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## ***Election Finance Training***

***2014 Municipal Election***

***Milton, September 10, 2014***

### **DISCLAIMER**

- The information in this presentation deals in a summarized fashion with complex matters and reflects legislation, policies and practices that are subject to change.
- This information should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter and should not be construed as legal advice by the Ministry of Municipal Affairs and Housing. The user is solely responsible for any use or the application of this information.

## OVERVIEW

- Candidate duties
- Campaign spending limits
- Contribution limits
- Campaign contributions
- Financial Reporting
- Compliance audits and penalties
- Resources

## CANDIDATE DUTIES

- A campaign bank account must be opened prior to spending money or accepting contributions and contributions of money and payment of expenses must go through the campaign account
- Contribution of goods or services must be valued
- Receipts must be issued for every contribution and obtained for every expense

## CANDIDATE DUTIES (cont'd)

Candidates must keep records of:

- receipts issued for every contribution (pass the hat excepted)
- value of every contribution
- whether contribution is in form of money, goods or services
- contributor's name and address
- every expense including the receipts obtained for each expense
- cheque register and cancelled cheques

All campaign financial records must be retained until December, 2018

## CAMPAIGN SPENDING LIMITS

- Clerk issues two statements of the candidate's spending limit:
  - a preliminary statement upon filing of nomination
  - a final statement after close of nominations (September 22, 2014)
- The higher number is the spending limit to use
- The clerk's calculation of the spending limit is final

## CONTRIBUTION LIMITS

- The limit on contributions donated in money, goods or services from any individual, corporation or trade union is \$750 to any one candidate with a maximum of \$5,000 in the same jurisdiction
- Limitation applies whether it's one large donation or is the total of a number of smaller contributions or combination of money, goods and services

## CONTRIBUTION LIMITS (cont'd)

- Each municipal council and each school board is a separate jurisdiction
- There is no limit on contributions from the candidate or their spouse to the candidate's own campaign.
- These contributions must be reported, a receipt written and the money deposited into the campaign account

## CAMPAIGN CONTRIBUTIONS

- Contributions can be money, goods, or services
- Cash up to \$25 only
- Over \$25 may be by cheque or money order or by a method that clearly shows where the funds originated
- Ticket price of fundraiser is a contribution
- Receipts with name, address, amount, type, date
- No anonymous contributions except for pass the hat collections (limited to \$10)

## CAMPAIGN CONTRIBUTIONS (cont'd)

Contributions can ONLY be accepted from:

- individuals who are normally resident in Ontario
- corporations that carry on business in Ontario
- unions that hold bargaining rights for employees in Ontario
- candidate and his/her spouse

## **CAMPAIGN CONTRIBUTIONS (cont'd)**

Contributions may not be accepted from:

- federal political party, constituency association or a registered candidate in a federal election
- provincial political party, constituency association or a registered candidate or leadership contestant
- federal or a provincial government
- a municipality
- a school board
- a business or group that is not a corporation

## **BORROWING**

- Loan - only from bank or other recognized lending institution in Ontario and paid directly to campaign account
- Loans may only be guaranteed by candidate or a spouse

## CAMPAIGN EXPENSE

A campaign expense includes:

- any expense incurred for goods and services in relation to an election
- the replacement value of any goods held in inventory from a previous election
- the equivalent value of any contribution of goods and services for use in whole or in part
- the nomination filing fee

## CAMPAIGN EXPENSES EXEMPT FROM THE SPENDING LIMIT

Expenses that are not subject to the spending limit include:

- holding a fundraising event or activity
- parties and other expressions of appreciation after the close of voting
- expenses related to a recount
- any expenses after voting day

## CAMPAIGN EXPENSES EXEMPT FROM THE SPENDING LIMIT (cont'd)

Expenses that are not subject to the spending limit include:

- expenses incurred by a candidate with a disability that are directly related to the disability
- audit and accounting fees
- expenses related to a compliance audit
- expenses related to a court action for a controverted election

## FINANCIAL REPORTING

- Financial statement (Form 4) must be filed on or before 2:00 pm Friday, March 27, 2015
- If a candidate feels that he/she will not meet the deadline, he/she may apply to the courts for an extension\* by the March 26, 2015 deadline AND must notify Clerk of this action by 2 pm on March 27, 2015 (\* proof may be requested)
- Failure to file by the deadline results in automatic loss of seat, if elected, and ineligibility to hold any office to which *Municipal Elections Act, 1996* applies until after next regular election



## IF YOU SWITCHED OFFICES

- If a candidate decides to run for a different office on the same council or as a school board trustee and both are elected at large, everything from the first campaign is transferred to the second campaign
- If one or both of the offices is/are elected by ward, the two campaigns must be kept separate

## FINANCIAL REPORTING (cont'd)

- All contributions must be reported
- The names of contributors of more than \$100 must be reported on financial statement which is a public document
- Financial statements must include an auditor's report if expenses or contributions exceed \$10,000
- Clerk is required to make financial statements available to the public in an electronic format free of charge

## FINANCIAL REPORTING (cont'd)

- A candidate running a deficit must notify the Clerk, in writing, they require a campaign extension by December 31, 2014 (Form 6)
- Campaign financial statement filing deadline: Friday, March 27, 2015 at 2:00 pm (current status of campaign)
- A candidate may also apply to the courts for an extension on financial filing by the March 26, 2015 deadline AND must notify Clerk of this action by 2 pm on March 27, 2015 (\* proof may be requested)
- Supplementary campaign financial filing deadline, where campaign extended, September 25, 2015 at 2 pm (supplementary campaign activity and final status)

## SURPLUS/DEFICIT

- Entire amount of a campaign surplus must be paid to the clerk
- A candidate is entitled to refund any contributions they or their spouse made to the campaign before filing the financial statement and paying the surplus to the clerk
- The clerk places surplus monies in trust for use by the candidate for a recount, application for a controverted election or compliance audit
- If none of the above occurs, the surplus becomes the property of the municipality or school board

## SUGGESTED PRACTICES

- Ensure that receipts are stored in a secure place – they must be retained until December 2018
- Have a multi-part receipt (one for contributor, one for candidate to keep)
- Receipts should be sequentially numbered
- Bank account should provide monthly statements and cancelled cheques
- Produce duplicate deposit slips for every deposit
- Maintain a petty cash fund

## COMPLIANCE AUDITS

- Any qualified elector may apply to the compliance audit committee for a review of a candidate's campaign finances
- The committee will consider the application and decide whether to retain an auditor

## PENALTIES

In general, the following penalties are available to the courts upon conviction for an offence under the *Municipal Elections Act, 1996*:

### Individual

- maximum fine of \$25,000
- up to six months imprisonment
- ineligibility to run in next general election

### Candidate

- penalties listed above; plus
- fines for excess campaign expenses
- forfeiture of office if offence committed knowingly

### Unions and Corporations:

- maximum fine of \$50,000

## RESOURCES

- e-Laws:
  - *Municipal Elections Act, 1996*
  - *Municipal Act, 2001*
  - *Municipal Conflict of Interest Act*
  - *Education Act*
  - <http://www.e-laws.gov.on.ca>
- MMAH municipal elections website: <http://www.mah.gov.on.ca/Page219.aspx>
- Municipal World: <http://www.municipalworld.com/>

## CONTACTS

### Ministry of Municipal Affairs and Housing

**Karren Wallace**, Municipal Advisor

416-585-6352

[Karren.wallace@ontario.ca](mailto:Karren.wallace@ontario.ca)

**Bridget Benn**, Municipal Advisor

416-585-7356

[Bridget.benn@ontario.ca](mailto:Bridget.benn@ontario.ca)

## QUESTIONS