

## Bylaw No. 8491, The Campaign Disclosure and Spending Limits Bylaw, 2006 – Campaign Contributions Residency Requirements

### ISSUE

Bylaw No. 8491, *The Campaign Disclosure and Spending Limits Bylaw, 2006* (“Bylaw”) is currently silent as to the receipt of campaign contributions from out of province or out of country. Should contributions from out of province or out of country be permitted and if so, what conditions, if any, should be attached and how should they be reported?

### BACKGROUND

#### 2.1 History

During the 2020 election process, the Returning Officer received an inquiry about the receipt of out of country campaign contributions. Absent specific direction contained in the Bylaw, the Returning Officer permitted receipt of the campaign contribution and required reporting of the amount received as converted to Canadian dollars.

At the [Regular Business Meeting of City Council on May 24, 2022](#), the Administration sought direction from City Council regarding the receipt of out of country campaign contributions. City Council resolved, in part:

That Administration report back on options for restricting each of the home province and country of campaign donors, including property ownership.

The receipt of out of province campaign contributions has been the subject of previous reporting and recommendations from the Saskatoon Municipal Review Commission (“SMRC”). Their recommendation has consistently been to amend the Bylaw to restrict donations to municipal candidates to those that come only from individuals normally resident in Saskatchewan. However, *The Local Government Election Act, 2015* (“LGEA”) does not provide the City with jurisdiction to limit campaign contributions. Amendments to the LGEA were sought at the direction of City Council following the initial SMRC report. To date, the LGEA has not been amended to permit the City to limit campaign contributions. Attached at Appendix 1 is a more detailed review of the previous discussion of out of province contributions.

**2.2 Current Status**

Pursuant to sections 9.1 and 34 of the LGEA, the City has jurisdiction, by bylaw, to establish disclosure requirements respecting campaign contributions and expenses and to establish election campaign spending limits. The LGEA is silent with respect to restrictions regarding the acceptance of campaign contributions.

The Bylaw currently provides no specific direction with respect to the acceptance and reporting of out of province or out of country campaign contributions.

**2.3 Public Engagement**

There has been no public engagement apart from any previous engagement conducted by the SMRC in the context of its reporting and recommendations on this issue.

**2.4 City of Saskatoon’s Current Approach**

The City does not currently have a consistent or prescribed approach to the acceptance of out of province or out of country campaign contributions. Inquiries have been considered on a case-by-case basis. Absent specific rules, the Returning Officer’s approach during the 2020 election process was to permit acceptance of an out of country contribution and require that it be reported as converted to Canadian dollars.

**2.5 Approaches in Other Jurisdictions**

Research indicates that the City of Regina’s bylaw is silent on this issue. Local government election legislation in Alberta, Manitoba and Ontario all restrict the receipt of campaign contributions from persons ordinarily resident in the province. The rules for the province of British Columbia contain a similar restriction.

**OPTIONS**

**Option 1: Status Quo**

This option would result in the Bylaw remaining silent as to the rules regarding the acceptance of out of province or out of country campaign contributions without restriction. The Bylaw, while defining “campaign contribution” does not specifically identify acceptable sources of those contributions. For example, it does not specifically identify corporations or trade unions as acceptable donors or otherwise limit the ability of candidates to accept those contributions. Therefore, remaining silent in the context of out of province or out of country campaign contributions would be consistent with the existing scheme of the Bylaw.

However, out of province and out of country contributions may be distinguished from these other sources in that their acceptance may require further explanation. For example, where a residency requirement does not exist, contributions may be subject to foreign currency exchange and therefore without an amendment to the Bylaw or other means of communicating any rules associated with out of province or out of country contributions, there would continue to be no clarity for candidates or the Returning Officer regarding the acceptance and reporting of such contributions.

**Option 2: Include Provisions Regarding Out of Province/Country Contributions in the Bylaw**

This option would require an amendment to the Bylaw permitting the acceptance of out of province or out of country contributions or outlining the parameters for acceptance and reporting of these contributions. Including these rules in the Bylaw would provide clarity and certainty for candidates and help ensure that reporting requirements will be followed consistently and transparently. Such an approach would be consistent with the authority provided to the City in accordance with the LGEA. Rather than permit acceptance of out of province or out of country contributions in the Bylaw, the amendment could simply clarify how such contributions are to be reported.

**Option 3: Include Information Regarding Out of Province/Country Contributions in Candidate Communications**

This option would require the inclusion of information about the acceptance of out of province and out of country campaign contributions in candidate communications, but not include a Bylaw amendment. This would leave the current scheme of the Bylaw intact, but still provide some clear direction to candidates and the Returning Officer as to how such contributions shall be reported to ensure consistency and transparency in the handling of these contributions.

**RECOMMENDATION**

The Administration recommends that City Council approve option 3, that candidate communications include information regarding the acceptance and disclosure of out of province/out of country campaign contributions.

**RATIONALE**

Given the limited jurisdiction afforded to the City by the LGEA, the City's options are likewise limited. There is no ability for the City to restrict or limit campaign contributions by imposing residency requirements on contributors, or otherwise. In these circumstances, it is recommended that the rules for acceptance of such contributions should apply as communicated and applied by the Returning Officer as during the 2020 election process. In other words, it is recommended that contributions that are subject to a foreign currency exchange would be accepted and reported subject to the appropriate foreign currency exchange rate. Candidates are required to maintain complete and proper accounting records of all contributions and once converted,

cumulative donations from the same contributor in the amount of \$100 or more would be required to be disclosed in accordance with the Bylaw.

The Administration sees the merit in clarifying the rules regarding out of province and out of country contributions to ensure consistent and transparent reporting and disclosure. Candidates should have the benefit of knowing how to handle these contributions and publicizing the rules will ensure a consistent approach by the Returning Officer. In order to maintain the scheme of the current Bylaw, rather than a Bylaw amendment, it is recommended that candidate communications, including the Candidate Guide, be amended to include information about the acceptance and disclosure requirements associated with out of province/out of country campaign contributions.

### **Election Day Timeframes**

When the last round of amendments to the Bylaw were considered by City Council in the spring of 2022, our Office undertook to revisit the issue of timelines contained in the Bylaw and Policy No. C01-027, *The Communications and Constituency Relations Allowance Policy* as they relate to “election day”. No formal direction was provided.

Our Office was waiting for further information from the Province as to whether “election day” would be changed for the next civic election and into the future before undertaking this review. The latest information suggests that “election day” will remain as November 13, 2024, and the second Wednesday in November every four years thereafter. New emergency powers are proposed for the Returning Officer to suspend and postpone voting to a maximum of seven days from election day.

Our Office has reviewed the references and the timeframes associated with election day contained in the Bylaw and Policy No. C01-027. Given that election day is to remain in November, our Office recommends that the definitions as they relate to election day and the obligations of candidates as they relate to timeframes around election day are clear as currently worded and no recommendation for change is being suggested. The Bylaw currently contains a mix of language in providing clarity for candidates; in relation to definitions of “campaign contribution period” and “campaign expense period”, for example, the Bylaw references specific dates around election day rather than a timeframe around election day, which would require candidates to count either forward or backwards from election day to determine the appropriate dates. Elsewhere in the Bylaw, where appropriate, obligations are addressed by counting forwards or backwards within so many months of election day.

As a result of the Returning Officer’s new emergency powers, election day may be postponed for a maximum of seven days. The set timeframes contained in the Bylaw, for example the defined “campaign contribution period” and “campaign expense period” are sufficiently generous post election day to accommodate a seven day “extension” and therefore no change is being recommended as a result of this new power.

**COMMUNICATION ACTIVITIES**

If option 3 is approved, the City Clerks Office will ensure that candidate communications are appropriately amended to include reference and requirements related to out of province/country campaign contributions. Those communications will be shared in the normal course.

**APPENDICES**

1. History of Discussions – Out of Province/Country Campaign Contributions

Report Approval

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