

New York City's Campaign Finance System: A Comparative Study

Introduction:

This is an overview of New York's Campaign Finance System. Its purpose is to provide an understanding of how donations transparency and dollar matching could work within the context of Ontario's Municipal Elections Act, to help ensure those running our municipal government are doing their residents' business, not their own.

The Brennan Center For Justice work "Small Donor Matching Funds: The NYC Election Experience" (38 pages) has been condensed and interleaved with notes about Ontario municipal elections and how they could be reformed to correct our developer funded politics.
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The Legal Context:

Any study of U.S. politics would be incomplete without a mention of the Citizens United decision. The 2010 U.S. Supreme Court ruling in Citizens United v. FEC established that "corporations have a First Amendment right to make unlimited expenditures in elections."¹

The Supreme Court of Canada ruled quite differently in Harper v Canada 2004. The Court ruled that Canada Election Act's spending limits on third party election advertising "did violate section 2(b) and 2(d) and section 3 of the Canadian Charter of Rights and Freedoms but was justified under Section One of the Charter."² an excerpt from the Harper v Canada decision: "In the absence of spending limits, it is possible for the affluent or a number of persons pooling their resources and acting in concert to dominate the political discourse, depriving their opponents of a reasonable opportunity to speak and be heard, and undermining the voter's ability to be adequately informed of all views. Equality in the political discourse is thus necessary for meaningful participation in the electoral process and ultimately enhances the right to vote."³

Origins:

The founding of New York City's Campaign Finance System dates back to 1986 and, "as has happened so often elsewhere, scandal bred reform.

Late one night in January 1986, two patrol officers saw a car weaving across the Grand Central Parkway. When they pulled it over, they found Queens Borough President Donald Manes, one of the most powerful politicians in the city, at the wheel covered in blood. At first, Manes claimed he had been kidnapped and attacked. It soon became clear, however, that he had actually attempted suicide. Soon after, Manes successfully ended his life.

The suicide was just one piece of a larger saga: Manes was one of several targets of a federal investigation into a rich scheme of extortion and bribery between contractors and city officials. Several officials pled guilty while others were convicted of racketeering, mail fraud, and perjury. At the same time, in an unrelated case, Stanley Friedman—then the Bronx Democratic leader—was convicted of bribery."⁴

¹ Brennan Center for Justice, "Small Donor Matching Funds: The NYC Election Experience", pg. 1

² [Harper v. Canada \(AG\), 2004](#)

³ [SCC-CSC.Lexum.com](#)

⁴ Brennan Center For Justice

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We in Ottawa have not seen quite this level of drama at City Hall, however there is still abundant reason for concern. In the 2010 municipal elections, "there was a focussed effort to assist a select group of candidates by a particular set of organizations (corporations which do business with City Hall) who had a clear interest in the outcome, so much so that they supported 19 candidates running for 17 council seats, directing the bulk of their funds to these candidates ... And they were very successful, electing 17 of 19 city council candidates. And not for the first time in Ottawa, either." - Alex Cullen, Report on the 2010 Municipal Election in Ottawa

Corporations have no right to make political contributions to candidates. This principle was expressed in law when corporate contributions were banned from federal campaigns in 2007. They were banned from Toronto's City elections in 2009. And in 2016, the Wynn Liberals banned them in provincial and municipal campaigns. But the flow of corporate dollars into municipal campaigns continued unabated. Studies in Toronto by the Toronto Star and in Ottawa by Horizon Ottawa have shown corporate donations funnelling through company executives and their families. In Ottawa's 2018 municipal election, successful campaigns received, on average, 46% of their donations from the development industry.⁵

In 1987, in response to the corruption scandal, New York City Council passed the New York Campaign Finance Act and created the City Campaign Finance Board, which administers the law. "It established a voluntary public funding program that matched a portion of contributions raised by participating candidates if they limited spending, among other conditions.

Like all public financing systems, the program was designed to prevent corruption and its appearance. But the City also had greater ambitions. In addition to combating corruption, the City sought to expand the role of citizens in elections from voter to that of financier and even candidate. Since that first election (in 1989), an overwhelming majority of candidates for all City offices have participated in the program."⁶

The City's voluntary public funding program is available to candidates "for the offices of Mayor, Comptroller, Public Advocate, Borough President, and City Council. Like many public financing systems, the City's program provides public money to candidates in exchange for the candidate's acceptance of expenditure limits and enhanced disclosure. However, the heart of the system, and what sets it apart, is the multiple match—a feature that supercharges small donations by matching up to \$175 of each contribution at a six-to-one ratio."⁷

The City first tried dollar matching at 1:1 in 1997, then 4:1 in 2001 - 2005. But it wasn't until 6:1 dollar matching was offered in the 2009 - 2013 elections that both incumbents and non-incumbents received most of their contributions from small donations and the public funds they unlocked.

⁵ [Horizon Ottawa](#)

⁶ [Brennan Center For Justice](#)

⁷ "Small Donor Matching Funds: The NYC Election Experience", pg. 1

The System

1. The Small Donor Multiple Match

“Only the ‘small donor’ part of a contribution is matched, even though candidates can accept gifts in amounts larger than \$175. (Candidates for City Council are subject to a donation limit of \$1,000. The maximum public funds payable per contributor are \$1,400⁸). Thus, the multiple match encourages candidates to draw financial support from a broad base of small donors throughout the election by literally making small contributions more valuable.”⁹

“Moreover, only contributions from New York City residents are matched; the system will not match contributions from political action committees (“PACs”), unions, out-of-district residents or lobbyists. (Contributions from corporations are banned for all candidates.) So, a \$175 contribution from a New York City resident (resulting in \$1,225) is worth more than a \$1,000 contribution from a Connecticut resident. Two \$175 contributions from City residents (resulting in \$2,450) are worth more than a \$2,000 contribution from a political group promoting the interests of the real estate industry.

*A report on the 2014 Ontario elections in 13 of the municipalities around Lake Simcoe found that more than half of total contributions came from outside of the municipalities. Most of that was from the developer industry. By excluding contributions from out-of-town residents, the program would empower local voters.*¹⁰

As part of the system's package of benefits and burdens, participants agree to limit their spending... The funds available to participants are capped at 55% of the maximum amount that a participating candidate is allowed to spend... A City Council candidate is generally eligible to receive up to \$88,550 in matching funds for the primary and another \$88,550 for the general. At the City Council level, it is possible for a candidate to receive the maximum amount of matching funds—over half the total spending allowed—from just 84 people who contribute \$175.”¹¹

*In Ontario, there is a \$1,200 limit on contributions to any candidate (exception: contributions to candidates running for Mayor of Toronto are limited to \$2,500). There is a \$5,000 limit on contributions a contributor can give to all candidates in the same municipality.*¹²

Contributions to municipal election campaigns are not tax deductible, however municipalities are allowed to offer rebates. Ottawa's rebate program pays 50% for contributions of from \$25 to \$100, with the rebate percentage declining on larger contributions, to a maximum rebate of \$75. Rebate cheques for the 2018 elections were not issued until February, 2020.¹³ Toronto's rebate program repays 75% for contributions of \$25 to \$300, with the rebate percentage declining on larger contributions, to a maximum rebate of \$1,000. Rebates are available even to out-of-city contributors, with city taxpayers picking up the tab.

⁸ “New York City Campaign Finance Board”

⁹ “Small Donor Matching Funds: The NYC Election Experience”, pg. 4

¹⁰ [Campaign Fairness 2016](#)

¹¹ “Small Donor Matching Funds: The NYC Election Experience”, pg. 5

¹² “Candidates’ Guide for Ontario Municipal Council”

¹³ [Ottawa.ca](#)

2. Qualifying Criteria: Making Small Donors Essential from the Start

Before receiving matching funds, candidates for Mayor must gather at least \$250,000 from at least 1,000 contributors. Candidates for Council must gather at least \$5,000 from at least 75 contributors. Only the first \$175 of any contribution counts towards the eligibility threshold, so a big cheque is of no greater value than one for \$175, in terms of its importance to meeting the qualification threshold.

By reducing the relative importance of big cheques from moneyed interests, the program would help protect environmentally sensitive areas from development and help promote intensification within existing urban areas.¹⁴

3. Voluntary Expenditure Limits

"In exchange for public monies, candidates agree to certain limitations. Most importantly, they must abide by expenditure limits. For example, in a typical 2009 race, participating City Council candidates were restricted from spending more than \$161,000 for the primary and \$161,000 for the general—a spending budget, in total, of \$322,000."¹⁵

Ontario's candidate spending limits are much lower than those of New York. Candidates are subject to a general spending limit and a spending limit for "parties and expressions of appreciation". The general spending limit for head of council is \$7,500 plus \$0.85 per elector. For council member it's \$5,000 plus \$0.85 per elector. The spending limit for parties and expressions of appreciation is 10% of the general spending limit.¹⁶ In Ottawa in the 2018 elections, candidate average spending was \$24,000 per elected councillor.¹⁷

4. Empowering Voters with Information

"All candidates, both participating and non-participating, are required to file frequent, accurate and timely disclosure statements. During the 2009 election cycle, there were 16 reporting periods. Additionally, as the election nears, candidates are required to make daily disclosures of contributions and expenditures (in excess of a certain threshold) during the two weeks leading up to an election.

The Campaign Finance Board uses technology to facilitate effective disclosure—candidates can make disclosures online which are then made public in a number of ways, including through the use of a searchable online database. Through examining these filings, the press, public interest organizations and other members of the public can review the identity, occupation and employer of every contributor, the amount of each contribution, whether the contribution was collected by an intermediary, and how the campaign spent its money."¹⁸

A similar database could operate in Ontario. It could provide information about all donations and spending and be searchable during the Ontario municipal election period, before Voting Day (See Appendix 3).

¹⁴ "Money and Politics In Simcoe County", 2010

¹⁵ "Small Donor Matching Funds: The NYC Election Experience", pg. 7

¹⁶ 2018 Ontario Candidates' Guide

¹⁷ Horizon Ottawa, "Follow The Money"

¹⁸ "Small Donor Matching Funds: The NYC Election Experience", pg. 7

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5. The Campaign Finance Board and Fund

The CFB is a non-partisan board of five members charged with administering the system. They determine who qualifies for matching and which contributions are matchable, they disburse the funds and audit every candidate's campaign. The CFB can also issue subpoenas, depose witnesses and bring enforcement actions.

In Ontario, campaign violations unfairly avoid prosecution in at least two ways. First, as review by the municipality's compliance audit committee is only upon referral by the municipal clerk, and on a complaint basis, some inadequate financial statements are never audited because no one complains. Second, when a financial statement has been reviewed and an election law violation is found to have occurred, the decision to prosecute is entirely at the discretion of the municipal clerk. Since the clerk is an employee of council, there is a clear conflict of interest.¹⁹

"The City (of Toronto) actually has no power to deal with donors who break the rules" set out in Ontario's Municipal Elections Act.²⁰

The Campaign Finance Fund from which matching funds are disbursed is financed through general appropriations from the City Council budget.²¹

The public funds needed to implement 6:1 dollar matching in Ontario are estimated at under \$22.9M, or \$1.64 per resident (see Appendix 1).

For a description of how an Ontario Matching Funds Program could be administered, see Appendix 2.

Results

A. Robust Participation Levels

"The vast majority of serious candidates choose to participate in the system.

In New York City, the most competitive races tend to be primaries. This is no surprise: 69% of the city's voters register as Democrats. Mayoral elections, however, are marked by robust partisan competition.

In 2009, almost all primary candidates—a whopping 93%—financed their elections through the City's program. That year, 66% of general election candidates participated. These rates have been consistent for over a decade. Indeed, nearly every credible candidate participates: in 2009's contest, the Public Advocate, the Comptroller, all five Borough Presidents, and all but two of the 51 City Council candidates who were elected to office participated."²²

In the 2018 elections, almost half of Ottawa City Council, including our mayor, received most of their contributions from developers. And the Chair of Planning Committee received 96% of her donations from people tied to the development industry.²³

¹⁹ Prof. Robert MacDermid, Ontario Legislative Assembly Standing Committee on Finance and Economic Affairs Transcript, May 5, 2016 and Councillor Alex Cullen, May 12, 2016

²⁰ [Toronto Star, April 9, 2016](#)

²¹ ["Small Donor Matching Funds: The NYC Election Experience", pg. 8](#)

²² ["Small Donor Matching Funds: The NYC Election Experience", pg. 10](#)

²³ [Horizon Ottawa](#)

B. Increasing the Supply of and Demand for Small Donors

“The genius of the multiple match is this: it simultaneously drives candidates to rely more on small donors than would have been otherwise the case while incentivizing citizens to donate.”

“Those in the fundraising trenches confirmed that the multiple match frees candidates from a dependency on special interest money.

- Council member Brad Lander said, ‘Because of the multiple match, I was able to refuse all contributions from political action committees. Without the multiple match, I would not have been able to finance my campaign solely on contributions from individuals.’
- Campaign consultant Alex Navarro-McKay agreed. ‘The match makes it easier to raise money from small donors, thereby reducing the need to raise money from the City Hall lobbyist crowd.’
- Commissioner Yassky echoed this sentiment: ‘Since the multiple match increases reliance on small donors, there is less need for a candidate to cozy up to special interests.’²⁴

“The program sees wide candidate participation and has expanded the diversity of the donor pool. In 2009, almost 90 percent of New York City census block groups—units of 300 to 6,000 people tracked by the U.S. Census Bureau—had at least one, and often many, participating donors, compared with only 30 percent for 2010 New York State Assembly races without a small-donor program.”²⁵

In the 2014 municipal elections, in the 13 municipalities surrounding Lake Simcoe, less than 0.2% of the population gave any money to a candidate. Ontario’s voter turnout that year was 43.1%, demonstrating voters’ profound disinterest in municipal politics.²⁶ In the most recent municipal elections of 2018, Ontario’s voter turnout reached a 40-year low, at 38.3%.

C. Fusing Fundraising with Voter Outreach

“Another impact is less tangible, but highly visible to those who watch city politics—campaigns have learned how to use their fundraising activity to build their volunteer corps and voter outreach efforts.”²⁷

D. Boosting Competition Through Spending Parity

“In the past, New York City elections had a certain lack of symmetry. One candidate had the money, the mailings, the endorsements, the bunting, the headquarters with real desks and spare phones and carpets. That was the incumbent. The challenger needed a great deal of nerve and occasionally even a bodyguard to venture out on the streets.

This year is different. Democracy is having its day courtesy of a term limits law that made available more than 40 elective offices at various levels of city government. On top of that is a campaign finance system that offers public money to match contributions for qualifying candidates.

²⁴ [Brennan Center for Justice](#)

²⁵ [Center For American Progress](#)

²⁶ [Campaign Fairness Report 2016](#)

²⁷ [“Small Donor Matching Funds: The NYC Election Experience”](#), pg. 18

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As a result, the city has been swarming with political hopefuls, reflections of the city itself with its many voices, colors, nationalities and political leanings The best part of this wild election year is the way it's broadening the city's base of politically active residents beyond the old tenured officeholders, their immediate families and their anointed successors."²⁸

"Whichever candidate prevails once every last vote for mayor gets counted, small campaign donors and the champions of a ramped-up public matching funds program can claim a win. The number of people donating less than \$100 to a campaign has tripled since the last time the top job in New York City was open in 2013, outpacing an overall major increase in the number of donors, THE CITY's analysis of contributor records found."²⁹

E. Producing a New Crop of Candidates

"Another less measurable but deeply significant consequence of the NYC system: a far more diverse crop of candidates who choose to seek office. The matching funds system, after 2001, produced a City Council made up of a striking mix of backgrounds: lawyers, of course, but also police officers, teachers and community organizers."³⁰

Conclusions

"The City's campaign financing system "has led to more competition, more small donors, more impact from small contributions, more grass roots campaigning, and more citizen participation in campaigns. All this, while simultaneously reducing the influence of big money in general and corporate money in particular (only donations from living, breathing New Yorkers are matched)."³¹

"New York City politicians can now run for office while raising a significant amount of their money from small donors. The City's campaign financing system may not be perfect—big money still plays an outsized role in some campaigns and billionaire candidates, like Mayor Michael Bloomberg, can use their personal fortunes to outspend opponents—but it offers valuable lessons in how to build a campaign finance system that boosts the impact of ordinary citizens.

Data from recent New York City elections demonstrates the following:

- The program enjoys robust participation by serious, credible candidates.
- Since the enactment of the multiple match, the number of overall contributors and the number of small donors has increased.
- Participants rely on a greater number of smaller donors than do nonparticipants.
- The program encourages candidates to fuse fundraising and voter outreach efforts.
- The system promotes voter choice by enabling a diverse pool of candidates with substantial grassroots support but little access to large donors to run competitive campaigns.

²⁸ New York Times editorial, sept. 9, 2001

²⁹ [The City, July 13, 2021](#)

³⁰ ["Small Donor Matching Funds: The NYC Election Experience"](#), Pg. 21

³¹ ["Small Donor Matching Funds: The NYC Election Experience"](#), Foreword

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- Finally, especially in open-seat elections, the system has boosted competition by enabling greater spending parity between candidates.”³²

NB: As of 2019, New York's dollar matching ratio has been increased to 8:1 for all candidates.

Other Public Funding Programs:

The NYC example has inspired small donor programs in other jurisdictions:

- the For The People Act, passed by the U.S. House of Representatives this year, mandates donations transparency and “would introduce voluntary public financing for campaigns, matching small donations at a 6:1 ratio”.³³
- Los Angeles offers matching funds of 6:1 on the first \$114 donated, to qualifying candidates. Campaign contributions are searchable on the L.A. City Ethics Commission Data Portal.
- the program under consideration in New York State would feature “...very high matching rates (as high as twelve-to-one for the first \$50)... will only match money from small donors (not the first dollars of a larger contribution) and it will only match money from donors who live in the legislative district a candidate is running to represent...the law has been structured to make it easier for candidates from low-income districts to qualify for matching funds.”³⁴

“Other recent adopters of small-donor public financing programs include Montgomery and Howard counties in Maryland; Berkeley, California; Portland, Oregon; and Suffolk County, New York. Additional small-donor public funding bills have recently been introduced in city councils and state legislatures across the country, including Oregon; Virginia; New Hampshire; Philadelphia, Pennsylvania; Illinois; Austin, Texas; Albuquerque, New Mexico; and Baltimore, Maryland.”³⁵

Appendix 1: the cost of dollar matching in Ontario

- In 2017, the 8.2M residents of New York City were represented by a 51-member council. Dollar matching at 6:1 cost them \$9M.³⁶
- Ontario, with 14M residents and 444 municipalities, is represented by 2,400 municipal councillors. In the 2018 municipal elections, there were 6,645 candidates.³⁷
- Council candidates are allowed to spend a maximum of \$5,000 plus \$0.85 per elector. With 10M electors, Ontario's combined spending limit for Council candidates is $(\$5,000 \times 6,645 \text{ candidates}) + (\$0.85 \times 10\text{M electors}) = \41.7M .
- in NYC, the maximum public funds available to a candidate are 55% of their spending limit.
- the maximum public funds needed to implement dollar matching in Ontario is 55% of \$41.7M, or \$22.9M. That is \$1.64 per resident. (Actual program cost would be lower, as participation would be voluntary and not every candidate would qualify for matching funds).

³² [“Small Donor Matching Funds: The NYC Election Experience”](#), pg. 2

³³ [The For The People Act](#)

³⁴ [Campaign Finance Institute, 2020](#)

³⁵ [American Progress report, 2018](#)

³⁶ [NYC Campaign Finance Board](#)

³⁷ [AMO: 2018 Ontario Municipal Elections Stats](#)

Appendix 2: administration of an Ontario Matching Funds Program

- only campaigns for Mayor or Council would qualify for matching funds, on a voluntary basis. Campaigns for school trustee would not qualify.
- under Ontario's Municipal Elections Act, every candidate is responsible for reporting all donations and spending in a financial statement.
- every municipality has a Compliance Audit Committee, responsible for auditing campaign finances, as directed by the Municipal Clerk.
- unlike NYC's 51-seat Council, Ontario's largest Council has 26 seats.
- 73% of Ontario's Councils have either five seats or seven.
- with fewer campaigns to track, a scaled-down version of the NYC program could be used in each of Ontario's municipalities.
- each municipality's Compliance Audit Committee would take on responsibilities similar to NYC's Campaign Finance Board. They would determine who qualifies for matching and which contributions are matchable, disburse the funds and audit every candidate's campaign. The CFB can also issue subpoenas, depose witnesses and bring enforcement actions.
- matching funds would be made available by the municipality.
- it doesn't matter that there are 444 concurrent municipal elections to be tracked. Each program runs independently, in its own municipality. Imagine the number of PCs in Canada running the Windows Operating System. The system's complexity is unchanged whether it runs on ten million computers or only one.

Appendix 3: implementing donations transparency with a searchable database

Big Data has arrived. A single database could contain all of Ontario's contributions and spending data and be searchable by voters, journalists and community organizations at any time during the election period. In the era of cloud-based Db2, capacity is no longer a limitation, but we must still answer two critical questions: How big and how fast?

- at the time of writing, the New York City Campaign Finance Board is tracking 604 campaigns for the offices of Mayor, City Council, Public Advocate, Comptroller and Borough President.
- 529 of the above candidates are participating in the matching funds program, submitting to the increased contributions disclosure requirements which cause their contributor details to appear in the Board's *Follow The Money* database.
- \$64M in contributions, attracting \$109M in public funds, are on display.
- in the 2018 elections, for the offices of Mayor/Reeve and Council, there were 277 candidates in Toronto and 6,645 in Ontario.
- Toronto's database of financial statements for the 2018 municipal elections contains 15,102 records (one record per contribution).³⁸
- assuming similar contributions rates province-wide (admittedly a big assumption), a similar contributions database for all of Ontario would need to contain approximately $6,645 \text{ (\# Ontario candidates)} / 227 \text{ (\# Toronto candidates)} \times 15,102 \text{ (\# Toronto records)} = 442,100$ records.
- to support a level of public interest similar to that in NYC, and with roughly twice NYC's population (14.1M in Ontario, 8.2M in NYC), the Ontario database would have to support traffic levels, i.e. search requests, roughly twice those in NYC.

³⁸ toronto.ca