

2023 Report on the Elections Office

BACKGROUND

On behalf of the City Clerk, the Elections Office prepares for and administers municipal elections, by-elections, and appointment processes to fill City Council vacancies that occur during a term of Council. The City Clerk and the Elections Office ensure that the municipal elections, by-elections, and appointment processes fully comply with the responsibilities, requirements, and principles set out in the [Municipal Act, 2001](#) and the [Municipal Elections Act, 1996](#) (MEA). More specifically, Subsection 11(2) of the MEA provides that the City Clerk's responsibility for conducting an election includes the following:

- (a) preparing for the election;
- (b) preparing for and conducting a recount in the election;
- (c) maintaining peace and order in connection with the election; and
- (d) in a regular election, preparing and submitting the report described in Subsection 12.1(2) [relating to the identification, removal and prevention of barriers that affect electors and candidates with disabilities].

The City Clerk also has a duty to administer elections in a manner consistent with the principles of the statute as determined by the courts. These principles include but are not limited to:

- The secrecy and confidentiality of the voting process
- To be accessible to all voters
- To be undertaken in a fair and non-biased fashion
- Maintaining integrity of the process throughout an election

In addition to preparing for and administering municipal elections, by-elections, and appointment processes, the Elections Office is also responsible for conducting election-related legislative reviews on behalf of the City Clerk, and implementing any changes required for future elections.

DISCUSSION

Due to the legislative framework for municipal elections in Ontario, there are several deliverables required following an election in accordance with the *Municipal Elections Act, 1996* (MEA).

In 2023, the Elections Office continued to close out the remaining deliverables for the 2022 Municipal Elections, which occurred on October 24, 2022, including the intake of financial statements from candidates and third party advertisers, supporting the Election Compliance Audit Committee and the City Clerk's review of contributions, administering the Contribution Rebate Program, and the destruction of election records as further described in Section 1 of this report.

Further, in preparation for the 2026 Municipal Elections and any possible by-elections that may occur during the 2022-2026 Term of Council, this report provides an update on several initiatives as described in Section 2 of this report.

Section 1: Close out of deliverables for the 2022 Municipal Elections

Intake of financial statements from candidates and third party advertisers

In accordance with sections 88.25 and 88.29 of the MEA, all nominated candidates (including those who later withdrew their nomination) and registered third party advertisers must disclose and report any contributions and expenses incurred during their campaign period by filing a financial statement by the relevant deadline(s).

For the 2022 Municipal Elections, 218 candidates and two third party advertisers were responsible for filing their initial financial statement with the Elections Office by March 31, 2023, at 2 pm. Of these, 181 candidates and two third party advertisers filed their financial statements by this deadline.

Candidates who missed the initial financial statement deadline could still submit their statement up to 30 days later, by May 1, 2023, at 2 pm, by paying a \$500 late filing fee, in accordance with the MEA. Eighteen candidates filed and paid the late filing fee during the 30-day grace period.

Three candidates extended their campaign in accordance with Paragraph 4 of Subsection 88.24(1) of the MEA and were required to file a supplementary financial statement by 2 pm on September 29, 2023. All three candidates filed by 2 pm on September 29, 2023. No third party advertisers extended their campaign.

After each of the above-noted deadlines passed, the Elections Office made all financial statement documents, as submitted by the candidate or third party advertiser, available for public viewing on ottawa.ca/vote and at the Elections Office in accordance with Subsection 88(9.1) of the MEA.

Notice of default and compliance reports

In accordance with the MEA, candidates and third party advertisers that failed to file a financial statement and auditor's report (if required) by the relevant filing deadlines are deemed to be in default. Nineteen candidates did not file an initial financial statement within the above-noted timelines, and as such received Notice of Default letters in accordance with Subsection 88.23(3) of the MEA. No third party advertisers were deemed to be in default.

In accordance with Subsection 88.23(2), and any other penalty that may be imposed under the MEA, candidates who are deemed to be in default must forfeit any office to which they were elected and are ineligible to run in any municipal election in the Province of Ontario, or be appointed to office, until after the 2026 Municipal Elections.

Further, pursuant to subsections 88.23(4) and 88.29(11) of the MEA, the City Clerk must make public a report setting out all candidates and third party advertisers in an election and indicate whether each candidate complied with sections 88.25 and 88.29. To meet this requirement, the compliance reports were posted on ottawa.ca/vote on May 4, 2023.

Election Compliance Audit Committee and the City Clerk's review of contributions

As required by Section 88.37 of the MEA, the 2022-2026 Election Compliance Audit Committee (Committee) was established on [August 25, 2022](#). The Committee's term began on November 15, 2022, and will end on November 14, 2026.

The Committee is an independent statutory body whose responsibilities and powers are largely prescribed by the MEA. The Committee is responsible for reviewing and making decisions on applications for municipal election campaign finance compliance audits received from eligible electors and reports from the City Clerk regarding apparent contraventions of contribution limits prescribed by the MEA. These apparent contraventions may result from a regular municipal election, or any by-election held during the term of office for the City Council for which the Committee was appointed.

In 2023, the Elections Office provided administrative support to the Committee, Committee Coordinator, and City Clerk by supporting:

- The Committee's orientation on March 21.
- The election compliance audit application process.
- The City Clerk's review of contributions.
- Three Committee meetings that took place on [April 3](#), [July 31](#), and [December 8](#).

The Elections Office will continue to provide support throughout the Committee's mandate and the 2022-2026 Term of Council.

Election compliance audit applications

In accordance with the MEA, any eligible elector who believes that a candidate or third party advertiser has contravened the campaign finance rules of the MEA may apply for a compliance audit even if the candidate or third party advertiser has not filed a financial statement. Applications for compliance audit must be made within 90 days after the latest of the following dates:

1. The initial financial statement filing date.
2. The date the candidate or third party advertiser filed an initial financial statement if the statement was filed within 30 days after the applicable filing date.
3. The candidate or third party advertiser's supplementary filing date, if any.
4. The date on which the candidate's extension, if any, expires.

The 90-day application period for an elector to apply for a compliance audit of a candidate or third party advertiser's initial financial statement filed on or before 2 pm on March 31, 2023, began on April 3, 2023, and ended on June 29, 2023, at 4:30 pm.

Candidates who filed their initial financial statement during the 30-day "grace period" had a specific 90-day application period based on the date they filed. The last 90-day application period deadline for initial financial statements was July 31, 2023, at 4:30 pm.

Three candidates extended their campaign in accordance with Paragraph 4 of Subsection 88.24(1) of the MEA and were required to file a supplementary financial statement by 2 pm on September 29, 2023. All three candidates filed their supplementary financial statement before 2 pm on September 29, 2023, and the application period for an elector to apply for a compliance audit began on October 2, 2023, and ended on December 28, 2023, at 4:30 pm.

The Committee received three election compliance audit applications for initial financial statements that were considered at its meeting on [July 31, 2023](#). The Committee granted two compliance audit applications and rejected one.

Appeals

In accordance with Subsection 88.33(9) of the MEA, a decision of the Committee may be appealed to the Superior Court of Justice within 15 days after the decision is made, and the court may make any decision the Committee could have made.

The City of Ottawa has been notified that three of the Committee's decisions from its July 31, 2023, meeting have been appealed to the Superior Court of Justice. One appeal has since been discontinued and the other appeals remain ongoing. While the City of Ottawa has no role in the Superior Court of Justice's process for appeals of the Committee's decisions, the Office of the City Clerk and Legal Services will continue to monitor the appeals, and will report back as required.

At its meeting on [December 8, 2023](#), the Committee appointed external licensed auditor Raymond Chabot Grant Thornton (RCGT) (now OXARO Inc.), to commence the compliance audit of the campaign finances for Candidate Doug Thompson. The Committee also appointed external licensed auditor BDO Canada LLP to commence the compliance audit of the campaign finances for Third Party Advertiser Horizon Ottawa. The Elections Office did not receive any election compliance audit applications for supplementary financial statements.

Within 30 days of receipt of the auditor's report, the Committee will meet and decide whether legal proceedings should be commenced against the candidate or third party advertiser for any apparent contravention(s).

City Clerk's review of contributions to candidate and third party advertisers

Sections 88.34 and 88.36 of the MEA prescribe that the City Clerk is responsible for reviewing the financial statements submitted by candidates and third party advertisers to determine whether any contributor appears to have exceeded the contribution limits established by the MEA. More specifically, the City Clerk's review seeks to determine if:

1. A candidate's financial statement(s) shows that a contributor gave more than \$1,200 to a single candidate or more than \$5,000 total to two or more candidates for office on the same council or local board in the 2022 Municipal Elections, in accordance with Section 88.9.
2. A third party advertiser's financial statement(s) show that a contributor gave more than \$1,200 to a third party or more than \$5,000 total to multiple third parties registered in the same municipality, in accordance with Section 88.13.

In accordance with subsections 88.34(4) and 88.36(4), the City Clerk's reports must be submitted to the Committee as soon as possible following the day that is 30 days after the filing deadlines (March 31, 2023, for initial statements and September 29, 2023, for supplementary statements, with consideration of the 30-day grace periods).

In order to assist the City Clerk with fulfilling this statutory duty, and as noted in staff's report titled "[Document 2 - 2022 Report on the Elections Office](#)", the Elections Office hired a licensed auditor from RCGT, in keeping with the City's procurement process, to

complete the above-noted review. The auditors were tasked with reviewing the financial statements and submitting two reports: One report for the initial financial statements and a second report for supplementary financial statements in the 2022 Municipal Elections.

RCGT completed its review of initial financial statements filed by candidates and third party advertisers and submitted its report on November 22, 2023. The auditor's report found that two contributors appeared to have contravened the contribution limits under the MEA. As such, the City Clerk prepared a report for each contributor for the Committee's consideration at its meeting on [December 8, 2023](#). The Committee moved two motions and decided not to commence a legal proceeding against either Contributor and these matters are now closed.

On November 24, 2023, RCGT completed its review of the supplementary financial statements filed by candidates and found that no contributors appeared to have exceeded the contribution limits established by the MEA. As such, there were no reports for the Committee to consider on this matter and RCGT's report on supplementary financial statements was provided to the Committee for its information at its meeting on December 8, 2023.

The City Clerk's review of contributions to candidates and third party advertisers cost approximately \$101,554.

Costs of the 2022-2026 Election Compliance Audit Committee

In accordance with Subsection 88.37(7) of the MEA, the City of Ottawa shall pay all costs in relation to the Committee's operation and activities. These costs will be funded from the Tax Stabilization Reserve.

As approved by City Council through the report titled "[Update on the 2022 Municipal Elections and Amendments to Election-Related By-laws and Policies](#)", the 2022-2026 Committee members are paid the same honorarium and per diem as established for the previous three Election Compliance Audit Committees, as follows:

- A \$600 annual retainer
- \$175 an hour, up to a maximum of \$1,250 a day

In addition to costs associated with the members of the committee, the City pays for the following services as required:

- An external legal counsel assigned to assist members of the committee in performing their quasi-judicial duties, including costs for any appeals.
- An independent auditor to conduct compliance audits granted by the committee.

- An independent prosecutor to review the case and decide whether to proceed with prosecution.

As the previously mentioned audits and appeals remain ongoing, the costs are not known at this time. Staff will report back to City Council regarding the final costs of the 2022-2026 ECAC once proceedings have concluded.

Contribution Rebate Program

Section 88.11 of the MEA provides that a municipality may pass a by-law to allow for the payment of rebates to individuals who contribute to candidates for the Office of Mayor or City Councillor and may establish conditions under which such a rebate is paid.

City Council first established the Contribution Rebate Program for the 2003 Municipal Elections, and the City's Contribution Rebate Program [By-law No. 2022-76](#) remains in effect for any regular election or by-election that might occur in the City of Ottawa.

Participation in the Contribution Rebate Program requires candidates to submit a Contribution Rebate Program Application form by the close of the nomination period for the relevant election and meet the requirements of By-law No. 2022-76.

Participating candidates must also:

- Issue a receipt, in the form prescribed by the City Clerk, for each contribution made under the rebate program.
- File a financial statement and auditor's report, including copies of receipts for all contributions, by the relevant filing date including any required supplementary audited financial statements.
- Have an auditor confirm the candidate has not exceeded their spending limit.
- Pay any surplus in accordance with Section 88.32 of the MEA, within the time period stipulated by that section.

Payments or rebates to contributors

By-law No. 2022-76 authorizes the payment of rebates to individuals who make contributions to candidates for the Office of Mayor or City Councillor who participate in the program. Campaign contributions from individuals are only eligible for a rebate if both the contributor and participating candidate meet the requirements of By-law No. 2022-76.

For the 2022 Municipal Elections, contributors were required to submit their contribution rebate applications by 2 pm on November 28, 2023. Following this, the Elections Office

reviewed the applications to ensure that the contributor and candidate were compliant with the requirements of the program.

A total of 105 candidates participated in the Contribution Rebate Program for the 2022 Municipal Elections and at the writing of this report:

- 63 candidates met the requirements of the Contribution Rebate Program.
- 41 candidates did not meet the requirements of the Contribution Rebate Program.
 - Nine candidates were in default under the MEA.
 - 32 did not file a financial statement with an auditor's report as required by By-law No. 2022-76.

Rebates were issued to eligible contributors in February 2024. Rebate applications for participating candidates with ongoing election compliance audit-related matters are being held pending resolution to ensure compliance with By-law No. 2022-76.

At the writing of this report, the cost of the Contribution Rebate Program for the 2022 Municipal Elections is approximately \$149,602. Funding for the Contribution Rebate Program comes from the Tax Stabilization Reserve.

Destruction of records in accordance with the MEA

In accordance with Section 88 of the MEA, the City Clerk must retain the ballots and all other documents and materials related to an election for 120 days after declaring the results of the election under Section 55. Once the 120-day period has elapsed, the City Clerk must destroy the ballots and may destroy any other materials related to the election unless a recount has been ordered in accordance with Subsection 88(3).

For the 2022 Municipal Elections, the City Clerk declared the election results official on October 28, 2022, and as no recounts were ordered, the 120-day retention period elapsed on February 25, 2023.

In March 2023, the Elections Office, on behalf of the City Clerk, retained the services of a commercial vendor to assist staff with the destruction of records. In accordance with Subsection 88(2) of the MEA, ballots were destroyed on-site in the presence of two witnesses. Further, election forms and other related materials specific to the 2022 Municipal Elections were also destroyed.

Subsection 88(4) of the MEA requires that the City Clerk retain financial statements filed by candidates and third party advertisers until the next council and school board takes office, as such these documents are retained.

Section 2: Preparations for future municipal elections and by-elections

Review of the Municipal Elections Act, 1996

Municipal elections in Ontario, including those in the City of Ottawa, are governed by the MEA and *Municipal Act, 2001*. The Province of Ontario routinely reviews election-related legislation after each regular municipal election and makes amendments as required.

In anticipation of this review following the 2022 Municipal Elections, the City of Ottawa collaborated with the City of Guelph to provide feedback to the Province through the [Association of Municipal Managers, Clerks and Treasurers of Ontario](#) (AMCTO). Staff identified common issues that both cities encountered in recent elections that could be addressed through proposed amendments to the MEA. The proposed amendments seek to improve and clarify topics such as candidate nomination and third party advertiser registration processes, requirements and enforcement of campaign finances, legislative dates and mandatory timelines, and the enforcement of election advertisements.

In addition, staff proposed updates to the Ministry of Municipal Affairs and Housing's guides for voters, candidates and third party advertisers.

On July 6, 2023, Ottawa and Guelph submitted their joint recommendations to AMCTO for consideration in its submission to the Province. Staff will monitor any provincial legislative changes that take place and will report back to City Council on these matters as required.

Changes to the preliminary list of electors and voter registration system

As described in the report to City Council titled "[Update on the 2022 Municipal Elections and amendments to election-related by-laws and policies](#)", Bill 204, the *Helping Tenants and Small Businesses Act, 2020*, received Royal Assent on October 1, 2020. The Bill, in part, provided that beginning in 2024, the Province's Chief Electoral Officer will be responsible for preparing the preliminary list of electors (PLE) for municipal elections as well as establishing and maintaining a permanent register of electors. This responsibility was previously with the [Municipal Property Assessment Corporation](#) (MPAC). In an election or by-election cycle, the PLE is provided to the City to prepare the final Voters' List for Voting Day. As required by current legislation, MPAC remains responsible for collecting information about electors' school support.

In 2023, staff engaged with Elections Ontario to identify common issues with the PLEs previously received from MPAC to address key challenges regarding data accuracy and to assist with the transition from MPAC's VoterLookup service to Elections Ontario's

[Voter Registration tool](#). As part of this transition, the City’s internal systems were adapted to integrate with the new register to ensure the accuracy and integrity of the information. Staff will continue to engage with Elections Ontario to further refine the voter registration system.

As of January 1, 2024, Ottawa residents may now use the [Voter Registration tool](#) to verify, add, or amend their voter information for municipal and provincial elections in Ontario. In addition, eligible electors who are 16 or 17 years old can join the [Ontario Register of Future Voters](#) to automatically be added to the Permanent Register of Electors for Ontario on their eighteenth birthday.

To ensure electors are aware of these changes, the Elections Office has posted information on ottawa.ca/vote and launched a social media campaign that will continue in the lead up to the 2026 Municipal Elections. In addition, Elections Office staff is available to assist electors and answer questions they may have.

Update on preparations for the 2026 Municipal Elections and by-elections that may occur during the 2022-2026 Term of Council

The next regular election in the City of Ottawa will take place on October 26, 2026.

In the City of Ottawa, preparations and planning for general municipal elections begin years in advance because of the City’s vast geographic area and large population, with over 722,000 eligible electors in 2022. Moreover, Ottawa provides bilingual and accessible services throughout the election process and at all voting places. In addition, the Elections Office ensures it is prepared to conduct any by-elections that may occur in the 2022-2026 Term of Council in accordance with Section 65 of the MEA.

Review of voting method options and public consultation

As part of the planning process for the 2026 Municipal Elections, staff continued to address the upcoming expiry of the contract with the City’s current vote tabulation system. As noted in the report to City Council titled “[Update on the 2022 Municipal Elections and amendments to election-related by-laws and policies](#)”, the existing contract is in place for any by-elections that may occur during the 2022-2026 Term of Council; however, the contract expires in advance of the next general municipal election which is scheduled to take place on Monday, October 26, 2026.

As described in the staff’s report titled “[Document 2 - 2022 Report on the Elections Office](#)”, the Elections Office continued to review voting methods for use in future municipal elections and will continue to work with IT Services and Supply Services to source a vote tabulation system in accordance with the City’s procurement process. It is estimated that procurement will begin in Q2 of 2024 and will be complete in 2025.

In addition to the above, staff will engage in a public consultation process to seek information from residents on a number of election-related matters. Staff will also continue to work with municipal partners and election working groups to seek feedback from other municipalities and jurisdictions. Staff anticipate that the public consultation process will take place in Q2 of 2024.

The results from the above-noted review and the public consultation process will be considered during the procurement process as necessary.

Anti-Racism Strategy

On June 22, 2022, City Council approved the City's [Anti-Racism Strategy](#) with the following actions for the Elections Office as part of the 2026 Municipal Elections:

1. Identify the cost and feasibility of multi-lingual election-related communication materials and voting tools and make recommendations as part of the 2026 Elections report, where permitted by the *Municipal Elections Act, 1996*.
2. Engage with Black and other racialized communities to identify barriers to participate in the municipal election process and, make recommendations to address barriers through the 2026 Elections report.

Staff will work with internal stakeholders including Public Information and Media Relations; Gender and Race Equity, Inclusion, Indigenous Relations and Social Development Services; French Language Services; and the Accessibility Office, and various community groups and organizations, to address the above-noted action items.

Staff will report to City Council on the outcome of the actions from the Anti-Racism Strategy, review of voting method options and public consultation, and Vote Tabulation System procurement in advance of the 2026 Municipal Elections as required.