

For Information Only

Use of Municipal Resources During an Election Campaign

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Recommendation

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Executive Summary:

The Municipal Elections Act contains specific language which prohibits a municipality from making a contribution to a candidate and which forbids the use of municipal resources, by candidates, during any municipal election campaign. These provisions are in place to ensure that all those who run for office have fair and equitable treatment during an election campaign.

The guidelines described in this report also apply to any activities related to the questions which appear on the municipal ballot and should also be applied in the context of any participation in federal and provincial elections that is partisan in nature.

Background:

As described by Elections Canada, participation, fairness and transparency are three fundamental principles associated with elections which can be described as follows:

Participation means that all electors can exercise their right to be involved in the electoral process, fully and freely.

Fairness means that all candidates are treated exactly the same and impartially.

Transparency means that everyone knows the rules, and can see that they are being followed. Transparency must also be applied to the financial aspects of elections.

These principles are the cornerstone of any election and are particularly important when applied to the use of resources during an election period. It is important that all candidates receive fair and consistent treatment so as to ensure the integrity of the electoral process and a fair and unbiased election. There must be a level playing field for all candidates, and therefore it is imperative that rules are in place to ensure that all citizens who may consider candidacy have access to the same resources and that incumbents do not have access to different or additional resources in support of their candidacy.

Signed By

Report Prepared By

Caroline Hallsworth
Executive Director, Administrative
Services/City Clerk
Digitally Signed Oct 11, 13

Recommended by the Department

Caroline Hallsworth
Executive Director, Administrative
Services/City Clerk
Digitally Signed Oct 11, 13

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Oct 23, 13

According to the Municipal Elections Act, 1996

66. (1) For the purposes of this Act, money, goods and services given to and accepted by or on behalf of a person for his or her election campaign are contributions. 1996, c. 32, Sched., s. 66 (1).

The Municipal Elections Act, 1996 also states specifically that:

*69. (4) For greater certainty, and without limiting the generality of subsection (3), the following **shall not make a contribution** . . .*

3. The Crown in right of Canada or Ontario, a municipality or local board. 1996, c. 32, Sched., s. 70 (4); 2002, c. 17, Sched. D, s. 27.

The Municipal Elections Act specifically forbids municipalities from making contributions to an election and identifies that money; goods; and services are all items which would be considered contributions.

The provisions of the Municipal Elections Act are reaffirmed in Schedule "E" of the Remuneration By- Law 2011-247F which is attached for the information of Council and the public.

In addition to the Municipal Elections Act, Council has by way of resolution added further clarity to the use of municipal resources, firstly in the context of the referendum questions, and secondly with regards to the Healthy Community Initiative funds as detailed below.

In October 2012, Council passed resolution 2012-259 which stated in part:

NOW THEREFORE BE IT RESOLVED THAT staff be directed to prepare a by-Law to submit these questions to the electors in the 2014 municipal election which by-law is to appear on the City Council Meeting agenda of December 11, 2012; . . .

AND THAT, once the By-Law has been passed, no further debate or discussion on the topics related to the referendum question be permitted, that no delegations may address City Council or its Committees on topics related to the referendum question, that no Municipal resources may be used to promote or support either side of the referendum question and that the City will only communicate regarding the referendum question as is required for the proper conduct of the election which includes providing electors with notice of the by-laws and questions .

The Healthy Community Initiative Fund Policy By-Law 2012-258 contains restrictions on HCI expenditures during an election year. This includes disallowing expense claims related to production and distribution of publicity materials, grants, donations, gifts and promotions to community groups and costs associated with community events all after June 30th in an election year. Section 8 of that By-Law is also attached for the information of Council and the public.

What the language contained in the Municipal Election Act and in CGS By-Laws means is that no one shall use the facilities, equipment, supplies, services, staff or any other resource that belongs to or is funded by the municipality, for the purposes of an election campaign or for any campaign related activities.

A simple guideline is to avoid any use of resources that would not be available to any citizen who made the same request. Further, for purposes related to the election, candidates may only access information that is available on the public record, as that is the information that is available to all candidates.

There can be no political activity in the workplace and in municipally owned buildings. This includes everything from avoidance of buttons and signs in the workplace, to not booking space for purposes related to the municipal election campaign. The use of City of Greater Sudbury computers, email system and websites to develop, forward or promote any election campaign related materials or comment on ballot questions is expressly forbidden.

Only communications that are consistent with the official and elected role may be supported by the municipality. Candidates cannot develop, print or distribute campaign related materials using municipal funds. This includes any materials which reference or identify a member of Council as a candidate. The City of Greater Sudbury logo and corporate identify must not be used on any campaign related material and CGS staff may not assist with any communications activity related to the election campaign.

City of Greater Sudbury employees may not work on any election campaign during their paid hours of work. During the part of the day when working as a municipal employee, staff are expected to be "apolitical". Those staff who wish to work in support of a candidate or a referendum question during the election must do so outside of paid, working hours and clearly separate that support from their role as an employee of the corporation. Candidates or campaigns may not compel staff to engage in political activities or subject staff to censure for refusing to engage in such activities.

During an election campaign, everyone must work together to balance the official elected role as Councillor with effective representation of constituents, while ensuring that there is no advantage to incumbents and that all candidates are treated fairly, with equal access to resources. A communication will go out to City of Greater Sudbury employees to remind them of these provisions and of their responsibilities during the election campaign period.

SCHEDULE "E"
TO BY-LAW 2011-247F
USE OF CORPORATE RESOURCES AND FUNDING BY
MEMBERS OF COUNCIL DURING AN ELECTION YEAR

Reasons for a Policy:

1. The conduct of everyone in local government - Councillors and municipal employees - needs to be of the highest standard. On this depends that bond of trust between Councils and citizens which is essential if Councils are to play their part in leading communities and improving people's quality of life.

In practical terms, this obligation requires that all candidates avoid any conflict between personal interest and official duties, and that any potential conflict be resolved in favour of the public interest. The obligation also requires that Councillors who are also candidates should avoid conduct which could undermine public confidence in the administration of the election process.

While the business in the City of Greater Sudbury must continue to be carried out through the full term of Councils, and the needs of constituents must also be continued in an election year, Members of Council are responsible to ensure that corporate resources are not used for any election-related purposes. The purpose of this section is to provide guidelines on the use of corporate resources by current Members of Municipal Councils during the election process.

It is necessary to establish guidelines on the appropriate use of corporate resources during an election period to protect the interests of both the Members of Council and the City of Greater Sudbury.

SCHEDULE "E"

TO BY-LAW 2011-247F

The Municipal Elections Act, 1996

2. The *Municipal Elections Act, 1996* prohibits a municipality from making a contribution to a candidate. The Act also prohibits a candidate, or someone acting on the candidate's behalf, from accepting a contribution from a person who is not entitled to make a contribution.

As a contribution may take the form of money, goods or services, any use by a Member of Council of a municipality's corporate resources for his or her election campaign would be a contribution by that municipality to the Member, which is a violation of the *Act*.

Should an individual launch a legal challenge on this issue, the office provisions of the *Municipal Elections Act, 1996* provide for a fine of up to \$5,000 for a Member and up to \$25,000 for the municipality of any violations of the *Act* (see section 66 and 70).

Examples of Unacceptable Uses of Resources:

3. (i) A Councillor should not use the facilities, equipment, supplies, services or other resources of a municipality for any election campaign or campaign-related activities. Such resources would include desktop publishing and graphic services, photocopying, postage, or the use of fax machines.

(ii) A Councillor should not undertake campaign-related activities on municipal property during regular working hours.

(iii) A Councillor should not use the services of municipal staff or employees during hours in which those persons receive compensation from the municipality.

(iv) A Councillor should not use business cards, envelopes or letterhead imprinted with municipal logos for election purposes.

SCHEDULE "E"

TO BY-LAW 2011-247F

(v) Requests for translation services should be restricted to material relevant to a matter which is on a Council or Committee Agenda.

(vi) A Councillor should not use a municipal voice mail systems to record election-related messages.

(vii) A Councillor should ensure that the content of any communications material, including printed material such as newsletters, advertising, etc., funded by the municipality is not election-related.

To whom do these Guidelines apply?

4. These guidelines apply to all Members of Council, including a Member of Council who is acclaimed or a retiring Member.

7.2 All expenses eligible for payment must follow basic accounting and audit principles:

- Expenses must relate to the business of the City of Greater Sudbury.
- Expenses cannot be of a personal nature.
- A claim for expenses must be supported by the detailed original receipts. Credit card receipts or statements alone are not sufficient documentation and will not be accepted. In the case of any internet on-line purchases a copy of the confirmation must be attached to the claim.
- Invoices must include a description of the goods or services, the cost, applicable taxes and HST Registration Number.
- For meeting and meal expenses, the purpose of the meeting and the attendees should be noted on the back of the receipt.
- Expenses must be claimed in the year in which they occur.

7.3 Expenses will be paid or reimbursed through Accounts Payable.

8.0 Restrictions during an election year

The use of municipal resources during the year of an election must be in accordance with Schedule E of the Remuneration By-law, which provides examples of unacceptable use of municipal resources.

In addition, the following expenses by an individual Member of Council are deemed ineligible if they were incurred after June 30th of an election year.

- (1) The design, writing, copy-editing, printing, translation and distributions costs for a newsletter, flyer, newspaper or other media notices, unless it is a requirement of their duties as an elected official.
- (2) **Section 6.3.1**
Grants, donations to community groups.
- (3) **Section 6.3.2**
Community event expenses.
- (4) **Section 6.3.3**
Gifts and promotions for community events and community groups.

9.0 Reporting and Disclosure

The Municipal Act 2001, Section 284, requires that the Chief Financial Officer/ City Treasurer shall report to Council an itemized statement on the remuneration and expenses for Members of Council on or before March 31 of the following year. However, in congruence with the City's by-law on Transparency and Accountability, the City of Greater Sudbury will disclose an itemized statement on a quarterly basis.