



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2015-06

Political Financing Handbook for Leadership Contestants and Financial Agents

Comments made during formal consultation period November 2—November 27, 2015

Comments received from the Canadian Action Party	Elections Canada response to the Canadian Action Party
<p>I think you at EC have done an excellent job of determining what can and what cannot happen under rather trying circumstances and I congratulate you.</p>	
Comments received from the Green Party of Canada	Elections Canada response to the Green Party of Canada
<p>1.2 How to become a leadership contestant Page 2, Definition</p> <p>From a political financing perspective, a person is deemed to be a leadership contestant from the date a contribution, a loan or a transfer is accepted or a leadership campaign expense is incurred. Contributions, loans or transfers may be accepted before or after the start date of the leadership contest. A person remains a leadership contestant until the campaign fulfills all financial reporting requirements.</p> <p>Note: Funds provided specifically to pay for expenses incurred outside the contest period are not subject to the controls on contributions and loans in the <i>Canada Elections Act</i>.</p> <p>COMMENT: The Green Party of Canada fully understands the intent of the rule surrounding unregulated funding and spending outside of the official leadership contest; however, we would submit that this is an item that could in future present many financial and political issues. Any person able to accept unregulated funds with no scrutiny over these funds, or how they are spent, is open to any sort of spending. The</p>	<p>We note your suggestion for legislative change. Please note that funds provided specifically to pay for unregulated expenses are not subject to the requirements of the CEA.</p>

<p>Green Party of Canada understands that EC cannot regulate all spending by all leadership hopefuls; however, it seems that the way this rule is written allows for the manipulation of receiving and spending of unregulated funds with unbridled abandon. We are concerned that there is no regulation outside of the contest period.</p> <p>In absence of the ability to change the rules surrounding unregulated acceptance of funds outside the contest period, the Green Party of Canada respectfully suggests that the following note be added to this section.</p> <p>NOTE: Elections Canada would like to remind leadership hopefuls that any funds collected to influence a person to run in a leadership campaign should follow the rules surrounding regular contributions in non-election time (i.e. must be a Canadian citizen 18 years or older, no corporate donations, limits of \$1,500 etc.). Persons who may be concerned about possible fraudulent funding or spending outside of the contest period that unduly influenced the outcome of a leadership contest may request an investigation by Elections Canada.</p>	<p>Elections Canada believes that the content under section 1 is sufficiently clear and descriptive with respect to the regulation of financial transactions during and outside a contest period. With respect to your references to provisions governing contributions, indeed, only individuals who are Canadian citizens or permanent residents can contribute up to the contribution limits. However, there are no provisions in the CEA with respect to the minimum age of a contributor.</p>
<p>1.3 Financial Agent Page 5, Appointment Process</p> <p>We would like to see the following bolded section updated to this text:</p> <p>If for any reason the financial agent is no longer able to continue in that role, the contestant must appoint a new financial agent immediately. The contestant must notify Elections Canada of the new appointment, in writing, within 30 days of the original financial agent being unable to continue in the role. The notice has to include a signed statement from the new financial agent.</p>	<p>We believe the current wording accurately explains the process for appointing a new financial agent. The requirement is to notify Elections Canada within 30 days of the new appointment rather than within 30 days of the original financial agent being unable to continue in the role.</p>
<p>1.3 Appointment of an Auditor Page 7, Who is not eligible to be an auditor?</p> <p>COMMENT: Is this nomenclature accurate in reflecting the contestants and financial agents in a leadership campaign?</p> <p>Who is not eligible to be an auditor?</p> <ul style="list-style-type: none"> • a candidate, as well as the official agent of that candidate or any other candidate • an election officer or a member of the staff of the returning officer 	<p>The text in the handbook accurately reflects subsection 478.61(2) of the CEA.</p>

<ul style="list-style-type: none"> • the chief agent of a registered party or an eligible party • a registered agent of a registered party • electoral district agents of registered associations • leadership contestants, their financial agents and leadership campaign agents • nomination contestants and their financial agents • financial agents of registered third parties 	
<p>2.1 Contributions Page 13</p> <p>We would like to see the second note on this page updated to reflect the following:</p> <p>Note: The directed contribution is subject to the limit on contributions made to leadership contestants, not the limit on contributions made to the party. Please note receipts for directed contributions are issued by the registered party, as further explained on page 19. These receipts may be used for income tax purposes.</p>	<p>Elections Canada is looking into revising the handbooks' structure to improve usability and flow. The changes will include merging content and adding linkages as required. Your suggestion will be considered in a later release.</p>
<p>3.1 Leadership campaign expenses Page 28, Definition</p> <p>The Green Party of Canada would like to see the fourth paragraph in bold as it is such a major departure from other campaign rules:</p> <p>Expenses incurred by a campaign prior to the start of the contest or after the end of the contest are not regulated, even though the property or services may be used during the contest period. Such expenses cannot be paid using campaign funds and are not subject to any reporting requirements. In this regard, the rules for leadership campaign expenses differ from those governing electoral campaign expenses of candidates.</p> <p>We would further request that the NOTE: regarding unregulated funds be inserted here as well:</p> <p>NOTE: Elections Canada would like to remind leadership hopefuls that any funds collected to influence a person to run in a leadership campaign should follow the rules surrounding regular contributions in non-election time (i.e. must be a Canadian citizen 18 years or older, no corporate donations, limits of \$1,500 etc.). Persons who may be concerned about possible fraudulent funding or spending outside of the contest period that unduly influenced the outcome of a leadership contest may request an investigation by</p>	<p>As noted in earlier responses during past OGI consultations, bolding is currently used in the handbook to identify section headings and key subject headings within each section. When a particularly important point needs to be highlighted, shaded text boxes are used. However, in order to ensure that the document remains easy to read and to preserve the effectiveness of text boxes, the number of text boxes must remain limited.</p> <p>In response to your suggestion regarding unregulated funds, the following text has been added to the definition in section 3.1:</p> <p style="padding-left: 40px;">Funds provided specifically to pay for expenses incurred outside the contest period are not subject to the controls on contributions and loans in the <i>Canada Elections Act</i>.</p> <p>This change also applies to the handbook for nomination contestants.</p>

Elections Canada.	
<p>Further in 3.1 Page 29, after the example Should the bolded word “receives” be “purchases?” If during the contest period the campaign receives property or services from an affiliated political entity for less than commercial value, the financial agent has to report the difference as a non-monetary transfer from the affiliated political entity. The full commercial value of the transferred property or service is reported as a leadership campaign expense.</p>	<p>The text has been updated in the handbook to clarify the difference between purchased property or services and property or services received at no charge. The same change will be made in the other handbooks during the regular updates.</p>
<p>3.1 Leadership Campaign Resources Page 33, Use of Parliamentary Resources The Green Party of Canada offers that the solution to this is found in keeping the resources of an MP as completely parliamentary and completely separate from the duties of any political party function. As an elected official (MP) of the taxpayers in an electoral district, and because this is a completely non-partisan position, the Green Party of Canada will continue to hold to its tradition of absolutely no crossover between our MP offices and the political party that they are associated with. All staff persons of any Hill office, who have any function in the Green Party of Canada, carry the responsibility of keeping the two roles entirely separate. All persons associated with the Green Party of Canada are similarly instructed to keep all correspondence and dealings with the Hill office staff as separate.</p>	<p>Your comment has been noted. For more details about Elections Canada’s position on the use of parliamentary resources, please refer to OGI 2014-02, “The use of Member of Parliament resources outside of an election period.”</p>
<p>Comments received from the Liberal Party of Canada</p>	<p>Elections Canada response to the Liberal Party of Canada</p>
<p>Pages 1 and 13 Directed Contributions There is no specific mention whether or not a registered party is able to accept a directed contribution prior to a leadership contestant having registered with Elections Canada and, if the registered party is eligible to accept such contributions, whether there are any possible implications.</p>	<p>The CEA is silent on when directed contributions may be accepted by a registered party. However, in the event a contestant does not register with Elections Canada, any directed contributions made for that contestant are subject to the limit on contributions made to the registered party. Any excessive contribution would have to be reimbursed to the contributor or the Receiver General, in accordance with the rules governing excessive contributions.</p>

<p>EC 20250 and EC 20192 part 2b anticipate that a directed contribution accepted by a registered party need not be fully forwarded to the leadership contestant. There is no discussion of this in the draft handbook, which, in addition, should have commentary with respect to the magnitude of the range of “fee” retained by the registered party (i.e. 10% versus 90%). Can the registered party change its mind and later return a portion or all of the fees initially retained?</p>	<p>The following text has been added to the handbook under section 2.1 to content related to directed contributions::</p> <p style="padding-left: 40px;">Parties often charge a processing fee for directed contributions. The <i>Canada Elections Act</i> does not restrict the portion of the directed contribution that may be retained by the party.</p> <p>This change also applies to the handbook for registered parties. The following text has been added to the Leadership campaign expenses section:</p> <p style="padding-left: 40px;">Leadership contest fees</p> <p style="padding-left: 40px;">Leadership contestants might be required to pay a contest entry fee or other service fees to the registered party. These fees may be refunded to the contestant at the discretion of the party.</p> <p>These changes also apply to the handbooks for registered parties and nomination contestants.</p>
<p>Section 2.1 – Contributions</p> <p>While section 2.3 at the bottom of page 19 has a note with respect to contributions being deposited into the leadership contestant campaign bank account, perhaps a further mention of this should be made in section 2.1?</p>	<p>Elections Canada is looking into revising the handbooks’ structure to improve usability and flow. The changes will include merging content and adding linkages as required. Your suggestion will be considered in a later release.</p>
<p>Section 2.3 – Administering Contributions and loans</p> <p>Page 18 discusses the accounting treatment for a ticketed fundraiser. In practice, contributions for a ticketed fundraiser will typically take the form of a directed contribution, which may be subject to a retention tithing by the registered party. To further complicate matters, the fundraising event costs will usually be paid by the leadership contestant’s campaign. There should be a discussion of how to record these revenue and expense transactions in the returns of the registered party and the leadership contestant.</p>	<p>The fundraising example has been modified to include the practice of remitting the contribution portion of the ticket price to the party for transfer as a directed contribution.</p> <p>This change also applies to the handbook for registered parties.</p>
<p>On page 19, the handbook includes Elections Canada’s preferred interpretation with respect to sponsorship and advertising revenues. A note should be added to advise that the matter is a preliminary opinion and will be the subject of an OGI scheduled for 2016.</p>	<p>Elections Canada’s interpretation is reflected in the handbook. This issue will be further examined in an upcoming interpretation note.</p>

<p>Section 3.1 – Leadership Campaign Expenses</p> <p>The second paragraph on page 28 advises that the <i>Canada Elections Act</i> does not set a limit on leadership campaign expenses. Since a registered party will generally develop internal rules for a leadership contest including a spending cap, we believe it would be helpful to add the phrase “however, a registered party may set such a limit for its own purposes, calculated on internally-developed rules.” We have found in the past that leadership contestant campaigns sometimes get confused with statutory requirements and those imposed by a registered party.</p> <p>There appears to be no mention on the treatment of fees, such as a contest entry fee, paid to a registered party. Such fees tend to be a reality in leadership contests. There may also be other fees, such as fees for the recovery of services provided to leadership contestants. Mention should be made of the judicial decision¹ to allow such fees to subsequently be returned to leadership contestants if the party so wishes.</p>	<p>The following text has been added to the beginning of section 3.1 (as per OGI 2014-01, “Definition of leadership campaign expenses and nomination campaign expenses”):</p> <p style="padding-left: 40px;">Registered parties usually set their own rules, in addition to those in the <i>Canada Elections Act</i>, for holding leadership contests. They may provide other restrictions on political financing aspects of the contest, which they administer themselves (e.g. expenses limits for leadership contestants). As long as these rules do not conflict with the requirements of the <i>Canada Elections Act</i>, this is not problematic.</p> <p>The following text has been added to the Leadership campaign expenses section:</p> <p style="padding-left: 40px;">Leadership contest fees</p> <p style="padding-left: 40px;">Leadership contestants might be required to pay a contest entry fee or other service fees to the registered party. These fees may be refunded to the contestant at the discretion of the party.</p> <p>These changes also apply to the handbooks for registered parties and nomination contestants.</p>
<p>In the example on page 31 regarding the campaign office lease signed prior to the contest period, with further explanation on page 37, how does a leadership campaign pay the lease commitment if there are insufficient pre-contest unregulated funds to pay the lease commitment during the contest? Perhaps the solution would be for the pre-contest lease to be converted into a contest sublease that could be paid with regulated funds?</p>	<p>This example illustrates the difficulties discussed in OGI 2014-01, “Definition of leadership campaign expenses and nomination campaign expenses.” The solution you are proposing does not get around the problem, but supports the need for Parliament to address these issues.</p>
<p>Other matters</p> <p>We believe that Elections Canada provides leadership contestant training if requested by the registered party. Perhaps a note to this effect in the handbook would be helpful.</p>	<p>At this time, the OGIs don’t include references to training sessions. However, we will be promoting our training sessions in the Tools for Political Participants section of the Elections Canada website as we review our training strategy.</p>

¹ Federal Court decision - [Rae v. Canada \(Chief Electoral Officer\) \(F.C.\), 2008 FC 246](#)

Comments received from the Marxist-Leninist Party of Canada	Elections Canada response to the Marxist-Leninist Party of Canada
<p>The Marxist-Leninist Party of Canada (MLPC) has reviewed the draft <i>Political Financing Handbook for Leadership Contestants and Financial Agents</i> (EC 20195) – October 2015. The handbook provides clear instructions for political parties and their individual leadership contestants regarding contest and contestant registration and the contribution and expenditure reporting requirements for contestants.</p> <p>The handbook specifically pertains to the MLPC only in regards to Section 478.1 of the <i>Canada Elections Act</i> which requires the chief agent of registered political parties to provide a statement to the Chief Electoral Officer setting out the beginning and ending dates for a contest for party leadership and any changes thereafter.</p> <p>The rest of the handbook does not relate to the MLPC’s leadership selection process. Individuals nominated for leadership of the MLPC neither incur campaign expenditures nor raise funds for campaigns. Consequently, they would not be required to register with Elections Canada since the law stipulates that an individual becomes a “leadership contestant” subject to registration and reporting requirements only upon accepting contributions or incurring expenses in relation to a leadership campaign.</p> <p>General Comments</p> <p>The MLPC would like to go on record on the broader issue at hand – state regulation of political party leadership selection. The MLPC reiterates its view that the regulation of internal political party affairs constitutes a violation of the right to freedom of association. Such regulation cannot be equated with regulation of elections which falls into the public sphere. Legal regulation of political party leadership selection is only over a decade old, having gone into effect on January 1, 2004. When Bill C-23 was presented by the Liberal government in 2003, it purported to address a need for financial transparency in the selection of party leaders. This echoed concerns raised since at least 1991, when the Royal Commission on Electoral Reform and Party Financing pointed out that “current practices used to select national party leaders suggest three areas of concern: legitimacy, fairness and public confidence.” It described the situation where legitimacy was undermined “when constituency delegates and supporters are recruited indiscriminately without due regard to the dignity of individual citizens.” Fairness, it said, was undermined by the “absence of credible or enforceable spending limits.” Public</p>	<p>This comment has been noted.</p>

confidence was undermined by “the absence of full and complete disclosure, particularly when public monies are used and there is doubt that the rules are enforced.”

This matter of political parties discrediting themselves should have remained a problem for the political parties to resolve. Instead, the need for political parties to address their legitimacy crisis and raise their political level so that it corresponds to the expectations and desires of Canadians was and continues to be turned into a matter of more state regulation, accompanied by greater public subsidization.

Since January 2004, responsibility has fallen on Elections Canada, rather than the political parties, to inform the public about how party leaders are selected, particularly where the individual contestants get their financial backing. Elections Canada became the conveyer of information through which Canadians are supposed to be able to discern “he who pays the piper” and have confidence that leadership candidates, in some cases the prime minister of the country by virtue of winning the race, are free from the “undue influence of money.”

However, as the handbook shows the law only governs the “official race” in the same way that the *Canada Elections Act* does not capture “pre-writ spending.” Given the state of the law, of which most Canadians are unaware, a false public impression is created that party leadership campaigns are transparent, with limited contributions and full disclosure of expenses.

Elections Canada has addressed the loophole created by conflicting legal definitions and related provisions by accepting that spending and contributions outside of the “official campaign” are not subject to regulation. Instructions such as “Funds provided specifically to pay for expenses incurred outside the contest period are not subject to the controls on contributions and loans in the *Canada Elections Act*” confirm the unregulated character of spending and contributions before the official contest begins.

The MLPC agrees with this interpretation of the law and Elections Canada’s view that the problem is not a technical one. Parliament intended for pre-official campaign spending and fundraising to remain uncontrolled.

In light of this, the MLPC suggests that Elections Canada publish the leadership campaign spending and contribution reports with a notice that explains that leadership candidates of political parties are free to spend as much as they choose and to raise funds in any way and

<p>in any amount they see fit prior to entering the official race.</p> <p>In conclusion, the MLPC would like to go on record as noting the growing incoherence, and in this case absurdity, of the <i>Canada Elections Act</i>. Not only does it fail to deliver on its promises of disclosure and transparency, it is a law that increasingly violates the right to freedom of association of political parties by regulating areas that have nothing to do with ensuring fair elections, while failing the need of Canadians for an electoral law that enables all citizens regardless of their wealth or social status or membership in a political party to exercise their right to elect and to be elected in a meaningful manner.</p>	
<p>Comments received from the Party for Accountability, Competency and Transparency</p>	<p>Elections Canada response to the Party for Accountability, Competency and Transparency</p>
<p>Thank you for the updates to the Leadership Contestant Handbook. We thank you especially for the additional clarification notes and for the C-23 specific updates. We have reviewed the modifications and additions to the handbook and, though we have our reservations with some of the provisions passed through C-23 (<i>Fair Elections Act</i>), we are satisfied that your additions to the handbook accurately reflect the relevant content of the passed bill.</p>	
<p>Comments received from the Commissioner of Canada Elections</p>	<p>Elections Canada response to the Commissioner of Canada Elections</p>
<p>“Important deadlines for the leadership contestant’s campaign” (page x) “Starting the Leadership Contestant’s Campaign” – “Appoint a financial agent”</p> <p>Note 1 states that the financial agent of the contestant “must be appointed before contributions, transfers or loans are accepted or leadership campaign expenses are incurred.” As is mentioned in the paragraph under the heading “The leadership contestant’s responsibilities and obligations,” on page 3 of the document, it should also be noted that the financial agent must be appointed before the leadership contestant is registered by the Chief Electoral Officer (see par. 478.3(2)(a) of the <i>Canada Elections Act</i> (Act)).</p>	<p>Note 2 states the requirement to appoint a financial agent before registering. Accordingly, no change has been made to Note 1.</p>

<p>Note 4 respecting the interim campaign returns should state that the returns are required if the leadership contestant incurs expenses of more than \$10,000, in addition to the requirement to file returns if contributions exceeding \$10,000 are accepted (see subsec. 478.81(1)).</p> <p>As a technical matter, Note 4 should state “more than \$10,000,” rather than “\$10,000 or more” (see subsec. 478.81(1)).</p>	<p>The text in the note has been changed as follows:</p> <p style="padding-left: 40px;">Required if contributions totalling more than \$10,000 are accepted or leadership campaign expenses totalling more than \$10,000 are incurred (note that transfers to affiliated political entities are not leadership campaign expenses).</p>
<p>Directed contributions may not be “received” or “accepted” until registration confirmed (Note under the heading “Submit Leadership Contestant’s Registration Report” within the table, page x; Do and Don’t, third bullet on Don’t side, page xiv; first Note, page 3; paragraph immediately before second Note, page 13)</p> <p>The draft handbook contains statements to the effect that leadership contestants may not “receive” or “accept” directed contributions from the party until they have registered with Elections Canada. There does not seem to be an express prohibition against this in the Act.</p>	<p>It is Elections Canada’s position that leadership contestants cannot accept directed contributions from the party until they have registered with Elections Canada. Otherwise, because of the tax benefits applicable to directed contributions, individuals who ultimately decide not to register as contestants could benefit from publicly-subsidized contributions without ever have to report on them or return them.</p> <p>Elections Canada’s interpretation is supported by the text of subsec. 478.3(2), 478.8(2) and s. 478.81, governing the reporting of contributions to leadership contestants. Pursuant to subsec. 478.8(2), the final leadership campaign return must include both contributions and directed contributions. This is also true of all interim returns (s. 478.81). However, by contrast, subsec. 478.3(2) does not require contestants to include any directed contributions in their registration report. The structure of the reporting is an indication that Parliament’s intent was not to allow directed contributions until after the leadership contestant has registered with Elections Canada.</p>
<p>Transfers of goods or services between the registered party, the registered association and the leadership contestant (Note 5, page x; Notes 1 and 2, page xiii; fourth bullet under “Do”, page xv; Note, page 6; - “The auditor’s responsibilities and obligations”, see Note in the first paragraph, page 7; - “4.1 Reporting timeline”, the first and second explanatory asterisks, page 40; the second paragraph under subtitle “Leadership Contestant’s Interim Campaign Return”, page 41; - “Auditor’s Report”, the note in parentheses in the first paragraph, page 44)</p>	

<p>In relation to the amount of contributions or expenses that triggers the obligation for the leadership contestant to appoint an auditor or file a registration leadership contestant return, it is noted throughout the document that “transfers to affiliated political entities are not leadership campaign expenses.” This clarification should be also added to Note 4 on page x. In addition, it is advisable to clarify that the transfers contemplated are only those permitted by the Act.</p> <p>In order to be exhaustive, it should also be noted that transfers from the registered party or the registered association to the leadership contestant are not contributions, except for directed contributions from the registered party (see par. 364(2)(c) and subsec. 365(3)). Transfers of funds from the leadership contestant to the registered party or the registered association are not leadership contestant expenses (see par. 364(5)(b)).</p> <p>Lastly, considering that only a registered party, its affiliated registered associations and the leadership contestant can make transfers to each other, it would be advisable, to assist stakeholders’ comprehension, to specifically name the entities and persons who are authorized to make transfers or receive them in the context of a leadership contest, instead of using the general term “affiliated political entities” which includes two entities that are <u>not</u> authorized to make transfers to, or receive transfers from, a leadership contestant (i.e. candidates and nomination contestants).</p>	<p>The text in the note has been changed as follows:</p> <p style="padding-left: 40px;">Required if contributions totalling more than \$10,000 are accepted or leadership campaign expenses totalling more than \$10,000 are incurred (note that transfers to affiliated political entities are not leadership campaign expenses).</p> <p>The handbook discusses rules and practices permitted under the CEA. Emphasizing that every time a topic is discussed would result in unnecessary repetitions throughout the handbook.</p> <p>Section 2.4: <i>Transfers received</i> covers this subject in detail.</p> <p>The <i>Transfers – types and rules</i> table covers this subject in detail.</p>
<p>“Reporting requirements for the leadership contestant’s campaign” (page xiii)</p> <p>The box that says “To Elections Canada: <i>Leadership Contestant’s Registration Report</i>” should also state that the report is to be provided with the contestant’s application to register.</p>	<p>The <i>Reporting requirements for the leadership contestant’s campaign</i> graphic and the text in the <i>Reporting Requirements</i> chapter have been updated.</p>
<p>“Important reminders for leadership contestants, financial agents and leadership campaign agents” (page xiv)</p> <p>The last bullet in the “Do” column states that the original invoice is to be kept. However, subsec. 380(1) requires that “a copy of the</p>	<p>We agree with clarifying that copies of the invoices should be kept since the originals have to be submitted with the financial return.</p>

<p>invoice” be kept.</p> <p>The footnote at the bottom of that box should state that any leadership campaign agent can authorize a person to pay expenses out of petty cash, not just the financial agent (see par. 381(1)(e)).</p>	<p>The text has been updated in the <i>Important reminders for leadership contestants and leadership campaign agents</i> and in the <i>Submission to Elections Canada</i> tables.</p> <p>The same changes will be made in the other handbooks during the regular updates.</p> <p>The change has been made.</p>
<p>“The leadership contestant’s responsibilities and obligations” (page 3)</p> <p>The draft handbook provides that the statement of personal expenses must include all expenses that were “paid by the leadership contestant and not reimbursed by the financial agent.” The second element of this qualification is not found in sec. 478.85 of the Act.</p>	<p>Once personal expenses of the contestant have been reimbursed by the financial agent, they are no longer expenses paid by the contestant, as per paragraph 478.85(1)(a).</p>
<p>“2.1 Contributions” (page 12)</p> <p>The second paragraph under “Who can contribute?” states that any money that is used “in relation to the contest out of the contestant’s own funds is a contribution.” In light of the definition of “leadership campaign expense” found in sec. 2 of Act, it would be more appropriate to state that any money that is used for expenses incurred “during the contest” out of the leadership contestant’s own funds is a contribution.</p>	<p>The change has been made.</p> <p>The same change applies to the handbook for nomination contestants.</p>
<p>“2.2 Loans” (page 15)</p> <p>The paragraph under “Loans from financial institutions” should state that loans from a financial institution must be made in writing and at a fair market rate of interest (see subsec. 373(3)). Any forgone interests resulting from the application of a lower interest by the financial institution would constitute a non-monetary contribution from an inadmissible contributor (see subsec. 363(1)).</p> <p>The first paragraph under “Loans from individuals” states that an</p>	<p>With respect to the comment regarding the interest on loans from financial institutions, as stated in our earlier response to your comments made during the consultation of OGI 2015-02, “Political Financing Handbook for Electoral District Associations and Financial Agents,” as this update will affect a number of handbooks, the comment has been noted and the handbooks will be updated accordingly during the yearly handbook review and update process.</p>

<p>individual may obtain a personal loan from a financial institution and lend those funds to a leadership campaign. Section 374 of the Act provides, however, that no individual shall make a loan to a regulated entity that "is made possible by money [...] that was provided to that individual for that purpose." It therefore appears that it would be contrary to the Act to obtain a loan for the purpose of subsequently lending those funds to a leadership contestant.</p> <p>The last paragraph correctly states that the amount loaned by a financial institution to a contestant, which is then contributed to the contestant's campaign, can only be guaranteed by personal property of the contestant. However, the word "consequently" should be removed, as this is stating a provision of the Act (subsec. 370(2)), rather than an interpretation of the Act. Moreover, it should be made clear that the personal loan from the financial institution to the contestant must be at a fair market rate of interest.</p> <p>It is suggested that a note be added at the end of this page clarifying that loans and loan guarantees are not permitted from the registered party or the registered association to the contestant, and vice versa.</p>	<p>The following note has been added to the section on loans from individuals:</p> <p style="padding-left: 40px;">Note: An individual cannot make a loan to a leadership campaign if the loan is made possible by money, property or the services of any person or entity that provided it to the individual for that purpose.</p> <p>The same note will be added to the <i>Loans from individuals</i> sections in the other handbooks during the regular updates.</p> <p>The word "consequently" was removed.</p> <p>The following text will be added to the <i>Getting a loan</i> section in all handbooks during the regular updates:</p> <p style="padding-left: 40px;">Loans from any other person or entity are not permitted.</p>
<p>Non-Monetary contributions and non-monetary transfers as leadership campaign expenses ("2.1. Contributions" – "Non-monetary contribution"; "2.4 Transfers received" – "Transfers to the leadership contestant"; "3.1 Leadership campaign expenses" – fifth paragraph under "Definition", page 28; first paragraph on page 29; paragraph under the "Example" box, page 29; "Determining when an expense is incurred", second paragraph, page 29; "Non-monetary contributions or transfers are also recorded as expenses", page 37)</p> <p>At various places throughout the document (see in particular p. 37 under the heading "Non-monetary contributions..."), one finds indications to the effect that non-monetary contributions and non-monetary transfers are to be treated or recorded as leadership campaign expenses.</p>	<p>The provision of a property or service to a contestant (or to a candidate) can only be a contribution, as opposed to an unregulated personal gift, to the extent that it corresponds to a regulated expense. In other words, a non-monetary contribution made to a contestant is the giving of something which is a regulated expense. Without the link with regulated expenses, there would be no non-</p>

<p>In this regard, it is important to note that the Act defines “leadership campaign expense” as follows:</p> <p>“an expense reasonably incurred by or on behalf of a leadership contestant during a leadership contest as an incidence of the contest, including a personal expense as defined in section 478.” (see sec. 2)</p> <p>As can be seen, there is no reference in that definition to non-monetary contributions or non-monetary transfers. This stands in contrast to the definition of “election expense” which appears at subsec. 376(1) which specifically includes such contributions and transfers within its ambit:</p> <p>“An election expense is any of the following: any cost incurred, or <u>non-monetary contribution received</u>, by a registered party or a candidate [...]; and <u>any acceptance</u> by a registered party or a candidate <u>of a provision of goods or services that is permitted</u> under subsection 364(2), [...].” (emphasis added)</p> <p>As a result, it is far from clear that non-monetary contributions and non-monetary transfers should be considered as falling within the definition of “leadership campaign expense” as set out in the Act.</p>	<p>monetary contributions.</p> <p>Accordingly, as stated in our previous response made to your comments to OGI 2014-04, “Political Financing Handbook for Nomination Contestants and Financial Agents,” the position of Elections Canada is that property or services accepted during the contest period as non-monetary contributions or transfers must also be reported as leadership campaign expenses.</p>
<p>“2.3 Administering contributions and loans” – “Contribution rules” (page 17)</p> <p>“Contributor identification”</p> <p>The second note under this sub-heading implies that, when recording a contributor’s personal information, “the full first and last name (initials are not acceptable) and the home address have to be recorded.” As noted previously in comments provided in relation to other draft handbooks, the Act requires only that “the name and address” of the contributor be recorded. Although including the full first name and last name of a contributor is certainly a best practice that should be encouraged, it is not a legal requirement. In certain circumstances, information provided about the contributor’s name that includes the initials of his or her given names as well as a full</p>	<p>It is our view that Parliament’s intent with respect to the identification of contributors by name is to ensure that they are clearly identified. This is important for ensuring that contribution limits are adhered to, and for maintaining fairness in the electoral process. As stated in our previous response made to your comments to OGI 2015-01, “Political Financing Handbook for Registered Parties and Chief Agents”, in order to properly identify a contributor, the full first and last names are required.</p>

<p>last name may be sufficient to clearly identify the contributor, as required by the Act.</p>	
<p>“2.3. Administering contributions and loans” – “Returning ineligible contributions” (pages 17 & 18)</p> <p>The comments made by the Commissioner on this same issue in the context of the <i>Political Financing Handbook for Nomination Contestants and Financial Agents</i> are equally applicable here. The relevant comments were as follows and they apply <i>mutatis mutandis</i> here:</p> <p>The text in the draft Handbook that describes the requirement to return the amount of an ineligible contribution pursuant to section 372 of the Act suggests that the whole amount of a contribution that is made that causes the contribution limit to be exceeded must be returned – unused – to the contributor, or if that is not possible, must be paid to the Receiver General. I agree that this is the correct interpretation of section 372. An interpretation that allowed the financial agent to accept the contribution but only return the amount by which the contribution limit was exceeded would not be consistent with subsection 368(3). That provision prohibits a financial agent from knowingly accepting a contribution that exceeds the limit. Further, allowing excessive contributions to be accepted effectively puts the contributor in an offence position for having contributed an amount that exceeds the limit (even if the exceeding portion of the contribution is returned to him or her at a later date).</p> <p>Accordingly, the last sentence in the example provided at p. 18 should read, “He sends a cheque in the amount of \$600 to the contributor,” this \$600 being the total amount of the second contribution that caused the contributor to exceed the limit by \$100.</p>	<p>It is clear in the handbook that ineligible contributions cannot be accepted. However, inadvertently there are situations when an ineligible contribution is made, and the handbook explains what to do if that happens.</p> <p>As stated in our previous response to OGI 2014-04, “Political Financing Handbook for Nomination Contestants and Financial Agents,” Elections Canada’s interpretation of section 372 (return of contributions) is that the requirement to return the contribution applies to the ineligible portion of the contribution rather than the entire contribution.</p>
<p>“What to keep in mind when administering contributions” (page 20)</p> <p>As noted in comments made by this Office on the <i>Political Financing Handbook for Nomination Contestants and Financial Agents</i>, from an enforcement point of view, the proposals dealing with partnerships and unincorporated sole proprietors are problematic in that they allow contributions to be made through instruments that do not on their face link the contributor(s) to the contribution. This should be</p>	<p>Although the CEA does not require that contributions over \$20 be made using a traceable instrument, Elections Canada agrees that, as a best practice, financial agents would be well advised to only accept contributions made by way of a traceable instrument that links the contributor to the contribution. Text has already been added to this effect following the comments made to OGI 2014-04, “Political</p>

<p>avoided. This Office continues to recommend that, in this area, a clear emphasis be put on clarity, traceability and transparency.</p>	<p>Financing Handbook for Nomination Contestants and Financial Agents.”</p>
<p>“Expenses of senators and elected Members” (page 32)</p> <p>The comments made on the same issue in the context of the <i>Political Financing Handbook for Nomination Contestants and Financial Agents</i> are maintained.</p> <p>The relevant comments were as follows and they apply <i>mutatis mutandis</i> here:</p> <p>The position put forth in the draft Handbook with respect to the support that a senator or elected member (whether federal or provincial) may give to a nomination contestant during a contest period appears to deviate from how the personal expenses of other supporters and volunteers are treated under the political financing rules. The draft Handbook proposes to treat any involvement by such a person as giving rise to nomination campaign expenses, which must first be authorized by the financial agent or the contestant. It appears clear that a campaign that calls upon a senator or elected member to come to assist them in the course of a contest may have incurred expenses that are regulated if, for example, travel expenses are involved. Another example is where a campaign organizes a tour of notable senators or members to give speeches at organized events, in order to promote the selection of the contestant. That said, and as a general proposition, the personal expenses of a campaign volunteer or supporter (and this does not necessarily exclude a senator or elected member) are not regulated under the Act, unless the campaign actually incurred expenses that promote the selection of the contestant. Whether or not the campaign has incurred nomination campaign expenses is therefore a question of fact that must be examined in light of all relevant circumstances.</p>	<p>As previously explained in our response to comments made to OGI 2014-04, “Political Financing Handbook for Nomination Contestants and Financial Agents,” Elections Canada agrees with the comment that whether or not leadership campaign expenses have been incurred is a question of fact. However, the assumption underlying the approach in the handbook is that when a senator, Member or candidate campaigns on behalf of a leadership contestant, they are doing so at the request of the campaign.</p>
<p>“4.3 Submission to Elections Canada” (page 45)</p> <p>The accuracy and completeness of the documents to be filed with Elections Canada are very important. Thus, the financial agent and the contestant should be reminded in general terms about the prohibition concerning the filing of false, misleading or incomplete information found in sec. 478.93 of the Act. Elections Canada uses</p>	<p>The leadership campaign return filed with Elections Canada contains a declaration signed by the leadership contestant and the financial agent as to the completeness and accuracy of the return. The explicit language of the declaration is a sufficient reminder of the obligation to submit accurate and complete information.</p>

and relies on information contained in the documents submitted to perform its audit functions, and most of the information involved is to be made public. It is therefore important that, for enforcement purposes, the leadership contestant and the financial agent be reminded of their obligation to submit documents containing accurate and complete information.	
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The following parties did not submit comments to Elections Canada regarding OGI 2015-06:

Alliance of the North
Animal Alliance Environment Voters Party of Canada
Bloc Québécois
Canada Party
Christian Heritage Party of Canada
Communist Party of Canada
Conservative Party of Canada
Democratic Advancement Party of Canada
Forces et Démocratie
Libertarian Party of Canada
Marijuana Party
New Democratic Party
Pirate Party of Canada
Progressive Canadian Party
Rhinoceros Party
Seniors Party of Canada
The Bridge Party of Canada
United Party of Canada

The following table lists additional updates that have been made to this version of the handbook in order to integrate annual update requirements and to include improvements identified during previous OGI consultations.

	Type of update	Update description (new text underlined or otherwise introduced)	Chapter	Section
1	Annual	Updated dates and limits in text, examples, tables and graphics.	n/a	n/a
2	Annual	Contribution tables updated; the table in the “Inflows” chapter is now specific to the entity.	Tables and Reminders Chapter 2	n/a
3	Annual	Verified and updated names of the reports and forms referenced in the handbook.	n/a	n/a
4	Reference	Added references to other OGIs for additional information.	n/a	n/a
5	Reference	Added “What’s new in this version?” table to summarize updates.	About this document	n/a
6	OGI 2015-02 consultation	<u>“Indirect contributions (no individual can make a contribution that comes from money, property or the services of another person or entity)”</u>	Chapter 2	Ineligible contributions
7	OGI 2015-02 consultation	<u>“The financial agent or authorized leadership campaign agent must not knowingly accept a contribution that exceeds the limit. It is also advisable not to accept any other type of ineligible contribution.”</u>	Chapter 2	Returning ineligible contributions
8	OGI 2015-02 consultation	<u>“A contribution from an unincorporated sole proprietor has to be recorded in the individual’s name (not the business name), using the contributor’s home address (a contributor’s address is required for contributions over \$200).”</u>	Chapter 2	What to keep in mind when administering contributions
9	OGI 2015-02 consultation	<u>“Where specifically permitted under the <i>Canada Elections Act</i>, a transfer is not considered to be a contribution; contribution rules therefore do not apply.”</u>	Chapter 2	Transfers received
10	OGI 2015-01 consultation	Modified example: “A person, who is employed <u>as a teacher</u> , offers to work in the evenings in the campaign office to answer the phone and help with general office duties.”	Chapter 2	Volunteer labour example

	Type of update	Update description (new text underlined or otherwise introduced)	Chapter	Section
11	OGI 2015-01 consultation	New text: "A contribution is considered used if the campaign bank account balance was below the contribution amount at some point after the contribution date. In this case, the financial agent has to send an amount equal to the ineligible contribution to Elections Canada, payable to the Receiver General for Canada."	Chapter 2	Returning ineligible contributions
12	OGI 2015-01 consultation	"If the campaign receives an ineligible contribution <u>and it has been deposited into the campaign bank account</u> , the financial agent has to return the unused contribution to the contributor within 30 days of becoming aware that it is ineligible."	Chapter 2	Returning ineligible contributions
13	OGI 2015-01 consultation	New example: "The financial agent receives a cheque for \$2,000 from a contributor. As this is obviously an over-contribution, the financial agent does not deposit the cheque, but sends it back to the contributor."	Chapter 2	Returning ineligible contributions
14	OGI 2015-01 consultation	New note: "If an invoice requiring payment is prepared by one political entity and sent to its related political entity, together with a third party vendor invoice representing the commercial value of the goods or services provided, this would not be a transfer, but a sale of goods or services from one entity to another."	Chapter 2, Chapter 3	Transfers received, Transfers sent