



Written Opinions, Guidelines and Interpretation Notes

Guideline: 2018-08

Regulated Fundraising Events

Comments made during formal consultation period of November 9 to 23, 2018

Comments received from the Liberal Party of Canada	Elections Canada response to the Liberal Party of Canada
<p>Firstly, we appreciate allowing for comments pertaining to regulated fundraising events material in draft OGI 2018-07 (Nomination Contestant Handbook, pages 42–45) be made in the comments to this OGI. While much of the regulated fundraising events material in the Handbook is identical to this OGI, there were some differences as well as points of clarification in the draft Handbook.</p> <p>Following our request, we also appreciate being provided with the draft of forms EC 20092 <i>Notice of a Regulated Fundraising Event</i> and EC 20093 <i>Regulated Fundraising Event Report</i> as this allowed us to work through the practicalities of the statutory reporting resulting from Bill C-50 and OGI 2018-08.</p> <p>You may recall that the Liberal Party of Canada adopted a very early voluntary implementation of reporting regulated fundraising events in a bid for transparency well before the legislation wound its way through Parliament. We believe this has given the Party an early hands-on adoption experience from which to better understand this OGI and the prescribed draft reporting forms.</p> <p>We have a number of general and philosophical items to raise regarding the reporting of fundraising activities.</p> <p>For a variety of reasons, a fundraising event may have multiple price points, including criteria and/or recognition that a donor contributes before and/or after an event. We'll elaborate on these below and would appreciate your response/guidance included in the OGI.</p> <p>Scenario #1 A party hosts an event with its leader and eligible invitees are both volunteers to the party and various demographics of donors. There are no ticket sales</p>	<p>If the only condition for all attendees to participate was previous volunteer work, then this is not a regulated fundraising event. Bill C-50 does not require any records to be kept about the volunteers or the work that gained them admission to the event.</p> <p>If the party later makes a concerted effort to draw contributions of \$300 from attendees, but the contribution was not a requirement to attend, then this is still not a regulated event.</p> <p>If there was a minimum donation requirement to attend, and that amount was over \$200 for at least one attendee, then this is a regulated event.</p> <p>The number of donors versus non-donors does not affect the determination. If just one attendee is required to contribute over \$200 to attend or required to pay over \$200 to attend, part of which is a contribution, the event is a regulated event.</p>

<p>pertaining to the event. Given it was not necessary for an invitee to make a contribution (one only needed to have volunteered in the past), is the event considered to be a regulated fundraising event? If not, and an individual was invited by virtue of having been a volunteer, is there a requirement to have a record of the specific circumstances relating to an invitee's previous volunteering?</p> <p>As a possible additional variable, what if following the event, a party makes a concerted effort to seek a \$300 contribution from each of those who attended the event?</p> <p>As a possible further variable, what if there were a minimum donation requirement that defined the eligibility for the donor invitees?</p> <p>Does the number of donors versus non-donors invited impact the answer?</p>	
<p>Scenario #2</p> <p>A party holds an event where a minister of the Crown will be in attendance. The ticket cost is \$190 but at the door to the event attendees are strongly encouraged to make an additional contribution of \$300. For clarity, if an attendee does not make the additional contribution, they are allowed to attend the event. Is this a regulated fundraising event?</p>	<p>This is not a regulated fundraising event. Bill C-50 is clear that at least one person must be required to pay or contribute over \$200 for the event to be regulated.</p>
<p>Scenario #3</p> <p>An electoral district association (EDA) and its party hold a joint event with the EDA's MP, who is a minister of state, requiring a \$175 contribution to the EDA and a \$175 contribution to the party. Given the separate contribution electoral limits for EDAs and a party, and the event two-ticket purchase segmentation, is this considered a regulated event?</p>	<p>This is a regulated fundraising event because the total of contributions required for attendance is over \$200. The fact that the contributions are made in multiple transactions and to political entities with separate contribution limits does not affect the determination.</p>
<p>Scenario #4</p> <p>A party holds a ticketed event where the party leader will be in attendance. The ticket price is \$300 but using the previous guidelines from Elections Canada it is pre-determined that the personal benefit amount to attendees will be \$110, resulting in a contribution of \$190. Is this a regulated fundraising event?</p>	<p>This is a regulated fundraising event because the ticket price is over \$200 and part of the payment is a contribution.</p> <p>If the fair market value of the benefit in your example were \$300 or more, this would not be a regulated fundraising event, as no part of the payment would be a contribution.</p>

<p>Scenario #5</p> <p>A party has a previously established monthly giving program requiring a <i>minimum</i> monthly contribution of \$5 to the EDA and \$5 to the party (\$60 per annum to each of the EDA and party). One of either the EDA or party, or perhaps even both on separate occasions, hold an event with either the EDA MP who is a minister of the Crown or the leader of the party at segmented price points. For an individual not part of the annual giving program, the ticket cost is \$185, and for an individual that is part of the annual giving program, the ticket price is \$150. Is this a regulated fundraising event? Note that the donor can stop or start their monthly donations at any time.</p>	<p>This is not a regulated fundraising event because no person is required to pay or contribute over \$200 to attend. Being part of the monthly giving program is not a requirement to attend, it simply gives individuals a discount from the regular price of \$185.</p>
<p>Scenario #6</p> <p>A party has a previously established donor program requiring a minimum contribution of \$750 over a 12-month period. The party holds an appreciation event (with the party leader in attendance) for those donors in January and a contribution/ticket is not required to attend. Is this a regulated fundraising event, given the contribution was made in the previous calendar year against a previous contribution limit? Does the period of the donation versus the event matter?</p>	<p>This is a regulated fundraising event if at least one person contributed over \$200 out of the expected \$750 to attend. The contribution period itself does not affect the determination. Only the contribution required to gain attendance is relevant.</p>
<p>The above are only a few examples of mixed fundraising elements, and significant guidance on the above would provide a framework for a political entity to assess their other fundraising activities. We feel it is important that all registered political parties operate with the same clearly stated guidance.</p>	<p>The examples in the OGI's have been modified to reflect scenarios 3, 4 and 5 above, which Elections Canada considers to be the most common and likely to cause confusion.</p>
<p>Additionally, as a point of clarification, given the existing Caretaker Convention of a minister during a general election, are you able to confirm if a minister of the Crown remains a prominent attendee as defined by Bill C-50?</p>	<p>The following text has been added to the OGI's: "Ministers also continue to be prominent attendees during a general election."</p>
<p>We provide a number of specific points for consideration:</p> <p>1. On page 4 in the boxed section "Events held outside a general election" on the last line regarding corrections to notices, it states "Please also notify Elections Canada of the changes." Noting that Bill C-50 does not provide for any requirement to notify Elections Canada of changes, is there thought of preparing some form of voluntary form a party can use to report such changes?</p>	<p>There is no form being developed to report changes to the notice, as sending these changes to Elections Canada is simply a recommended practice to improve transparency. It also facilitates compliance by allowing the agency to send reporting reminders to the party at the right time. The text has been modified to request that the party notify Elections Canada of the changes by email.</p>

<p>2. Along the same subject matter referenced in #1 above, on page 45 of the Nomination Contestant Handbook OGI 2018-07, the last bullet at the bottom of the page states “the registered party fails to update an event notice...”. We are wondering if this is the correct phraseology, given there seems to be no statutory ability to amend a <i>Notice of a Regulated Fundraising Event</i>?</p>	<p>The event notice that must be updated under subsections 384.2(5) and (7) is the notice on the party website. The OGIs have been clarified to read as follows: “the registered party fails to update an event notice <i>on its website</i> or <i>a report to Elections Canada</i> when it becomes aware of changes to the information”.</p>
<p>3. On page 5 of the OGI, in the last few lines, it states “The chief agent has to apply to Elections Canada for authorization to file an amended report, using the <i>Request for Amendment</i> form.” Is a draft of this form still in process?</p>	<p>The <i>Request for Amendment</i> form (EC 20006) is a standard form available on the Elections Canada website. It is being updated for Bill C-50.</p>
<p>4. Appreciating that the draft EC 20092 <i>Notice of a Regulated Fundraising Event</i> is a very early draft, we noted a few possible omissions. We believe Bill C-50 requires the notice to include the (i) time of the event, (ii) contribution portion of ticket cost, (iii) disclosing the prominent attendee, and (iv) point of contact for the event. All of these seemed to be missing from the form.</p>	<p>The notice that the party publishes on its website must contain all of the information detailed in your comment, as per Bill C-50, for transparency purposes. The bill does not prescribe what must be provided in the notice to Elections Canada. As this second notice serves a primarily administrative purpose, on form EC 20092, we request only basic information that will allow the agency to enter the event in its public registry and administer the regime.</p>
<p>5. In the OGI material, would it be possible to add an example regarding the statutory date to file EC 20092 <i>Notice of a Regulated Fundraising Event</i>? For example, is Monday the latest possible date to file an event notice for an event being held on a Saturday?</p>	<p>Elections Canada confirms that Monday would be the last day to file an event notice for an event being held on a Saturday. This example has been added to the OGIs.</p>
<p>6. Bill C-50 does not appear to contemplate an inadvertent omission in not filing form EC 20092 <i>Notice of a Regulated Fundraising Event</i>. Is it the intent of Elections Canada and the Commissioner of Canada Elections to develop an administrative policy regarding omissions to file form EC 20092? The consequences of not filing form EC 20092 is the contributions from the event are forfeited and must be returned to either the contributor or Elections Canada. While the reporting regime only applies to a registered party with a seat in the House of Commons, the non-filing of an event notice is a particularly harsh consequence for a smaller party for a first or second omission around, say, a party leader or leadership contestant.</p>	<p>It is true that Bill C-50 does not provide recourse to a party that inadvertently omits to publish a notice on its website and notify Elections Canada five days before an event. The matter would be referred to the Commissioner of Canada Elections for enforcement. Elections Canada would follow up with the political entity for the return of contributions and, where necessary, the amendment of financial returns.</p>

<p>7. On draft form EC 20093 <i>Regulated Fundraising Event Report</i>, we feel it might provide useful information if there was a visual identification in the report applied to an event during an election period, perhaps by having a check box and a space to describe the event, such as 43rd General Election.</p> <p>8. Referencing our earlier discussion regarding donor appreciation/recognition events, in a bid for full public disclosure and transparency, we believe there may be merit in having a check box option in Section C – Contribution or payment amount on form EC 20093 <i>Regulated Fundraising Event Report</i> to identify if the event is a reportable donor appreciation/recognition event.</p> <p>9. Also referencing our earlier substantive discussion around forms of events and variable pricing, on draft form EC 20093 <i>Regulated Fundraising Event Report</i>, in Section C – Contribution or payment amount, will the form have the ability to show a range of pricing?</p> <p>10. Also on form EC 20093 <i>Regulated Fundraising Event Report</i> in Section E, is it not possible to merge the reporting categories of minister of the Crown and minister of state as the general public is not likely to be cognisant of the difference? We believe this would continue to satisfy the persons that need to be identified as per subparagraph 384.1(1)(b)(i) in Bill C-50.</p> <p>11. Also in Section E on EC 20093, is there a need to require the prominent attendee’s middle initial as this information is not always readily available?</p> <p>12. In Section F – Organizers of draft EC 20093 <i>Regulated Fundraising Event Report</i>, could the phrase “person(s) and/or entity(ies)” be added in parentheses beside the label as nowhere in the OGI is there elaboration or examples pertaining to the organizers.</p> <p>13. In Section H – List of attendees of draft EC 20093 <i>Regulated Fundraising Event Report</i>, from the initial availability of the reporting form, will it be possible to upload the data into the section? Some events can be large with 1,000+ attendees and manual entry of attendees will be laborious and lead to errors.</p>	<p>These comments will be given consideration in the development of the final forms and instructions.</p>
<p>Comments received from the Marxist-Leninist Party of Canada</p>	<p>Elections Canada response to the Marxist-Leninist Party of Canada</p>
<p>The Marxist-Leninist Party of Canada has reviewed the revised handbook for nomination contestants and interpretation note OGI 2018-08, <i>Regulated Fundraising Events</i>. We have no comments on the drafts; they present clear guidelines on the nomination of candidate contestants and their financial business, along with fundraising events for parties with elected members, consistent with recent changes to the <i>Canada Elections Act</i>.</p>	<p>Elections Canada notes your comment.</p>

Comments received from the Commissioner of Canada Elections	Elections Canada response to the Commissioner of Canada Elections
<p>Note, p. 1</p> <p>The Note could be completed by adding that the rules for regulated fundraising events could apply to an event organized for the benefit of a candidate, a nomination contestant or a leadership candidate, after an election, a nomination contest or a leadership contest, as the case may be, to raise funds in order to pay their unpaid campaign claims. In fact, as long as their campaign’s debts are not totally paid, these persons will remain candidates, nomination contestants or leadership contestants for the purpose of the Act.</p>	<p>The following note has been added to provide this information:</p> <p>“Note: Fundraising events organized after an election or a contest for the benefit of a candidate or a contestant continue to fall under these rules. People continue to be candidates or contestants until they have fulfilled all their reporting obligations.”</p>
<p>Examples, p. 3</p> <p>In examples 1 and 2, instead of stating that Barbara or Mehdi “paid,” it should be “had to pay” in order to emphasize the fact that the contribution or the payment of the amount was a condition for attending the event. It would be even clearer if the third example was contrasted with a scenario where a person would be required to buy a table and the total price for the tickets required to make up the table would exceed \$200. In this case, it would be a regulated event.</p>	<p>The examples have been modified in line with your suggestions.</p>
<p>Suggested insertion, pp. 3 & 4</p> <p>Between the box of examples and the subtitle “Disclosure requirements for a regulated fundraising event,” a new subtitle dealing with the responsibilities of the organizers of the event should be added. A full overview of the obligations of the event organizers should be included. The content of page 44 and the box from page 45 of the draft OGI 2018-07 could be reproduced, with the necessary adaptations.</p> <p>In fact, inasmuch as this is the reference OGI on regulated fundraising events, it may be useful to provide a clear and complete overview of the obligations imposed by the Act on both the registered parties and the organizers of regulated fundraising events.</p>	<p>Elections Canada agrees that more information on the responsibility of event organizers is pertinent to this guideline. Relevant text from pages 44 and 45 of OGI 2018-07 has been incorporated.</p>
<p>“Events held during a general election” box, p. 4</p> <p>The content of the Note (the second note in the English version) could be confusing. The Act does not require the party to ask the organizers for information about the event. Moreover, the party may not be informed of the holding of the event. Legally, it is the organizers who must provide the party with information.</p>	<p>Elections Canada agrees that the <i>Canada Elections Act</i> does not require the party to ask organizers for information. However, it may be useful for parties to set an internal deadline for receiving information and to share it with potential organizers. Text to that effect has been added in the section about organizers providing information.</p>

The following parties did not submit comments to Elections Canada regarding OGI 2018-08:

- Alliance of the North
- Animal Protection Party of Canada
- Bloc Québécois
- Christian Heritage Party of Canada
- Communist Party of Canada
- Conservative Party of Canada
- Green Party of Canada
- Libertarian Party of Canada
- Marijuana Party
- New Democratic Party
- Progressive Canadian Party
- Rhinoceros Party