



## Written Opinions, Guidelines and Interpretation Notes

The Chief Electoral Officer issues guidelines and interpretation notes on the application of the *Canada Elections Act* (CEA) to registered parties, registered associations, nomination contestants, candidates and leadership contestants, in accordance with section 16.1 of the CEA. Before the issuance of any guideline or interpretation note, registered federal political parties and the Commissioner of Canada Elections are consulted and invited to provide comments on a draft version. Guidelines and interpretation notes provide guidance and promote consistency in the interpretation and application of the CEA. However, they are for information only and do not displace the provisions of the CEA.

### Interpretation Note: 2022-03 (Draft – November 2022)

## Voter Databases and Election Expenses

### Issue

In the last decade, registered parties and candidates have increasingly relied on voter databases and analytics to run ever more efficient campaigns. Elections Canada's position since 2015 has been that voter databases created and populated before an election period are excluded from election expenses. Only new data entered during the election period is an election expense. However, changes in the political data environment and the key role that data plays in campaigns have led to questions about these exclusions.

This interpretation note revisits how the definition of an election expense in the *Canada Elections Act* (CEA) applies to data resources such as database software and datasets to establish when and how expenses must be reported. It touches on implications for registered associations, leadership contestants, nomination contestants and candidates who are incumbent members of Parliament (MPs).

### Interpretation

- (1) An expense that a registered party or candidate incurs to conduct a survey or research outside an election period is not an election expense, even if the data is used during the election period.
- (2) The date that a registered party or candidate is considered to conduct a survey or research is the date that it receives the data. This applies whether the data is collected by the political entity's own workers or purchased from a data broker or survey company.
- (3) An expense that a registered party or candidate incurs for the use of voter database software during an election period is an election expense. Depending on the software arrangement, the election expense will be:
  - the actual licensing or access cost, or
  - the lower of the purchase price of the software and the commercial value of renting a similar asset for the same period

- (4) In addition to voter database software, a registered party or candidate must report, at a minimum, the following data-related expenses as election expenses:
  - expenses to conduct surveys and research during the election period
  - expenses to add data to a database and clean the data during the election period
  - expenses for system support during the election period
- (5) During the election period, a registered association can incur expenses to use voter database software or to conduct surveys or research for electoral purposes only on behalf of its registered party or an affiliated candidate. The association must receive prior written authorization, and the expenses are election expenses of the candidate or the party, as the case may be.
- (6) A candidate must also report “other” electoral campaign expenses if, as an incidence of the election, the campaign incurs expenses to use voter database software or to conduct surveys or research outside the election period. A party reports such expenses in its annual financial statement.
- (7) For the purposes of data sharing, an external source is a person or group other than a registered party, its candidates, its registered associations or a person providing volunteer labour to these political entities under the terms of the CEA.
- (8) When a registered party or candidate receives data for free or at a discount from an external source, they are accepting a contribution. If the source is an ineligible contributor or an individual who would exceed their contribution limit, the political entity must be invoiced for the data at commercial value.
- (9) Further to point (8), if the external source is not in the business of selling data, the commercial value of the dataset provided is the lowest amount charged by a business for a dataset with a similar number of entries and data fields and with a similar level of quality and currency. However, if the source collected data specifically for the registered party or candidate, the potential contribution is the commercial value of the property or services used to collect the data (that is, actual expenses incurred).

## Legal Framework

The most directly relevant provisions of the CEA in the context of this interpretation note are as follows:

- Only individuals who are Canadian citizens or permanent residents can make political contributions to a registered party, registered association, candidate, nomination contestant or leadership contestant. Corporations, groups and other entities cannot make contributions. (s. 363(1))
- A non-monetary contribution is the commercial value of a service, other than volunteer labour, or of property or of the use of property or money to the extent that they are provided without charge or at less than their commercial value. (s. 2(1))
- Commercial value, in relation to property or a service, is the lowest amount charged at the time that it was provided for the same kind and quantity of property or service or for the same usage of property or money, by
  - (a) the person who provided it, if the person is in the business of providing that property or service; or
  - (b) another person who provides that property or service on a commercial basis in the area where it was provided, if the person who provided the property or service is not in that business. (s. 2(1))

- A capital asset is any property with a commercial value of more than \$200 that, in the case of a registered party, electoral district association or candidate, is normally used outside an election period other than for the purposes of an election. (s. 2(1))
- The commercial value of a capital asset is the commercial value of renting the same kind of asset during the period in which the asset was used or the commercial value of purchasing the same kind of asset, whichever is lower. (s. 2(1.1))
- An electoral campaign expense of a candidate is an expense reasonably incurred as an incidence of the election. (s. 375(1))
- An election expense is any of the following:
  - any cost incurred, or non-monetary contribution received, by a registered party or a candidate, to the extent that the property or service that the cost was incurred for or that was received as a non-monetary contribution is used to directly promote or oppose a registered party, its leader or a candidate during an election period; and
  - any acceptance by a registered party or a candidate of a provision of goods or services, to the extent that the goods or services are used to directly promote or oppose a registered party, its leader or a candidate during an election period. (s. 376(1))
- An election expense includes a cost incurred for, a non-monetary contribution in relation to, or a provision of goods and services in relation to the conduct of election surveys or other surveys or research during an election period. (s. 376(3)(f))

## Background

### Current guidance and definitions

In political financing handbooks since 2015, Elections Canada has advised registered parties and candidates to exclude voter databases built or acquired before an election period, and surveys and research conducted before an election period, from election expenses. The handbooks have not dealt with “other” electoral campaign expenses of candidates (that is, expenses reasonably incurred as an incidence of an election that do not fall into a specific subcategory like election expenses) or non-election expenses of parties in relation to data. The most recent guidance reads as follows:

The party, as an ongoing political entity, might have databases that contain intellectual property created through surveys and research conducted prior to the election period. Even if the party uses the data during the election period, the intellectual property and the systems used to store and process the information are not election expenses.<sup>1</sup>

Expenses related to surveys or research conducted outside the election period are not election expenses, even if the results of the survey are used during the election.<sup>2</sup>

Some key terms and phrases used in the guidance—i.e. the conduct of surveys or research, data and databases—are not defined in the CEA. In the context of this OGI and related sections of the handbooks, Elections Canada understands the terms to mean the following:

- **Conduct of surveys or research:** A broad range of activities, such as making phone calls and purchasing data, to gather information directly or indirectly from or about electors. Elections Canada considers a political entity to be conducting surveys or research when it gets data from any source, by purchase or for free.

<sup>1</sup> Elections Canada, *Political Financing Handbook for Registered Parties and Chief Agents*, Gatineau, 2021, p. 90.

<sup>2</sup> Elections Canada, *Political Financing Handbook for Candidates and Official Agents*, Gatineau, 2021, p. 79.

- **Data:** Information about voters or others that may be obtained by various means (including through the conduct of surveys and research), entered in a database, analyzed and extracted.
- **Database (or database software):** Software that holds data on voters and may have built-in functions for using this data during a campaign. In the marketplace, more complex databases are sometimes called customer relationship management systems. Where this OGI refers to valuing a database, it means establishing the commercial value of the software itself, not of the data inside it.

## History of Elections Canada's interpretation

As mentioned above, Elections Canada's current guidance on data and databases dates back to 2015. The rationale behind each element is considered separately below.

### *History of interpretation: data*

When Elections Canada issued its guidance in 2015, which excluded surveys and research from election expenses if they were conducted before the election period, it did so based on a close study of the legislation and the intent behind it. The starting point was the definition of election expenses in section 376 of the CEA. Subsection 376(3) lists items that are explicitly *included* in election expenses, one of which is “the conduct of election surveys or other surveys or research during an election period” (paragraph (f)). This told the agency that, clearly, expenses to collect data *during* an election period were election expenses.

However, subsection 376(3) is not an exhaustive list of all election expenses—it only provides greater certainty about certain expenses. It did not rule out that surveys or research conducted before an election period could also be election expenses, if the results were used during the election. In fact, that was Elections Canada's position until 2015. In the lead-up to the 2015 general election, the question was re-examined with a closer look at the legislative history of paragraph (f).

Paragraph 376(3)(f) was added to the CEA under Bill C-24 (S.C. 2003, c. 19).<sup>3</sup> The provision reflected recommendations of the Royal Commission on Electoral Reforming and Party Financing (Lortie Commission) and of the Chief Electoral Officer in his 1996 report to Parliament. The Lortie Commission had recommended a more inclusive definition of election expenses. It elaborated on the suggested treatment of polling and research, as follows:

Under our recommendations, for example, the parties' spending on public opinion polling *during the campaign* would be counted as an election expense and encompassed by their spending limits. Our recommendations would also encompass what the current guidelines refer to as “research and analysis” conducted *during the election period* ... .<sup>4</sup> [emphasis added]

The Chief Electoral Officer picked up on this recommendation in his report to Parliament after the 35th general election, also arguing that election expenses should include “polling and research conducted during the election period.”<sup>5</sup>

On the basis of this information, in 2015, Elections Canada revised its view and took the position that Parliament had intended in 2003 to exclude surveys and research conducted before an election period from election expenses.

<sup>3</sup> At that time, the provision was added to the CEA as paragraph 407(3)(e).

<sup>4</sup> *Reforming Electoral Democracy*, Volume 1, Ottawa, 1991, p. 349.

<sup>5</sup> *Strengthening the Foundation*, Ottawa, 1996, p. 46

### **History of interpretation: database software**

In 2015, when Elections Canada concluded that surveys and research conducted before an election period were not election expenses, it extended that interpretation to the databases that stored the results of surveys and research. If registered parties<sup>6</sup> had created their databases before an election period, the databases were not election expenses. This offered a consistent treatment of data resources outside the election period and would be simple for parties to apply in the general election scheduled for later that year.

In part, database software was excluded because of the difficulty in determining the current commercial value of its use during an election period. It would have been impractical, in terms of accounting and spending limits, to require parties to report the historical cost of creating and maintaining their software as an election expense. A definition of capital assets had been added to the CEA in June 2014, giving political entities the option to report the rental value of an asset as an election expense rather than the purchase price, but the Canadian market for database subscription services (the equivalent of a “rental”) was not as well established.

Based on the factors above, Elections Canada took the position to exclude pre-existing voter database software from election expenses in 2015.

### **Current environment: collection and use of voter data**

Revisiting how the definition of election expenses applies to data resources starts with a basic understanding of how data is collected and how it is used in elections.

Many registered parties gather data year-round and store it in a central voter database.<sup>7</sup> The database may be proprietary software developed by the party or, more recently, a software-as-a-service (SaaS) product that parties use by subscription from suppliers such as NationBuilder or NGP VAN. These databases start without voter data and are populated in various ways.

The foundational data in a federal political party's database, on which the party later builds, is usually lists of electors that Elections Canada provides to political parties who are eligible to receive them. Parties can supplement this data by buying additional information from suppliers in the form of phone, address and marketing lists and by overlaying free census data for neighbourhoods and geographical regions. Parties can also collect data through surveys, voter outreach, petitions and fundraising. While parties may purchase some data, much of the useful data they collect is provided by individuals themselves (for example, during canvassing or online interactions).<sup>8</sup> Because data currency is important, registered parties spent as much as \$1 million on election surveys or other surveys or research during the 2021 election period.<sup>9</sup>

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<sup>6</sup> The handbook for candidates has been silent on the question of databases since candidates are less likely to have pre-existing systems.

<sup>7</sup> Bennett, Colin J., and Robin M. Bayley, “The Influence Industry: Data Analytics in Canadian Elections,” Paper for Tactical Technology Collective Personal Data and Political Influence project (2018).

<sup>8</sup> Nickerson, David W., and Todd Rogers, “Political Campaigns and Big Data,” *Journal of Economic Perspectives* 28:2 (2014), 51–74.

<sup>9</sup> Based on financial returns, the highest expenses for surveys and research in recent general elections were incurred by the Conservative Party of Canada at \$1,063,181 (2021) and \$438,730 (2019), the Liberal Party of Canada at \$420,362 (2021) and \$515,205 (2019), and the New Democratic Party at \$648,890 (2021) and \$423,521 (2019).

The exact data fields that federal political parties hold in a database are not disclosed. However, a 2019 investigative report of the Information and Privacy Commissioner for British Columbia provides an idea. According to that report, databases of the provincial political parties stored a combination of the personal information listed in Table 1 below.<sup>10</sup>

Candidates may also build voter databases using proprietary or SaaS products. They collect data in much the same way as parties do. Often, candidates endorsed by a registered party will access the party's database rather than build their own system. Data that they collect while campaigning goes back into the central database to improve its currency and coverage.

Parties and candidates use databases not just to build contact lists but to optimize their campaign activities. Databases available on the market today offer an array of features, often allowing campaigns to do the following and more:

- track the number of members, contributors and supporters
- optimize the collection of voter data by volunteers or workers on the ground
- identify and send reminders to supporters about campaign events or voting on election day
- efficiently track who has voted
- microtarget messages when making phone calls or canvassing
- prioritize voter contact and mobilization efforts in geographic areas based on socioeconomics or past results, especially in ridings with tight races<sup>11</sup>

It is worth noting that parties and candidates without a database can still engage in microtargeting online. Many, though not all, social media platforms allow campaigns to buy political ads based on the variables of their choice (for example, age, location and interests), using information held by the social media company.

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<sup>10</sup> *Full Disclosure: Political Parties, Campaign Data and Voter Consent*. Investigation Report P19-01, 2019, p. 12.

<sup>11</sup> *Élections Québec, Partis politiques et protection des renseignements personnels : exposé de la situation québécoise, perspectives comparées et recommandations*, Québec, 2019, pp. 14–15.

**Table 1: Example of voter information collected by British Columbia political parties**

<b>COLLECTED PERSONAL INFORMATION</b>			
<b>Information related to identity</b>			
Surname	Given name(s)	Date of birth	Residential address
Mailing address	Email address	Phone number	
<b>Other Information about the Individual</b>			
Sex	Ethnicity	Age	Language(s)
Religion	Income	Education	Familial relations
Family or marital status	Profession	Workplace name	Job title
Profession status (e.g. practising or non-practising)	Number of years at residential address	Neighbourhood demographics	Issues of interest to the individual
Political support tier / score	Ease of persuasion tier / score	Do not call or Do not contact notices	LinkedIn ID
Twitter ID	Facebook ID	Skype ID	
<b>Party Participation Data</b>			
Party membership status	Type of membership	Prospective member	Volunteer status
Volunteer availability	Interest in a lawn sign	Donor status (monthly, one-time)	Donation amount
Date of donation	Previous election support level	If the individual subscribes to communications	What communications were sent and when
Internal working group membership			
<b>Financial Information</b>			
Personal cheque or credit card number	Name as shown on credit card	Card expiry	Signature
<b>Elections BC Data (Voters List / Voter participation data)</b>			
Electoral district	Electoral District Code	Voting area code	Previous or current election voter number
Voting card number	Federal riding	Party's share of votes in an individual's riding	Voting location
Municipal District	If the individual has voted in the current election	If/when the individual voted in the last election (advanced v. general voting day)	



## Analysis and Discussion

In light of the information above, this section revisits how the definition of election expenses applies to data resources from various vantage points: the database software itself, data obtained by conducting surveys and research, and data shared with a political entity from an external source. Finally, it considers implications of this interpretation for other political participants, such as registered associations, nomination contestants, leadership contestants and incumbent MPs.

### Expenses revisited: implications for registered parties and candidates

#### **Database software**

It is clear that registered parties and candidates with pre-existing voter databases use them during election periods to promote themselves or oppose other political entities. In the new data environment and marketplace, database software is comparable to other pre-existing resources that can and must be reported as election expenses.

For example, when capital assets such as “computers, software, printing equipment and furniture” are used during an election period, the election expense is “the lower of the commercial value of renting a similar asset for the same period or the purchase price.”<sup>12</sup> Other examples are a party’s expenses for a permanent office, such as “rent or property tax, utility cost, insurance, maintenance services.” The election expense is “a reasonable allocation of costs” to the extent that the office is carrying out campaign activities during the election period.<sup>13</sup>

Valuing intangible assets such as proprietary software and stored data continues to be a challenge from an accounting perspective.<sup>14</sup> However, the problem is less relevant for database software today because of the availability of SaaS. Subscriptions to these database services, from suppliers such as NationBuilder and NGP VAN, can be used as a basis for determining the commercial value of “renting” database software during an election period.

As a result, Elections Canada’s position is that registered parties and candidates must now report an election expense for the use of database software during an election period. The expense to report depends on the software arrangement, as indicated in Table 2. These expenses are subject to the spending limit and may be eligible for partial reimbursement.

Candidates must also report “other” electoral campaign expenses if, as an incidence of the election, the campaign uses database software outside the election period. For example, if a candidate’s database subscription covers days outside the election period, the expense for those days is an “other” electoral campaign expense. These expenses are not subject to the spending limit or eligible for reimbursement. Parties report such expenses in their annual financial statements.

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<sup>12</sup> Elections Canada, *supra* note 1, p. 91.

<sup>13</sup> Elections Canada, *supra* note 2, p. 79.

<sup>14</sup> CPA Ontario, *You Can’t Touch This: The Intangible Assets Debate*, CPA Ontario Insights, 2021.



Table 2 summarizes the election expense to report for using database software under different software arrangements.

**Table 2: Election expense for using database software**

Software arrangement	Political entity	Election expense
Political entity has an ongoing contract with a supplier for use of the database software	Registered party	Amount charged by the supplier for ongoing use, prorated for the election period
	Candidate with their own software	Amount charged by the supplier for ongoing use, prorated for the election period
	Candidate using the registered party's software	Amount charged by the supplier for additional access per candidate, prorated for the election period
	Candidate using a registered association's software	Amount charged by the supplier to the association for ongoing use, prorated for the election period
Political entity owns the database software outright (customized or off-the-shelf solution)	Registered party	Commercial value of renting a similar asset for the election period* or actual purchase price, whichever is less
	Candidate with their own software	Commercial value of renting a similar asset for the election period* or actual purchase price, whichever is less
	Candidate using the registered party's software	Party's incremental cost to provide additional access to a candidate during the election period
	Candidate using a registered association's software	Commercial value of renting a similar asset for the election period* or actual purchase price, whichever is less
*The commercial value is the lowest amount that a supplier would normally charge for the use of database software with equivalent functions (e.g. generates canvassing lists) and capacity (e.g. holds information on 100,000 electors) over the election period. A quote should be obtained from a subscription-based software supplier.		

**Data obtained by conducting surveys and research at different times**

To examine how the definition of election expenses applies to data collection, it is necessary to first define what it means to conduct surveys and research. Surveys involve asking electors about voting intentions, issues of interest or other questions relevant to a political entity. (The subcategory “election survey” is narrowly defined during an election period as a survey about voting intentions or choices, or about an issue associated with a registered party or candidate.) However, what it means to conduct research is less clear.

The dictionary definition of “research” is broad: it is “the systematic investigation into ... materials and sources, etc., in order to establish facts and reach new conclusions.”<sup>15</sup> Elections Canada therefore considers a political entity to be conducting research when it gets data from any source, by purchase or for free. Research includes buying pre-existing data from a supplier or data broker, such as Canada Post.

<sup>15</sup> *Concise Oxford Dictionary of Current English*. 8th ed. Oxford: Clarendon Press, 1991.

Having defined surveys and research, it is also necessary to look at when a survey or research is conducted. Elections Canada’s view is that a political entity conducts a survey or research on the date that it receives the data for analysis. This applies whether the data is collected by the political entity’s own workers or purchased from a data broker or survey company. For greater certainty, when commissioning a survey or buying data from a supplier, the date that the political entity receives the data is the date that it conducts the survey or research.

Based on its legal analysis, Elections Canada continues to interpret the CEA as excluding “the conduct of election surveys or other surveys or research” outside the election period from election expenses, even if the resulting data is used during the election period. Registered parties and candidates do not report an election expense for data when they conduct surveys or research outside an election period.

However, candidates must report an “other” electoral campaign expense if, as an incidence of the election, their campaign conducts surveys or research outside the election period. These expenses are not subject to the spending limit or eligible for reimbursement. For example, if a candidate buys and receives data from a broker before the election period, the purchase is an “other” electoral campaign expense. Parties report such expenses in their annual financial statements.

As explained in the Background section, the CEA has stated since 2003 that an expense to conduct surveys or research during an election period is an election expense. This has also been Elections Canada’s position since 2003 and remains unchanged.

Table 3 summarizes the expenses to report for surveys and research conducted at different times.

**Table 3: Expense for conducting surveys and research at different times**

Political entity	When political entity conducts survey or research	Expense type
Registered party	Outside election period	Registered party expense
	During election period	Election expense
Candidate	Outside election period	“Other” electoral campaign expense
	During election period	Election expense

During an election period, expenses to manipulate and use data are also election expenses. Registered parties and candidates must therefore report the following data-related expenses, at a minimum, as election expenses:

- expenses to add data to a database and clean the data during the election period
- expenses for system support during the election period

**Data shared from an external source**

It is possible, though only allowed under certain conditions, that registered parties and candidates<sup>16</sup> will receive data for free or at a discount from an external source. By an external source, we mean a person or group other than a registered party, its candidates, its registered associations or a person providing volunteer labour to these political entities under the terms of the CEA.<sup>17</sup>

An external source includes an MP using data from their parliamentary database for their candidate’s campaign.

<sup>16</sup> It is also possible for a registered association to receive data, but it must be careful not to incur an election expense by accepting a non-monetary contribution of data during the election period that is used by a candidate’s campaign.

<sup>17</sup> This excludes Elections Canada providing to political parties and candidates, by law, the lists of electors or lists of people who have voted at the polls on advance or ordinary voting days.

A registered party or candidate accepts a non-monetary contribution when it accepts data for free or at a discount from an external source. The source must be an eligible contributor (that is, a Canadian citizen or permanent resident), and the contribution and associated expense must be reported at commercial value. If the commercial value is \$200 or less, and the individual is not in the business of selling data, the contribution amount is deemed to be nil and nothing is reported. If the commercial value of the data exceeds the individual's contribution limit, the political entity must pay the excess amount. However, if the source is not an eligible contributor, it must invoice the political entity for the commercial value of the data. For example, an advocacy group cannot provide a contact list to a party or candidate for less than commercial value.

It is important for the registered party or candidate that first receives the data from an external source to report it in their financial return, so that the data enters the political system transparently. It can then flow between the party and candidates. This brings it in line with data shared from an internal source, which is reported by either the registered party, candidate or association that collected the data before it is shared among them.

The commercial value of a dataset provided to a political entity is the lowest amount charged for the same kind and quantity of property by:

- the person who provided it, if the person is in the business of selling data; or
- another person who provides it on a commercial basis in the area, if the person who provided the data is not in that business

This determination is simple enough if the provider is in the business of selling data. If the provider is not in that business, the political entity must determine the commercial value by getting a quote from a data broker for the same kind and quantity of data. This may be a challenge if a broker does not sell the same combination of data fields that was received. Elections Canada will accept a quote for a dataset with these attributes as a reasonable estimate of commercial value:

- similar quality as the dataset received (for example, curated data versus bulk scraped data)
- similar currency (for example, data compiled within the last year)
- a similar number of entries (for example, data on 50,000 electors)
- a similar number of data fields, less immaterial data fields such as record numbers

Note that if the external source is not in the business of selling data and collected data specifically for the registered party or candidate, the potential contribution is the commercial value of the property or services used to collect the data (that is, actual expenses incurred). The concept of coordination with a third party and possible risks are explained in the political financing handbooks for registered parties, candidates and third parties.<sup>18</sup>

This process ensures that data enters the political system transparently and from an eligible source.

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<sup>18</sup> See, for example, "[Activities conducted by others in coordination with the party may be a contribution](#)" in the *Political Financing Handbook for Registered Parties and Chief Agents* (June 2021).

## Implications for other political participants

### ***Registered associations***

Registered associations can collect data outside an election period and share it with the registered party or its candidates. However, during an election period, a registered association can incur expenses to use voter database software or to conduct surveys or research for electoral purposes only on behalf of its registered party or an affiliated candidate. The association must receive prior written authorization, and the expenses are election expenses of the candidate or the party, as the case may be.

### ***Leadership contestants and nomination contestants***

All of the positions discussed above for registered parties and candidates apply, with a few variations, to leadership contestants and nomination contestants. An election expense should be read as a leadership contest expense or a nomination contest expense, while an “other” electoral campaign expense should be read as an “other” leadership campaign expense or an “other” nomination campaign expense.

Importantly, when it comes to contestants, there are extra restrictions on data sharing. The leadership contestants and nomination contestants in a particular contest can receive voter data from their registered party or a registered association of the party only if the data is offered equally to all contestants. Otherwise, it is a prohibited transfer.

As well, leadership and nomination contestants cannot send non-monetary transfers. A candidate, registered party or registered association that wants to receive voter data collected by a contestant must purchase the data or receive it as a personal non-monetary contribution from the contestant.

### ***Members of Parliament participating in an election or contest***

MPs will sometimes use their House of Commons data resources to promote themselves in an election, a nomination contest or a leadership contest. The House of Commons *Members By-law* should be consulted as it may place limitations on this type of activity.<sup>19</sup> If the activity occurs, it must be accounted for.

Elections Canada’s political financing handbooks explain that, if a campaign uses parliamentary resources, their use is a non-monetary contribution from the member and is subject to the contribution limit, unless the expense is paid by the campaign.<sup>20</sup> This is a long-standing position and has been explicit in relation to parliamentary staff, websites, billboards and householders during an election period.

In terms of data, a candidate who is an MP might use information on electors from their parliamentary database to promote their re-election. The campaign has to report the commercial value of the data as a personal contribution from the MP, subject to their contribution limit, unless it is paid by the campaign. It is also an election expense or an “other” electoral campaign expense, depending on when the data was shared with the campaign.

As another example, outside an election period, MPs will sometimes use their staff to collect data and enter it into both their parliamentary database and their election database. Parliamentary staff may be acting in their professional capacity during their paid hours or as volunteers outside their working hours. Any compensation paid or other expenses covered by the MP’s parliamentary budget to do election database work must be reported as a personal contribution from the MP, subject to their contribution limit, unless it is paid by the campaign. It is also an “other” electoral campaign expense.

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<sup>19</sup> Board of Internal Economy. [Members By-law](#) (June 2022). See also Elections Canada’s interpretation note 2020-04, [The Use of Member of Parliament Resources Outside of an Election Period](#) (May 2020).

<sup>20</sup> See, for example, “[Use of parliamentary resources and other existing resources](#)” in the *Political Financing Handbook for Candidates and Official Agents* (July 2021).

## Practical Application

This section provides examples of the concepts discussed in the interpretation note.

### **Database software**

1. A registered party has an annual contract with a supplier to use its voter database software at a cost of \$250,000. The cost includes access, support and customization. During a 40-day general election, the party uses the database to carry out its campaign activities. The chief agent reports an election expense of \$27,397 ( $\$250,000 / 365 \times 40$ ) for use of the database software.
2. A registered party has voter database software that it developed and customized over the years at a cost of \$2 million. During a general election, the party uses the database to carry out its campaign activities. Since the database is a capital asset, rather than reporting \$2 million as an election expense, the chief agent gets a quote from a SaaS supplier to establish the commercial value of renting software with equivalent functions and capacity over the election period. The quote is for \$30,000. The chief agent reports \$30,000 as an election expense.
3. A candidate is endorsed by a registered party that offers access to its central database. The party has an annual contract with a supplier for its voter database software, and the supplier charges the party an extra \$100,000 for its 338 candidates to have access during the election period. The candidate receives an invoice for \$296 ( $\$100,000 / 338$ ) from the party's chief agent to account for the access fee. This can be sent as a non-monetary transfer or as an invoice to be paid. The official agent reports \$296 as an election expense for use of the database software during the election period.
4. A candidate's campaign subscribes to a voter database service from June 1 to November 30 (183 days) in an election year at a cost of \$500 per month. The election period runs for 40 days during that time. The official agent reports an election expense of \$655.74 ( $6 \text{ months} \times \$500 / 183 \text{ days} \times 40 \text{ days}$ ) for use of the database software during the election period. The remaining amount, \$2,344.26, is reported as an "other" electoral campaign expense for days outside the election period.
5. A candidate's campaign creates a voter database using off-the-shelf software at a cost of \$100 before the election period. The official agent reports an election expense of \$100 for use of the database software during the election period.

### **Surveys and research**

1. A registered party conducts surveys using its paid staff at a cost of \$15,000 before an election period and \$30,000 during the election period. The chief agent reports a registered party expense of \$15,000 and an election expense of \$30,000.
2. Before an election period, a candidate pays a data broker \$10,000 for two sets of data. The campaign receives the first set immediately and the second set after the election period starts. The official agent reports an "other" electoral campaign expense of \$5,000 and an election expense of \$5,000.
3. During an election period, a registered party buys phone numbers from a data broker on behalf of its candidates to support their get-out-the-vote activities. Each candidate's official agent agrees to buy the data from the party. The chief agent sends candidates an invoice for their share of the expense, and the official agents report the amount as an election expense.
4. During an election period, a registered party buys phone numbers from a data broker and uses them for centralized get-out-the-vote activities. The data expense does not have to be reported by the party's candidates if it was not incurred on their behalf. The chief agent reports the full amount as an election expense.

### ***Data shared from an external source***

1. During an election period, an advocacy group offers a candidate its members list. The list is a spreadsheet with names, addresses and phone numbers of 100 people who support an issue that the candidate is associated with. The advocacy group is an ineligible contributor, so the candidate's campaign cannot accept this list for free. However, the campaign determines that an equivalent dataset would be sold by a broker for \$500 and asks the advocacy group to invoice that amount. The official agent pays and reports an election expense of \$500 for the data.
2. A candidate, who is an MP, arranges for data to be transferred from their parliamentary database to their election database before the election period starts. This is a personal non-monetary contribution from the MP to their campaign. The official agent reports the commercial value of an equivalent list sold by a broker as the amount of the contribution and as an "other" electoral campaign expense.

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