



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2017-02

Political Financing Handbook for Electoral District Associations and Financial Agents

Comments made during formal consultation period of July 17 to 31, 2017

Comments received from the Green Party of Canada	Elections Canada response to the Green Party of Canada
<p>p. 47, Auditor’s fee</p> <p>I know it is mentioned in other places, but could you please include a reminder/note that the EDA will only require an audit if over \$5,000 in contributions or expenses?</p>	<p>A reference has been added to Chapter 8, Reporting, for details on conditions under which an audit is required.</p>
Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p>Chapter 1: Reference Tables and Timelines, p. 13</p> <p>Paragraph/Section: Table describing the eligibility to be a Financial Agent</p> <p>Particulars: First and ninth lines of the eligibility table: Line 1 states "Individual who is a Canadian citizen or permanent resident: Yes"; ninth line states "Person who is not qualified as an elector: No."</p> <p>Comment: An individual must be an elector to be eligible to be a Financial Agent. The first line of the table should be more specific; instead of saying a Canadian citizen or Permanent Resident is eligible, and that anyone not an elector is not eligible, the table should simply say right off the top that "Any person who is qualified as an elector" is eligible.</p>	<p>Based on several comments received, the first row has been modified to read: "Canadian citizen who is at least 18 years old".</p> <p>The row about not qualifying as an elector has been deleted.</p> <p>Similar changes have also been made in the candidate and registered party handbooks.</p>

<p>Chapter 7: Working with Other Entities, p. 50</p> <p>Paragraph/Sections: Second example (bottom of page)</p> <p>Particulars: States: The candidate’s official agent has to authorize the expenses of the billboard, including the design, installation and rental expenses, and report them as election expenses in the candidate’s return.</p> <p>Comment: This example should specify that the rental amount would need to be prorated for the writ period.</p>	<p>The text has been modified to read: “Note that the commercial value of the structure is the lower of its purchase price or its rental cost <i>for the length of the election period.</i>”</p>
<p>Chapter 7: Working with Other Entities, p. 51</p> <p>Paragraph/Sections: Example 1</p> <p>Particulars: States: However, because it is an election expense of the candidate, the association has to obtain prior written authorization from the candidate’s official agent.</p> <p>Comment: A reader of this example would likely be confused because the example says that there is no placement cost. To clarify, the example should state that the production costs are election expenses even though there is no placement cost. E.g.: "However, the production costs, if any, for the video are election expenses and therefore need prior authorization [...]."</p>	<p>The text has been modified to read: “However, because <i>the production cost for the video would be</i> an election expense of the candidate, the association has to obtain prior written authorization from the candidate’s official agent <i>to post the video.</i>”</p>
<p>Comment: The Candidate Handbook has a chapter titled "Other Cash Inflows"; this chapter should also exist in the EDA Handbook.</p>	<p>The candidate handbook has a chapter on Other Cash Inflows because that is a section of the electoral campaign return. For registered associations, similar information to help prepare the return is found in Chapter 9, Financial Statements in Part 4 of the Registered Association Financial Transactions Return.</p>

Comments received from the Commissioner of Canada Elections	Elections Canada response to the Commissioner of Canada Elections
<p>1. Role and appointment process – Financial Agent and Electoral District Agent, pp. 13 and 14</p> <p>The list of those eligible to serve as a Financial Agent or an Electoral District Agent includes permanent residents of Canada. However, under s. 457(2)(d) of the Act, a person who is not an elector is not eligible to hold these positions. Therefore, a permanent resident cannot be appointed to be a Financial Agent or Electoral District Agent.</p>	<p>Based on several comments received, the first row has been modified to read: “Canadian citizen who is at least 18 years old”.</p> <p>The row about not qualifying as an elector has been deleted.</p> <p>Similar changes have also been made in the candidate and registered party handbooks.</p>
<p>2. Transfers – types and rules, p. 17</p> <p>The answer is “No” in response to whether it is possible to make a monetary or non-monetary transfer between candidates. However, the Act authorizes such transfers in the event of the dissolution of Parliament after the issue of a writ: see ss. 364(2)(f) and 364(3)(e) of the Act. These exceptions could be referenced in a footnote.</p>	<p>The following footnote has been added: “Candidates in a superseded by-election may transfer property, services and funds to their campaign for the general election.”</p>
<p>3. Limits on contributions, loans and loan guarantees to a registered association, pp. 22 and 23</p> <p>The table in Chapter 2, concerning contributions, indicates just one limit for contributions, loans and loan guarantees. In reality, there are separate limits: (1) a contribution limit that serves to determine whether or not a contribution is legal; (2) a separate limit for all contributions, loans and loan guarantees that serves to determine whether or not a loan or a loan guarantee is legal. There are separate offences for failing to comply with either of these limits. Moreover, the legal consequences for failing to comply with these limits are also different. The total amount of contributions exceeding the limit of \$1,550 described in (1) above must be returned to the donor or the Receiver General, as applicable. In contrast, there is no requirement to return an amount corresponding to the value of the surplus to the donor or Receiver General when the total amount of contributions, unpaid loans and loan guarantees on outstanding loans exceeds the limit described in (2) above, if the amount of the contributions itself does not exceed the limit described in (1). Consequently, it would be preferable to refer to the contribution limit in Chapter 2 only, which concerns contributions, and to address the separate limit which determines the legality of a loan or a loan guarantee in Chapter 3.</p>	<p>Elections Canada notes your concerns. We believe this wording from 2015 is adequate for guidance purposes because the separate limits are, in practice, combined. As the suggested changes would affect many documents, we will take them into account when producing the next version of the handbooks and training products.</p> <p>We also note the comment that there is no requirement to return a surplus amount when the amount of contributions itself does not exceed the limit described in (1). We agree that if a loan or loan guarantee puts an individual over the limit, the surplus amount does not need to be returned to the donor or lender, or remitted to the Receiver General. However, if a contribution puts the individual over the limit, the surplus amount of the contribution must be returned or remitted.</p>

<p>This comment is also applicable to the following sections:</p> <ul style="list-style-type: none"> • On page 16, it would be preferable to change the first note in order to clearly indicate that there are two separate limits: the first, which only covers contributions received and serves to determine the legality of a contribution; and the second—which covers the total amount of contributions, the unpaid balance of loans made during the period and the amount of any loan guarantees made during the period that an individual is still liable for—which serves to determine the legality of a loan or a loan guarantee. • On page 31, the last sentence of the paragraph under the subtitle “Loans from financial institutions” reads as follows: “The amount an individual guarantees is subject to the individual’s contribution limit.” This statement is not accurate; the contribution limit only serves to determine the legality of the amount of the contributions. At the beginning of Chapter 3, it would be preferable to define an expression such as the “limit for loans and loan guarantees,” and to indicate that it is the limit which serves to determine whether a loan or a loan guarantee is legal, and to which the total amount of contributions, unpaid loans and existing guarantees is subject. • On pages 32 and 33, under the subheadings “Loans from individuals” and “Overdraft and line of credit,” the three references to the “contribution limit” could be replaced with references to the defined expression “limit for loans and loan guarantees.” 	
<p>4. Transfers sent by the registered association, p. 36</p> <p>The use of the expression “before or after the election period” seems to be redundant, considering the presence in the two related bullets of the expressions “before an election is called” and “after election day.” Moreover, the first bullet of this paragraph states that before an election is called, a registered association cannot make a transfer to a candidate before the candidate opens a bank account for his/her campaign. Although this may be true for a monetary transfer, that is not the case for a non-monetary transfer. Indeed, opening a bank account for the candidate’s campaign is not a prerequisite for acceptance by the candidate of a non-monetary transfer.</p> <p>The fact that a candidate makes, accepts or receives a non-monetary transfer does not involve the payment or receipt of an amount of money; only financial transactions related to the campaign must be made through the candidate’s bank account. According to s. 477.46(3) of the Act, the campaign’s bank account must be debited and credited for payment or receipt of all money for a candidate’s electoral campaign.</p>	<p>The text has been modified to read as follows:</p> <p>“For transfers to a candidate, the following should be kept in mind:</p> <ul style="list-style-type: none"> • before an election is called, transfers from the association to a candidate are allowed as long as: <ul style="list-style-type: none"> – the candidate has appointed an official agent – the candidate has appointed an auditor – in the case of monetary transfers, the official agent has opened a campaign bank account”

<p>5. Typical fundraising activities – Sale of branded goods – Contributions, p. 39</p> <p>The information in the second paragraph under “Contributions” indicates that when an individual buys several branded goods during a fundraising activity, each of the products is considered to be a separate contribution from a <i>separate donor</i>. First of all, it is not, strictly speaking, the branded merchandise purchased which constitutes a contribution, but the difference between the price paid and the fair market value of the item. Second, treating the concomitant purchase by the same person of several branded goods as resulting in distinct contributions from separate donors could allow the contribution limits established in the Act to be circumvented. What if, for instance, a single person purchased, at once, one hundred items of branded merchandise which would each generate a contribution of \$25? Establishing a fictitious number of donors based on the number of products sold does not seem to be consistent with the principles referred to in the Act.</p>	<p>Elections Canada had considered the factors mentioned in your comment when establishing our position on this topic. We believe the branded goods regime is an unlikely target of abuse for over-the-limit or ineligible anonymous contributions since the amounts involved per item (\$20 or less to not generate a receipt) are small. Of course, if Elections Canada has reason to believe that a political entity or purchaser is using the branded goods regime to circumvent the contribution rules (as may be the case in the example you provided), we will refer the matter to the Office of the Commissioner of Canada Elections.</p>
<p>6. Working with Other Entities, p. 49</p> <p>Under the subheading “Property or services provided to another political entity” and immediately before the box containing examples, reference could be made to Chapter 4, concerning Transfers, as is the case in the draft version of the Handbook for Parties.</p>	<p>The reference has been added as suggested.</p>

The following parties did not submit comments to Elections Canada regarding OGI 2017-02:

- Alliance of the North
- Animal Protection Party of Canada
- Bloc Québécois
- Christian Heritage Party of Canada
- Communist Party of Canada
- Conservative Party of Canada
- Libertarian Party of Canada
- Marijuana Party
- Marxist-Leninist Party of Canada
- National Advancement Party of Canada
- New Democratic Party
- Pirate Party of Canada
- Progressive Canadian Party
- Rhinoceros Party