

District Council Election Financial Assistance Scheme

Notes for Candidate

Purpose

1. The purpose of these Notes is to provide guidance to the District Council (“DC”) Election candidate (“candidate”) seeking financial assistance from the Government under the Financial Assistance Scheme (the “Scheme”), in order that the candidate will establish proper internal controls in relation to the accounting requirements to ensure that his/her election return (with the account of the declared election expenses) complies with section 37(1)(a) and (2)(b)(i) and (v) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (the “ECICO”).

Background

2. Part VA of the District Councils Ordinance (Cap. 547) (“DCO”) provides for the Scheme for DC Election candidate in respect of election expenses. The aim of the Scheme is to encourage more public-spirited candidates to participate in DC elections. This will be conducive to the development of political talent in Hong Kong.
3. Under the Scheme, a candidate who gets elected or who has received 5% of valid votes or more will be given financial assistance to offset part of his/her election expenses as follows:
 - (a) in respect of a candidate in a contested constituency, the amount payable is the lowest of the following:
 - (i) the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate (now at \$14);
 - (ii) 50% of the maximum amount of election expenses that may be incurred by the candidate; or
 - (iii) the declared election expenses of the candidate.
 - (b) in respect of a candidate in an uncontested constituency, the amount payable is the lowest of the following:
 - (i) the amount obtained by multiplying 50% of the number of registered electors for the constituency concerned by the specified rate (now at \$14);
 - (ii) 50% of the maximum amount of election expenses that may be incurred by the candidate; or
 - (iii) the declared election expenses of the candidate.

The “declared election expenses” means the amount set out as election expenses incurred by the candidate in the election return lodged under section 37(1) of the ECICO. According to the Maximum Amount of Election Expenses (District Council Election) Regulation (Cap. 554C), the maximum amount of election expenses that can be incurred by or on behalf of a candidate at a DC election is \$63,100.

4. A declaration by the Returning Officer under section 40(3) of the DCO that an election has failed does not affect any entitlement to financial assistance. If the proceedings for an election are terminated under section 40(1) of the DCO, financial assistance is not payable in respect of that election.
5. The detailed operational procedures of the Scheme are laid down in the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap. 541N) (the “Regulation”).

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6. A claim for financial assistance under the Scheme must be made on a form specified by the Electoral Affairs Commission (“EAC”) (which will be given to a candidate upon his/her submission of the nomination). The completed claim form must be presented in person by the candidate or his/her agent to the Chief Electoral Officer (“CEO”) during ordinary business hours within the period or extended period specified in paragraph 7 below for lodging an election return. The claim form must also be accompanied by his/her election return.
7. Section 37(1) of the ECICO states that each candidate at an election must lodge with the CEO an **election return** setting out:
 - (a) the candidate’s election expenses at the election; and
 - (b) all election donations received by or on behalf of the candidate in connection with the election.

Section 37(2)(b) of the ECICO states that the candidate must ensure that the return is accompanied:

- (i) in the case of each election expense of \$100 or more, by an invoice and a receipt giving particulars of the expenditure; and
- (ii) in the case of each election donation of more than \$1,000 or, in the case of an election donation consisting of goods or a service, of more than \$1,000 in value, by a copy of the receipt issued to the donor giving particulars of the donor and the donation; and
- (iii) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was disposed of in accordance with section 19 of the ECICO, by a copy of the receipt given by the recipient of the donation or part; and
- (iv) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was not disposed of in accordance with section 19(3)¹ of the ECICO, by an explanation setting out the reason why it was not disposed of in accordance with that section; and

¹ Section 19(3) of the ECICO requires that any unspent or unused donations must be given to charitable institutions or trusts of a public character chosen by the candidates. Section 19(4) of the ECICO requires that any amount of donations that exceeds the maximum limit of election expenses must also be given to such charitable institutions or trusts.

- (v) by a declaration in a form provided or specified by the appropriate authority verifying the contents of the return.

According to section 37(2)(a)(ii) of the ECICO, the return and declaration of election expenses and election donations in a specified form (a copy of which will be given to a candidate upon his/her submission of nomination) must be submitted to the CEO not later than 30 days after the publication in the Gazette of the result of the election, or not later than 30 days after the declaration of the termination of the election proceedings, or not later than 30 days after the declaration of the failure of the election, or within such extended period as may be allowed by the Court of First Instance under section 40 of the ECICO.

8. The candidate needs to ensure that the following in relation to the declared election expenses are complied with. Otherwise, the item of election expense concerned will not be taken into account in determining the amount of financial assistance payable -
 - (a) for those election expenses, each of which is \$100 or more, included in the candidate's election return, the candidate must submit invoice(s) and receipt(s) with the election return pursuant to section 37(2)(b)(i) of the ECICO. For the purpose of making a claim for financial assistance, each invoice and receipt or copy of it should be certified by the candidate in the manner as set out in (d) and (e) below;
 - (b) an invoice and a receipt for an election expense may be included in the same document (see section 37(3) of the ECICO);
 - (c) the invoices and receipts submitted should contain sufficient particulars, including –
 - (i) date;
 - (ii) details of the expense item (i.e., information and amount of the goods or services);
 - (iii) information of the organisation or person (other than the candidate himself/herself) providing the goods or services; and
 - (iv) information supporting that the organisation or person (other than the candidate himself/herself) providing the goods or services has received the relevant payment in full (e.g., name and signature of the recipient);
 - (d) each original invoice and receipt in support of the claim should be certified to be correct by the candidate personally by way of signing on it. A sample is attached at **Appendix (Part I)** for reference;
 - (e) each copy of invoice and receipt in support of the claim should be certified by the candidate personally, by way of signing on it, to be correct and true copy and that no duplicate claim has been submitted previously. A sample is attached at **Appendix (Part II)** for reference;
 - (f) in the case that an election donation (including multiple election donations from the same donor) consisting of goods or a service of more than \$1,000 in value is included in a candidate's declared election expenses, the candidate must issue a receipt to the donor and submit a copy of the receipt with the election return pursuant to section 37(2)(b)(ii) of the ECICO. For the purpose of making a claim for financial assistance, each copy of receipt should be certified to be correct and true copy by the candidate personally by way of signing on it. A sample is attached at **Appendix (Part III)** for reference;

- (g) no invoices or receipts may be altered except by the supplier(s)/issuer(s) themselves with their endorsement;
 - (h) for all outstanding claims included as election expenses in the election return, a payment schedule for settlement of the outstanding claims should be indicated in the election return and the claim for financial assistance. The candidate is then required to submit duly certified invoice(s) and receipt(s) in the case of each election expense of \$100 or more to the CEO within 30 days of settlement of the outstanding claims.
9. The candidate needs to make arrangements to institute proper internal controls to ensure that all election donations to which he/she receives and all election expenses for which he/she incurs are properly accounted for and recorded in his/her books and records.
10. The proper internal controls in relation to the accounting requirements should include the following:
- (a) a candidate should appoint a treasurer (or an election expense agent) before accepting an election donation or incurring an election expense. This is to ensure that all election donations received and expenses incurred for the campaign of a candidate are properly recorded in the books and records;
 - (b) all election donations relating to the election campaign should be recorded in the books and records as soon as practicable and cash and cheque election donations are deposited in a separate bank account of a candidate - for the sole purpose of the candidate's election campaign, as soon as practicable and preferably within 3 working days of receipt;
 - (c) the candidate and the treasurer (or an election expense agent) should ensure that a cash book is maintained to record all election donations received and election expenses paid and regular bank reconciliations should be carried out; and
 - (d) all donation receipts and election expense payments should be supported by documentation and properly filed.
11. On re-use of old materials for election purpose (e.g. re-use of old publicity boards), the cost incurred for refurbishing and the estimated value of the old materials should be counted towards the candidate's election expenses. For candidates eligible for financial assistance, the cost incurred for refurbishment of the old materials will be considered in calculating the amount of financial assistance to be payable to the candidate, whilst the estimated value of the old materials will not be counted so as to avoid double payment. The above principle will also apply to reuse of other old materials for election purpose.
12. Any financial benefit given by an organisation or individual to a candidate for the purpose of meeting, or contributing towards meeting his/her election expenses should be declared as election donation and accounted for in the election return. Any goods and services obtained free of charge or at a discount are donation-in-kind and their estimated fair value should be included in the election return both as an election donation and election expense where appropriate. Fund raising campaigns organised by a political body or an organisation without specific reference to the candidate will not be counted as the candidate's election activity. However, any contributions from such political body or organisation to the candidate for the purposes of this election will need to be recorded as election donations received by the candidate.

13. In making a claim for financial assistance, the accounts in the election return accompanying the claim are not required to be audited by an auditor² appointed by the candidate, but the claim will be verified by the CEO in accordance with the Regulation. The CEO may appoint an auditor to assist in verifying the claim (including the auditing of the accounts in the election return accompanying the claim). The CEO, and/or the auditor² on behalf of the CEO, may require the candidate to provide further information as he may reasonably require to verify the claim. If the candidate fails to provide further information within the specified period, the CEO may, without prior notice, stop processing the claim.
14. A candidate who, in his/her return and declaration of election expenses and election donations or any advance return and declaration of election donations, makes a statement that he/she knows or ought to know is materially false or misleading engages in corrupt conduct under section 20 of the ECICO and is punishable by a fine of up to \$500,000 and imprisonment of up to 7 years.
15. In relation to election expenses and election donations, a candidate should make reference to the prevailing EAC Guidelines on Election-related Activities in respect of District Council Election, in particular the chapter entitled "Election Expenses and Election Donations" and the Appendix entitled "Items of Expenses which may be Counted towards Election Expenses".
16. A claim may be withdrawn, before a payment of financial assistance is made or the claim is otherwise disposed of, by means of a notice of withdrawal presented to the CEO. The notice of withdrawal must be presented in a form specified by the EAC (a hard copy of which will be given to the candidate upon his/her submission of nomination).
17. Where a payment of financial assistance is made and the recipient is not entitled to receive the whole or part of the amount paid, the recipient must repay the whole or part, as the case may be, of the amount paid to the Government within 3 months after the date of a written notice that was given by the CEO to the recipient requiring repayment.

Registration and Electoral Office
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² Auditor means a certified public accountant (practising) as defined in the Professional Accountants Ordinance (Cap. 50).

Part I

Sample on certifying an original copy of invoice and receipt issued by the supplier

<p style="text-align: center;">Certified correct</p> <p style="text-align: center;">[Signature of candidate]</p> <hr style="width: 30%; margin: auto;"/> <p style="text-align: center;">[Name of candidate]</p> <p style="text-align: center;">[Date]</p>

Part II

Sample on certifying a duplicate copy of invoice and receipt issued by the supplier

<p style="text-align: center;">Certified correct and true copy and no duplicate claim has been submitted previously</p> <p style="text-align: center;">[Signature of candidate]</p> <hr style="width: 30%; margin: auto;"/> <p style="text-align: center;">[Name of candidate]</p> <p style="text-align: center;">[Date]</p>
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Part III

Sample on certifying a copy of receipt issued to the donor for an election donation consisting of goods or a service that is included as an election expense

Certified correct and true copy

[Signature of candidate]

[Name of candidate]

[Date]