and including Voting Day	Between the date of candidate's nomination filing up to and including Voting Day
<b>Program excludes candidate, spouse or children of candidate</b>	Yes	No	Yes	Yes	No	Yes	Yes	Yes
<b>Audited Statement Required</b>	Yes	Yes	No	Yes	Yes	Yes	No	No
<b>Calculation of Rebate</b>	\$50-\$200: 75% of contribution	See below	\$100+: 50% of contribution	See below	See below	75%	25%	Yes
<b>Maximum Rebate</b>	\$200	350	\$375	\$75	\$1,000	\$150	\$150	\$200
<b>Minimum Contribution to be eligible</b>	\$50	\$50	\$100	\$25.01	\$25	\$50	\$25	\$100
<b>Number of candidates that used Program</b>	10 (48%)	22 (48%)	117 (79%)	44 (86%)	181 (43%)	28 (90%)	12 (34%)	Not applicable

**Markham formula**

- Contribution between \$50 and \$300: 75% of rebate contribution
- Contribution between \$301 and \$550, rebate is \$225 + 50% of contribution between \$300 and \$550

**Ottawa formula**

- Contribution between \$25.01 and \$100, rebate is 50% of the contribution
- Contribution between \$100.01 and \$200, rebate is \$50 plus 25% of the amount by which the contribution exceeds \$100

**Toronto formula**

- Total contributions between \$25 and \$300: 75% of rebate contribution
- Total contributions over \$300 but not more than \$1000, rebate is contribution - \$300 x 50% + 225
- Total contributions more than \$1000, rebate is contribution - \$1000 x 33 1/3% + 575