



Interpretation Note: 2014-01

Definition of leadership campaign expenses and nomination campaign expenses

Comments made during formal consultation period January 22–February 6, 2015

Comments received from the Animal Alliance Environment Voters Party of Canada	Elections Canada response to the Animal Alliance Environment Voters Party of Canada comments
<p>Animal Alliance Environment Voters Party of Canada has no members elected to Parliament. To date, the Party has not had a leadership campaign or a nomination campaign. Therefore, the comments on the Guideline/ Interpretation Note 2014-01 should be considered with that limitation in mind.</p> <p>We have examined both options and support the second even though both result in an inadequate “fix” to the problem.</p> <p>We understand the dilemma presented to Elections Canada by the leadership and nomination campaign expense definitions. However, the parliamentary committee was presented with recommendations that would provide a comprehensive and coherent framework governing financial activities for leadership and nomination expenses, but these were not included in Bill C-23.</p> <p>As your report states, it appears clear that this was the intention of Parliament. We disagree with Parliament’s inaction. However, we are</p>	<p>Based on the concerns raised here and by other parties, and by the Commissioner of Canada Elections regarding compliance with and enforcement of the surplus disposal provisions, the interpretation note has been modified. It now indicates that the use of campaign funds to pay expenses incurred outside the contest period is not permitted. Please see the response to the Commissioner’s comments for more information.</p>

concerned that the Guideline/Interpretation Note may be seen as an attempt to circumvent Parliament's decision.	
No comments were submitted by the Bloc Québécois	
No comments were submitted by the Canadian Action Party	
Comments received from the Christian Heritage Party of Canada	Elections Canada response to the Christian Heritage Party of Canada comments
As per the section quoted below [p. 7, under the header "second approach"], CHP Canada endorses the position taken by Elections Canada (Second Approach).	Based on the concerns raised by several parties, and by the Commissioner of Canada Elections regarding compliance with and enforcement of the surplus disposal provisions, the interpretation note has been modified. It now indicates that the use of campaign funds to pay expenses incurred outside the contest period is not permitted. Please see the response to the Commissioner's comments for more information.
No comments were submitted by the Communist Party of Canada	
Comments received from the Conservative Party of Canada	Elections Canada response to the Conservative Party of Canada comments
Right now, expenses incurred in relation to a leadership or nomination campaign before or after the contest period are not subject to the mandatory reporting requirements as campaign expenses. EC believes they should be, and should be reported as "other expenses." Leadership and nomination campaign expenses are expenses reasonably incurred by or on behalf of the contestant during the contest as an incidence	The options presented were intended to maintain unity between the contribution and expenses regimes in the CEA as well as to mitigate compliance and enforcement issues that are likely to arise in cases where campaign funds are used to pay for expenses incurred outside the contest period. However, based on the concerns raised here and by other

of the contest, including personal expenses as defined by the *Canada Elections Act*. This is a more restrictive definition than that of “electoral campaign expense” for candidates, which includes “expenses reasonably incurred as an incidence of the election” irrespective of when they are incurred.

In 2010 the CEO called for a change in the definition to capture all expenses incurred because of the contest. The CEO called for this change again when the *Fair Elections Act* was introduced. It was considered and advised against. This EC note concedes that Parliament obviously wants to keep the definition as is. They are seeking comments on how to treat expenses before or after these contests.

Proposals

Option 1

Expenses incurred outside the contest period do not need to be reported and may be paid using unregulated money.

EC is suggesting that they could ask, in practice, that all expenses incurred in relation to the contest, but outside the contest, be reported as “other expenses.”

Option 2 (EC recommendation)

Any amount of money given, or a good or service provided, in relation to a contest is a contribution. All contributions would go into a bank account and be reported. When the money is used, this will have to be reported if it is used during the contest and could be optionally reported if used for “other expenses” if they are incurred outside the contest period.

This would lead to contributions paying for unregulated expenses.

Comment

This seems to be a way to get all the information Parliament decided not to provide to EC. While option 1 is better, both appear to be an attempt to get

parties, and by the Commissioner of Canada Elections regarding compliance with and enforcement of the surplus disposal provisions, the interpretation note has been modified. It now indicates that the use of campaign funds to pay expenses incurred outside the contest period is not permitted. Please see the response to the Commissioner’s comments for more information.

<p>around the decision of elected officials.</p>	
<p>Comments received from the Green Party of Canada</p>	<p>Elections Canada response to the Green Party of Canada comments</p>
<p>Whereas Bill C-23 has not created a closed system in the “Contributions–Expense” cycle for leadership or nomination contests, and whereas Bill C-23 is now legislation in Canada:</p> <p>The Green Party of Canada holds with the second approach proposed by Elections Canada. Monetary contributions should be placed in the regulated bank account and reported as such. When the money is used, it will have to be reported if the payment is related to a campaign expense. Expenses outside the contest period should be optionally reported if used for an “other” expense related to the contest. If the provisions dealing with the calculation of the surplus take into account “campaign expenses”, Elections Canada should treat contestants as “substantially compliant”, understanding that all expenses have been accounted for.</p> <p>Resources received as non-monetary contributions or transfers would be reported as such. While they should not be reported as campaign expenses, they should be reported as “other” expenses. As such, they will not be subject to the expenses limit for nomination contestants.</p> <p>In addition, bearing in mind that political parties are able to set their own rules for these contests, each political party is free to require their contest reports to adhere to a more strict account of expenses, both inside and outside of the contest. It is the hope of the Green Party of Canada that all parties will encourage their contestants to report both contributions and expenses in a manner that is both open and transparent, not attempting to circumvent the tradition of the honourable electoral history of Canada. In this manner there would be no reason to deem the report of any contestant as “substantially compliant”.</p>	<p>Based on the concerns raised by several parties, and by the Commissioner of Canada Elections regarding compliance with and enforcement of the surplus disposal provisions, the interpretation note has been modified. It now indicates that the use of campaign funds to pay expenses incurred outside the contest period is not permitted. Please see the response to the Commissioner’s comments for more information.</p>

Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada comments
<p>This Interpretation Note proposes approaches for addressing the fact that definitions remain in the CEA for leadership and nomination campaign expenses that are incomplete. Unlike the CEA definition of “electoral campaign expense” in the case of candidates, a definition which captures expenses regardless of when incurred, the definitions for leadership and nomination campaign expenses are limited to the contest period only. This means that the regulatory framework governing the political financing activities of leadership and nomination contestants is not a comprehensive and coherent one, as noted at page 5 of the Interpretation Note.</p> <p>The Liberal Party of Canada had proposed amendments to Bill C-23, the <i>Fair Elections Act</i>, to remedy this situation. For example, we had proposed that the phrase “during the contest” be removed so that the definition would be more comprehensive. We had also proposed the addition of a reference to the use of non-monetary contributions and transfers as is the case for candidates. These amendments were not included in the final Bill.</p> <p>We appreciate that this situation poses challenges for Elections Canada in terms of how to address both the expense and contribution sides of the CEA in the case of leadership and nomination contestants. That said, until such time as the CEA might be amended to deal with this, Elections Canada is best placed to determine how it will regulate campaign expenses under the existing legislation.</p>	<p>Based on the concerns raised by several parties, and by the Commissioner of Canada Elections regarding compliance with and enforcement of the surplus disposal provisions, the interpretation note has been modified. It now indicates that the use of campaign funds to pay expenses incurred outside the contest period is not permitted. Please see the response to the Commissioner’s comments for more information.</p>
No comments were submitted by the Libertarian Party of Canada	
No comments were submitted by the Marijuana Party	

No comments were submitted by the Marxist-Leninist Party of Canada	
No comments were submitted by the New Democratic Party	
Comments received from the Party for Accountability, Competency and Transparency	Elections Canada response to the Party for Accountability, Competency and Transparency comments
<p>If PACT had to choose, it would be in favor of the second approach to interpretation, as described in OGI 2014_001, since it would allow for the reporting of all financial activities related to the campaign. However, we believe that even this approach is flawed and only allows for a balancing of the books through “substantial compliance”, which we believe to be a process akin to “creative accounting”. This interpretation does not solve many problems in accountability, though it improves upon matters, given the current legislation in place.</p> <p>PACT believes that there needs to be better interpretation and legislative changes in order to enforce limits on expenses and improve fairness in nomination and leadership contests. As long as non-monetary contributions and expenses incurred outside of the contest period are not subject to limits, we believe the enforcement of limits in place during the contest period will be completely ineffective at providing fair nomination and leadership contests. This gives rise to problems with accountability.</p> <p>We understand that the legislation in place does not allow Elections Canada to have better control of financial and non-financial matters of nomination and leadership campaigns outside of the contest period, and it seems that the current political climate supports such ambiguities in internal contests. However, PACT believes that the current legislation is flawed and we will continuously lobby for stricter regulations and legislation on leadership and</p>	<p>Based on the concerns raised by several parties, and by the Commissioner of Canada Elections regarding compliance with and enforcement of the surplus disposal provisions, the interpretation note has been modified. It now indicates that the use of campaign funds to pay expenses incurred outside the contest period is not permitted. Please see the response to the Commissioner’s comments for more information.</p>

<p>nomination contests, along the lines of those applied to electoral campaigns for political parties, candidates and their agents. Until such time as this flaw in legislation is resolved, PACT will form its own stricter code of rules governing nomination contests, for better accountability, competency and transparency.</p>	
<p>No comments were submitted by the Pirate Party of Canada</p>	
<p>No comments were submitted by the Progressive Canadian Party</p>	
<p>No comments were submitted by the Rhinoceros Party</p>	
<p>No comments were submitted by the United Party of Canada</p>	
<p>Comments received from the Commissioner of Canada Elections</p>	<p>Elections Canada response to the Commissioner of Canada Elections comments</p>
<p>I have no doubt that the proposed approaches in the GI are made with the goal of ensuring to the greatest extent possible that nomination and leadership contestants are made to compete in a regulated environment that ensures, as much as possible, fair competition and transparency. In my view, however, there is no basis in the Act for allowing contestants to use campaign funds to pay expenses incurred before or after the contest. Similarly, there is no statutory basis for having contestants report the commercial value of non-monetary contributions received before the start of the contest.</p> <p>As a result, I am of the view that, of the two approaches put forward in the GI, the first is the one that is closer to the provisions of the Act, aside from the proposal to allow campaigns to use campaign funds to pay for expenses</p>	<p>Based on the concerns raised here regarding compliance with and enforcement of the surplus disposal provisions, and on other concerns raised by several parties, the interpretation note has been modified. It now adopts the first approach, with further amendments to indicate the following: that campaign funds may not be used to pay expenses incurred before or after the contest period; and that funds obtained specifically to pay for such unregulated expenses are also unregulated.</p> <p>As well, with respect to non-monetary contributions, the text has been modified to indicate that only non-monetary contributions accepted during the contest period are subject to</p>

<p>that are not included in the definition of nomination campaign expenses. It appears to me that, from a compliance and enforcement perspective, that particular element of the approach would seriously undermine the effectiveness of the campaign surplus disposal provisions and, for that reason, should not be adopted.</p>	<p>the controls on contributions in the CEA.</p>
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