

## Legislative Council Panel on Constitutional Affairs

### 2007 District Council Elections Election Expense Limit

#### Introduction

This paper seeks Members' views on the following options regarding the election expense limit for the next District Council (DC) elections to be held in November 2007–

- Option 1:** Status Quo --- maintaining the election expense limit at the existing level of \$45,000
- Option 2:** Inflation Adjustment --- adjusting the election expense limit upwards to \$48,000 taking into account the inflation since 1994 when the limit was last revised.

#### Background

2. Under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), “election expenses” means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate for the purpose of promoting the election of the candidate or prejudicing the election of another candidate, and includes the value of election donations consisting of goods and services used for that purpose. Under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance, the Chief Executive in Council may, by regulation, prescribe the maximum amount of election expenses that can be incurred. At present, the Maximum Scale of Election Expenses (District Council) Order stipulates that a candidate standing for DC election may incur election expenses of no more than \$45,000.

3. The setting of election expense limit is to allow candidates to compete on a level playing field in an election. The limit does not restrict the way in which a candidate runs his campaign. Candidates are free to spend as much or as little as they wish, provided that their election expenses stay within the prescribed limit.

4. In setting the election expense limit, our principle has always been that the limit must not be so low as to place unreasonable restriction on electioneering activities, or so high as to deter less well-off candidates from standing for election. The existing limit of \$45,000 has been adopted in ordinary elections and by-elections of DCs (District Boards before 1999) since 1994. It was worked out on the basis of DC election candidates' commonly used expenditure items and the cost quotations obtained by the Registration and Electoral Office ("REO"). The election expense limit has not been revised since 1994. The limit is reviewed prior to every DC ordinary election.

### **Updated Estimate of Election Expenses**

5. Based on the established approach, we have worked out an updated estimate of election expenses incurred by a DC election candidate (see **Annex**). The basis of the calculations is explained in paragraphs 6 to 8 below.

#### ***(a) Expenditure items to be included***

6. The list of expenditure items as shown in the **Annex** are items commonly used by DC election candidates for electioneering purpose. When drawing up the list, we have made reference to the expenditure items declared by candidates of recent DC by-elections in their election returns.

#### ***(b) Quantities of expenditure items***

7. For expenditure items the quantities of which vary with the number of electors in a constituency (for example, pamphlets and handbills), the quantities are worked out based on the assumption that the constituency is the most populated one. The same assumption was adopted in the last review of the election expense limit in 2003. Details of the calculations arriving at the estimated quantities of the items concerned are set out in the **Annex**. The quantities of other expenditure items are estimations having regard to the quantities declared by candidates in recent DC by-elections.

#### ***(c) Unit costs of the expenditure items***

8. The unit costs shown in the **Annex** are the average prices of quotations obtained by REO. The same approach was adopted in the review of the election expense limit in 2003.

9. Applying the approach outlined in paragraphs 6 to 8 above, the estimated total expenditure for a DC election candidate contesting for a seat in the most populated constituency is about \$42,000.

### **Actual Amount of Election Expenses Incurred by Candidates in Recent Elections**

10. We have also considered the matter with reference to the declared election expenses of candidates in recent elections. Our findings in respect of the 2003 DC elections<sup>1</sup> are as follows:

- (a) the median amount of election expenses incurred by the candidates was \$26,764;
- (b) 85% of the candidates spent less than 80% (i.e. \$36,000) of the election expense limit;
- (c) 11% of the candidates spent between 81% and 90% of the election expense limit; and
- (d) 4% of the candidates spent more than 90% of the election expense limit, and only one candidate spent up to 99% of the limit (\$44,334).

11. In the seven DC by-elections held since then, our findings are:

- (a) candidates spent \$5,685 to \$43,507 in their election campaigns, with median spending at \$31,902;
- (b) 69% of the candidates spent less than 80% of the election expense limit;

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<sup>1</sup> In the analysis set out in paragraph 10 above, we have only taken into account the declared election expenses of candidates in the contested constituencies because the election expense limit is derived on the assumption that the election is a contested one. If we take into account the declared election expenses of all candidates in the 2003 DC elections (i.e. including the candidates who were elected uncontested), the median amount of election expenses incurred by the candidates was \$25,916; 86% of the candidates spent less than 80% of the election expense limit, while 10% of the candidates spent between 81% and 90% of the election expense limit.

- (c) 19% of the candidates spent between 81% and 90% of the election expense limit; and
- (d) 12% of the candidates spent more than 90% of the election expense limit.

12. In interpreting the statistics in paragraphs 10 and 11, it is necessary to bear in mind that candidates would comply with the law and would not attempt to spend beyond the election expense limit. Having reviewed the election expense limit in light of the findings set out in paragraphs 5 to 11 above, we have identified two options, which are discussed below.

### **Option 1: Status Quo**

13. The status quo option is based on the premise that the updated estimate of the election expenses incurred by a DC election candidate as shown in the **Annex** (i.e. around \$42,000) still stays within the existing limit of \$45,000. Besides, the experience in recent DC ordinary election and by-elections shows that the majority of candidates (85% and 69% respectively) spent below 80% of the legally permissible limit. Further, there has not been any specific demand for adjustment of the limit, either upwards or downwards, since the limit was last reviewed in 2003.

### **Option 2: Inflation Adjustment**

14. The existing election expense limit of \$45,000 has not been revised since 1994. Having regard to the cumulative inflation of 8.2%<sup>2</sup>, there may be a case for some upward adjustment of the election expense limit. Applying this inflation rate, the election expense limit would be increased to \$48,000. In fact, about 15% of the candidates in the 2003 DC elections and 31% of those in the seven recent DC by-elections spent more than 80% of the election expense limit in their electioneering activities. This fact can lend support to a modest increase in the election expense limit.

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<sup>2</sup> Cumulative increase in the Composite Consumer Price Index during the period between November 1994 and November 2006.

## **Advice Sought**

15. Members are invited to comment on the options regarding the election expense limit for the 2007 DC elections as set out in paragraphs 13 and 14 above.

Constitutional Affairs Bureau  
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**Detailed Calculation of the Estimated Election Expenses**

	<u>Unit Cost (\$)</u>	<u>Quantity</u>	<u>Amount (\$)</u>
1. Banners	117.7	48	5,650
2. Publicity Boards	31.3	60	1,878
3. Posters	3.9	860	3,354
4. Handbills	0.27	24,716 <sup>1</sup>	6,673
5. Pamphlets	0.42	12,358 <sup>2</sup>	5,190
6. Food and Drinks	65.7	50 persons <sup>3</sup>	3,285
7. T-shirts and Armbands	40.0	50 <sup>3</sup>	2,000
8. Election Meetings	230.5	8 hours	1,844
9. Badges	4.47	50 <sup>3</sup>	224
10. Easy-pull Display Stands	170.0	8	1,360
11. Sashes	41.5	50 <sup>3</sup>	2,075
12. Pennants	26.3	95	2,499
13. Miscellaneous Expenses	NA	NA	6,000 <sup>4</sup>
<b>Total</b>			<b>42,032</b>

**Notes**

1. Assuming that each candidate will distribute two handbills to each elector, the estimated quantity of handbills is calculated as follows –
  - (a) Population of the most populated = 25,800 constituency (according to the Electoral Affairs Commission’s recommendations on the constituency boundaries of the 2007 District Council elections)

(b) Median registration rate of the 405 constituencies = 47.9%

[registration rate:

Number of registered electors in the constituency

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Size of population of the constituency]

(c) Estimated number of registered electors in a constituency = (a) X (b)  
= 25,800 X 47.9%  
= 12,358

(d) Estimated quantity of handbills: = 12,358 X 2  
= 24,716

2. Assuming that each candidate will distribute one pamphlet to each elector, the estimated quantity of pamphlets is calculated as follows:

(a) Estimated number of registered electors in a constituency (please refer to Note 1 above for the detailed calculations) = 12,358

(b) Estimated quantity of pamphlets = 12,358

3. The quantity is estimated based on the assumption that each candidate has about 50 election agents and assistants, and taking into account the election returns in more recent District Council by-elections.

4. The cost is estimated by making reference to the election returns of candidates of recent District Council by-elections.