

# Guide for treasurers

Reference: *Act respecting elections and referendums in municipalities* (ss. 513.0.1 to 513.3)



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# 1 Role of the treasurer

As the clerk-treasurer of a municipality where an election will soon be held, you have a role to play and certain responsibilities to fulfil with respect to political financing. Your primary responsibility is to keep all candidates informed of the regulations governing political financing. Candidates will be required to file the form titled “Donors list and return of expenses” (DGE-1038), on which they need to report donations (referred to as “gifts” in the *Act respecting elections and referendums in municipalities*) and expenses related to their campaign. They will also need to follow applicable regulations. Please review the basic regulations governing political financing, as presented in this guide, so you can keep candidates well informed.

After reading the guide, you should be able to respond to most inquiries from candidates. Nevertheless, Élections Québec staff members are available to answer any questions you may have. Additional materials are also available to support both you and the candidates.

Later, candidates will need to complete the form titled “Donors list and return of expenses” (DGE-1038) and submit it to you. When receiving the form, conduct an initial review to make sure that each section has been properly completed and that all information appears accurate.

Finally, once you have received forms from all candidates in the election, send scanned copies to Élections Québec.



# 2 Before the election

## 2.1 Understanding how political financing works

In municipalities with a population of less than 5,000, political financing is governed by Chapter XIV of the *Act respecting elections and referendums in municipalities* (AERM). The following documents provide information on the topic:

- Directive D-M-XIV-1;
- Guide for treasurers;
- Quick reference for treasurers;
- Guide for candidates (DGE-1038.1);
- Form titled “Donors list and return of expenses” (DGE-1038).

This guide will serve as your main reference document. It describes your role and responsibilities in relation to key aspects of political financing. It will also help you keep candidates informed and answer their questions. In addition, directive D-M-XIV-1 addresses certain topics in more detail.

## 2.2 Keeping candidates informed and providing them with all necessary documentation

You must provide the following three documents to any person who completes and files a nomination paper:

- Guide for candidates (DGE-1038.1), which will serve as the person’s main reference document;
- Form titled “Donors list and return of expenses” (DGE-1038);
- Directive D-M-XIV-1.

If the returning officer (and you, where applicable) holds an information meeting with candidates, they should be reminded that they will need to file form DGE-1038, regardless of the outcome of the poll. The Chief Electoral Officer may take legal action against any candidate who fails to file this form. Specify the deadline for submitting the form (90 days after polling day).

All of the documents listed above are available in the Forms and guides section of the Élections Québec website, under Municipalities with populations of less than 5,000 inhabitants. The documents are also available on the municipal extranet, under Mun. de moins de 5 000 habitants. This section of the extranet also contains templates of letters for reminding candidates of the requirement to submit form DGE-1038.



# 3 Rules to follow during elections

## 3.1 Requirement to file form DGE-1038

In the interest of full transparency, the form titled “Donors list and return of expenses” (DGE-1038) allows a candidate to report the donations received and expenses incurred as part of his or her election campaign. Any person who files a “Nomination paper” form (SM-29) is required to complete form DGE-1038 and submit it to you **no later than 90 days after polling day**. Candidates need to file the form in all of the following circumstances:

- They won or lost the election;
- They incurred no expense and collected no donation;
- They were elected unopposed;
- They withdrew their nomination (withdrew from the election).

**In summary, you should receive a DGE-1038 form for every *Nomination paper form (SM-29)* submitted.**

The AERM requires candidates who were elected unopposed to file the form, because such candidates may have received donations or incurred expenses between the time when they filed their nomination paper and the time they were declared elected unopposed. The requirement also applies to candidates who have withdrawn their nomination, because such candidates may have received donations or incurred expenses before withdrawing.

Even candidates who received no donations and incurred no expenses need to complete form DGE-1038. They should complete section 2, titled **Declaration of candidate who received no donation and incurred no expense**. Such candidates are not required to complete sections 3, 4 and 5. Likewise, candidates who lose the election also need to complete form DGE-1038.

After polling day, you must remind candidates of their obligation to submit this form. You can use the letter templates available on the municipal extranet. Scan each letter you send to a candidate, and forward it in PDF format to Élections Québec.

## 3.2 Consequences of not filing form DGE-1038

Candidates who fail to submit a completed form DGE-1038 to you by the 90<sup>th</sup> day after polling day are liable to a fine of \$50 for each day of delay.

## 3.3 Period for collecting donations and incurring expenses

Candidates may begin collecting donations and incurring expenses on January 1<sup>st</sup> of a general election year. In the case of a by-election, the period begins on the date of the notice of vacancy. Candidates need to report, on form DGE-1038, all donations they receive and all expenses they incur after this date to promote their election.

## 3.4 Maximum donation amount

According to section 513.1.1 of the AERM, a natural person may make gifts of money, the total of which may not exceed \$200 per candidate. Given that a candidate is also a natural person, candidates may make a contribution of \$200 for their own benefit. In addition to that amount, candidates may contribute an additional \$800 for their benefit, at their own expense.

In summary, the maximum amount that candidates may spend out of their own property in order to promote their election is \$1000, if they do not receive donations from natural persons other than themselves.



### 3.5 Donations from legal persons or businesses

Only a natural person may make a donation to a candidate. The AERM prohibits legal persons from doing so. For example, that means a printing company cannot provide election signage or any other election materials to a candidate for free. Nor can a supplier offer a discount, since that discount would be considered a donation from a legal person. The Chief Electoral Officer may take legal action in such cases.

Without exception, all goods and services provided by organizations need to be purchased at current market prices.

### 3.6 Expense limit

A candidate may spend no more than the combined total of the donations he or she makes from his or her personal funds and the donations he or she receives from natural persons to promote his or her election. In the case of a candidate who has not collected any donation from donors, the expense limit is therefore \$1,000.

Only a candidate may incur an expense to promote his or her election.

In addition, no person may provide goods or services that could be used to promote or oppose the election of any candidate unless that person has received a request from a candidate. Following such a request, the supplier should issue an invoice at current market prices.

### 3.7 Donations of \$50 or less

Under the AERM, candidates need to provide a list of donors having made donations totalling over \$50.

In the “Total donations of \$50 or less” field in section 4 (list of donors having made one or more donations totalling more than \$50) of form DGE-1038, candidates also need to enter the sum of all donations of \$50 or less they received.

Candidates should personally retain the names of the persons having made such donations for seven years. These records may be requested by Élections Québec in the case of an audit.

## 3.8 Payment methods for donations

Section 513.1.2 of the AERM specifies that any donation over \$50 from a natural person should be made using a cheque or other payment order signed by the donor, and drawn from his or her account in a financial institution having an office in Québec. Only donations of \$50 or less may be made in cash or by bank transfer.

Candidates are not required to provide a contribution receipt to a person from whom they receive a donation. Nor do such donations make the donor eligible for a tax credit. Also, expenses incurred for elections held in municipalities with a population of less than 5,000 are not eligible for reimbursement.

## 3.9 Payment methods for expenses

Candidates need to pay their own campaign invoices in compliance with the conditions described below.

- Expenses paid out of a candidate's own property to promote his or her election may not exceed \$1,000. Any expenses in excess of this amount need to be paid using donations from other donors.
- Candidates must pay the expenses they incur using cheques, a debit card or a credit card. They cannot pay expenses using cash. This allows Élections Québec to conduct audits or investigations, where necessary, to confirm that a candidate has made such payments himself or herself.
- On the form titled "Donors list and return of expenses" (DGE-1038), in addition to reporting all his or her expenses in the **Return of expenses section**, a candidate also needs to report the total amount of expenses paid out of his or her own property in the **Personal donation of the candidate** section.

## 3.10 Expenses incurred by tickets

Even in cases where a ticket is recognized by a municipality's returning officer, all candidates on the ticket remain independent. Each candidate is required to maintain full control over his or her campaign's income and expenses. In other words, each campaign needs to be managed by the candidate himself or herself, not by another candidate on the ticket. For example, donations may not be made to a ticket, contributors need to specify which candidate should receive their donation.

Whether recognized or unrecognized, a ticket may not incur expenses. The same regulations apply to all candidates, regardless of whether they belong to a recognized ticket or not.

However, members of a ticket may incur joint expenses related to their respective campaigns. Joint expenses are those whose cost is attributable to one or more candidates on a ticket, where the exposure generated by the expense benefits more than one candidate.

For example, the cost of an election sign displaying a photo of only one candidate but with the name of the ticket is considered a joint expense, because the name of the ticket promotes all of its candidates. Members of a ticket who incur a joint expense need to allocate the cost equally among themselves. Each candidate should report his or her individual share on form DGE-1038, according to the guidelines provided in directive D-M-XIV-1.

In such cases, suppliers should invoice each candidate separately for his or her share of the expense. If a supplier is unable to provide multiple invoices, one of the candidates should pay the entire amount and then distribute photocopies of the invoice to the other candidates on the ticket, indicating the amount owed by each of them, so that they may reimburse him or her.

In summary, each candidate on the ticket will need to file his or her own DGE-1038 form, making sure to report all donations and expenses related to his or her election campaign, including his or her share of any joint expenses.



# 4 After the election

## 4.1 Sending requests and reminders for filing

On the 30<sup>th</sup> day after polling day, you must send a letter to all candidates from whom you have not yet received a DGE-1038 form, requesting that they submit one. The letter reminds candidates of their legal obligation to file the form. Be sure to attach the Guide for candidates (DGE 1038.1) and form DGE-1038. The template is available on the Élections Québec municipal extranet. You can send the letter by e-mail, if you wish.

You should repeat this step on the 60<sup>th</sup> day after polling day for those candidates who have still not submitted a DGE-1038 form. In this case, you can use the template titled “Reminder: Please complete your return.”

You must provide Élections Québec with a scanned copy of each letter you send to a candidate. Please forward these copies to the following address: **financement-municipal-5000@electionsquebec.qc.ca**. In addition, the municipality should retain copies of these letters as evidence that candidates have been informed that they have an obligation to file a form. In cases where forms are submitted late, the Legal Affairs Department at Élections Québec may request copies of the letters you sent.

## 4.2 Receiving the form

Candidates need to submit form DGE-1038 to you no later than 90 days after polling day. They can submit the form as early as the day after polling day. Candidates who are elected unopposed or who withdraw their nomination may even submit it before that date. When you receive form DGE-1038 from a candidate, you should first verify the following:

- That the total amount of donations received and the total amount of expenses incurred are equal. Otherwise, the candidate's income should be greater than his or her expenses. In cases where expenses exceed income, you should ask the candidate to correct the report by including all donations that allowed him or her to fully cover his or her expenses (candidates often fail to include donations from their own personal funds);
- That the candidate has signed and dated either section 2 or section 6 of the form, as the case may be.

Next, you must sign and date the **Acknowledgement of receipt** section to confirm that the candidate has submitted the form to the municipality. Be sure to indicate the filing date.

Make both a paper copy and a digital copy of the original form.

Give the paper copy to the candidate. Later, you will need to send the digital copy to Élections Québec.

Finally, you should inform the candidate that he or she needs to retain all supporting documents related to his or her income and expenses (copies of cheques, invoices, etc.) for seven years.

## 4.3 Sending the forms to Élections Québec

Once you have received forms from all candidates, you should send a digital copy of each form to Élections Québec. Forward these copies to **financement-municipal-5000@electionsquebec.qc.ca**. Permanently retain all original documents in the municipal archives. You have 30 days after the legal deadline for submitting the forms to send the digital copies to Élections Québec (120 days after polling day). We will send you an acknowledgement of receipt once we have received all the forms.

Where applicable, Élections Québec will audit the information provided by a candidate to confirm its compliance. The names of contributors will also be published on Élections Québec's website.

## 4.4 Filing of DGE-1038 forms with the municipal council

Section 513.2 of the AERM requires the treasurer to file all DGE-1038 forms he or she has received no later than the first regular meeting of the municipal council following the submission deadline (90 days after polling day).

If you have further questions about political financing, please contact the Élections Québec support service for municipal treasurers. Contact information is provided below.

**Service du Registre, de la coordination  
et de la gestion des contributions politiques**

Québec City region: 418-644-3570

Elsewhere in Québec, toll-free: 1-866-232-6494

E-mail: **financement-municipal-5000@electionsquebec.qc.ca**