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# ***THIRD PARTY ADVERTISER GUIDE***

***To the Election Finances and Contributions Disclosure Act***

June 2017  
(updated January 2018)





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# PURPOSE

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## **Introduction**

The *Election Finances and Contributions Disclosure Act* (EFCDA) establishes rules for third parties that raise funds and incur expenses for political advertising (which occurs outside an election advertising period), and election advertising (which occurs during an election advertising period). Definitions of election advertising and political advertising can be found in the text box on the right. Individuals, corporations, and groups engaged in such activities must register with and report financial information to Elections Alberta.

Third party advertising rules ensure that Albertans are aware of who is paying for, and placing, political and election advertising. Highlights of the current rules on third party advertising include the following:

- every third party advertisement must clearly identify the third party advertiser's (TPA's) name and their contact information, and must indicate that the TPA authorizes the advertisement;
- a TPA must file regular reports, as the case may be, which include financial information and lists of contributors, with Elections Alberta;
- registration information and reports are made available to the public;
- only eligible contributors may make contributions to TPAs;
- there are spending limits for election advertising expenses;
- certain activities and expenses are prohibited for TPAs; and
- offence provisions exist for TPAs who do not comply with the EFCDA. Fines up to \$100,000 may be imposed.

Elections Alberta does not administer the Canadian Radio-television and Telecommunications Commission (CRTC) Rules and Guidelines, and the CRTC does not administer EFCDA rules. However, both sets of laws may apply to your TPA (i.e., print or electronic advertising and surveys). For further information on CRTC Rules and Guidelines see [www.crtc.gc.ca](http://www.crtc.gc.ca).

## **This Guide**

This Guide has been produced to assist in the understanding of third party advertising, and to ensure compliance with the legislation as set out in the EFCDA. It is not a replacement of the EFCDA, but a supplementary document.

**“Election Advertising”** means advertising that promotes or opposes a registered party or a registered candidate during an election advertising period, including advertising that takes a position on an issue with which a registered party or registered candidate is associated.

(EFCDA Section 44.1(d)).

**“Political Advertising”** means advertising at any time other than an election advertising period that promotes or opposes a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or the election of a registered candidate. Political advertising includes advertising that takes a position on an issue with which a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or a registered candidate is associated.

(EFCDA Section 44.1(g)).

**Section One** of this Guide provides information regarding **political advertising**, and **Section Two** provides information regarding **election advertising**. Both sections include information relevant to contributors, as well as specific direction to Chief Financial Officers, who have legal obligations to fulfil.

It is not possible to cover each and every situation that may arise. Copies of the EFCDA and any other relevant legislation can be obtained through the Elections Alberta website at [www.elections.ab.ca](http://www.elections.ab.ca) under the tab: Legislation. If you are unable to find a suitable explanation in the EFCDA or the materials provided by Elections Alberta, you are encouraged to write, phone or visit.

### **Elections Alberta**

Suite 100, 11510 Kingsway NW

Edmonton, AB T5G 2Y5

Telephone: (780) 427-7191

Toll free: 310-0000-780-427-7191

Fax: (780) 422-2900

Email: [info@elections.ab.ca](mailto:info@elections.ab.ca)

# SECTION 1 – POLITICAL ADVERTISING

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This section of the guide deals specifically with Third Party Advertisers engaged in **political advertising**. References to “TPAs” in this section refer to political TPAs. Information pertaining to election advertising can be found in the following section.

## ***INFORMATION FOR CONTRIBUTORS***

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### *Definition of Advertising Contribution*

“Advertising Contribution” means any

- money provided to or for the benefit of a third party, or
- real property, goods or services, or the use of real property, goods or services, provided to or for the benefit of a third party,

without compensation from that third party, for the purpose of political advertising, whether provided before or after the third party becomes registered under section 9.1.

(EFCDA *Section 44.1(b)*).

### *Making Contributions*

Once a TPA has registered with Elections Alberta as a TPA engaging in political advertising, contributions may be accepted.

Prospective TPA contributors should be aware of the following:

- all contributions are required to be reported to Elections Alberta;
- contributions over \$250 are publicly disclosed;
- contributors receive official contribution receipts. However, contributions made to TPAs are not eligible for Alberta income tax credits;
- all money, real property, goods or services, or the use of real property, goods or services for political advertising are deemed to be contributions under the EFCDA;
- any money paid by a TPA from its own funds for political advertising is a political advertising contribution of the TPA (EFCDA *Section 44.21*); and
- no contributor shall contribute to any TPA that is registered, or is required to be registered under section 9.1, if the funds being contributed:
  - do not belong to the contributor, or
  - were given or furnished to the contributor by a person, group, corporation, trade union, or employee organization for the purpose of making a political advertising contribution. (EFCDA *Section 44.51*).

### Public Disclosure of Contributions

Political Advertising Reports, including financial statements and a list of contributors who contribute over \$250 in the aggregate, are public information and disclosed both on the Elections Alberta website and in the public files located at Elections Alberta. The website discloses contributor names and total amounts contributed; the public files also disclose contributor addresses. (EFCEA Section 11).

## **REGISTRATION**

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### Definition of Third Party

“Third Party” means a person, corporation or group, but does not include the following:

- (i) a registered party;
- (ii) a registered constituency association;
- (iii) a registered candidate or member of the Legislative Assembly;
- (iv) a registered nomination contestant; or
- (v) a registered leadership contestant.

(EFCEA Section 44.1(i)).

### Application for Registration

A TPA must apply for registration when:

- it has incurred, or plans to incur, expenses of at least \$1,000 for political advertising; or
- it has accepted, or plans to accept, at least \$1,000 in advertising contributions.

(EFCEA Section 9.1(1)).

### Application Requirements for Political Advertising

An eligible TPA must file an application for registration with Elections Alberta and provide the following:

- the name and contact information of the person(s) who is/are the principal officer(s), principal member(s), and/or signing authority(ies) for the TPA;
- whether the TPA will be engaging in political advertising, election advertising, or both;
- the address and telephone number of the place or places in Alberta where records of the TPA are maintained and communications may be addressed;
- the name, address, and contact information of the chief financial officer responsible for the political advertising account of the TPA;
- name and address of the financial institution to be used by the TPA for its political advertising account, and names of the signing authorities on the account;

- any additional information requested by Elections Alberta; and
- if the TPA has a governing body, a copy of the resolution passed by the governing body authorizing the TPA to incur political advertising expenses.

(EFCDA *Section 9.1(2) and (3)*).

### Name Restrictions

A TPA will not be allowed to register if its proposed name or abbreviation of the name:

- resembles the name of a registered TPA, candidate, political party or political organization active in Alberta and which is likely to cause confusion; or
- resembles the name of a political party or TPA that was cancelled or changed since the last general election.

(EFCDA *Section 9.1(4)*).

### Eligibility

A TPA may be a person, corporation, or group. However, the following are not eligible to be registered:

- a corporation that does not carry on business in Alberta;
- a person not ordinarily resident in Alberta;
- a trade union or employee organization that does not meet the definition outlined in the EFCDA;
- a group with ANY member belonging to one of the above;
- a registered charity; or
- a prohibited corporation.

(EFCDA *Section 9.1(5)*).

### Registration Acceptance / Refusal

After reviewing the TPA application, notification by Elections Alberta will be provided to the person(s) who signed the application as to whether the application has been accepted or refused. If refused, the reason(s) will be provided. (EFCDA *Section 9.1(6)*).

### Changes in Registration

Within 30 days of any change in registration information, the TPA must notify Elections Alberta of the changes in writing by mail, fax or electronic mail. (EFCDA *Section 9.1(7)*).

### Request for Information

Elections Alberta may inquire into or conduct periodic investigations of the financial affairs and records of a TPA in relation to political advertising. If Elections Alberta provides a written request, the TPA must respond within 30 days or within a time period as determined by Elections Alberta. (EFCDA Sections 4(1) and 5(2)).

### Cancellation of Registration

Elections Alberta may cancel the registration of a TPA if:

- the TPA requests cancellation in writing;
- the TPA fails to file a Political Advertising Report;
- the TPA is no longer qualified to be registered; or
- the TPA obtained registration by providing false information in its application.

(EFCDA Sections 10(1), 10(4.1) and 10(5)).

Elections Alberta must provide notification of cancellation of registration by recorded mail including the reason(s) for cancellation. Cancellation is effective on and after the 3<sup>rd</sup> day following the date of mailing the notice. (EFCDA Section 10(6)).

### Cancellation Appeal Process

The TPA may request that Elections Alberta review the cancellation by providing a written request to Elections Alberta within 30 days of receiving notice of cancellation.

Within 48 hours of receiving the TPA's written request, Elections Alberta must give the TPA an opportunity to make representations. Following Elections Alberta's review of a cancellation, written notification will be provided to the TPA advising of Elections Alberta's decision to withdraw or confirm the cancellation. (EFCDA Section 10(7), (8) and (9)).

### Use of Funds after Cancellation

Upon cancellation of a TPA, all funds in the TPA advertising account, other than those required to pay for third party political advertising liabilities already incurred, must be dispersed in one or more of the following ways:

- transfer funds to another TPA advertising account;
- donate funds to a registered charity;
- return funds to the TPA's contributors, if they can be identified; or
- if any portion cannot be dealt with using the options listed above, pay that portion into the General Revenue Fund of the Province of Alberta.

The TPA must advise Elections Alberta of the manner in which funds will be dispersed. (EFCDA Section 44.92).

A Political Advertising Report is required to be filed with Elections Alberta on or before March 31 of each year until the dispersal of all funds has been reported. (EFCDA Section 44.92).

## **CHIEF FINANCIAL OFFICER DUTIES FOR POLITICAL ADVERTISING**

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A Chief Financial Officer (CFO) must be in place in order for a TPA to incur expenses and/or accept contributions. Many of the provisions of the EFCDA and most of the contents of this guide apply directly to the activities of the CFO. Committing to the position of CFO is something that should be done by an individual that has read and accepted the duties set out in the EFCDA. In addition, the individual must confirm his or her eligibility to act in the position, in accordance with Section 29(4) of the EFCDA. Elections Alberta is available to assist CFOs with their responsibilities through guides and one-on-one assistance as requested. CFOs are encouraged to contact Elections Alberta with any questions or concerns.

### **Appointing a Chief Financial Officer**

The EFCDA requires that a CFO be appointed on each application for registration. Should it be necessary to appoint a replacement, the principal officers of the TPA must advise Elections Alberta in writing of the name, address and telephone number of the newly appointed CFO within 30 days of the change. (EFCDA Sections 9.1(2.1) and 9.1(7)).

### **Compliance**

The CFO must ensure that all contributions comply with the EFCDA and that ineligible contributions are not accepted.

If the CFO learns that a contribution was made that did not comply with the EFCDA, he or she must notify Elections Alberta, in writing, within 30 days. (EFCDA Sections 44.2(6) and 44.51(3)).

### **Retention of Records**

The CFO of a TPA must retain all of the TPA's financial records for a period of 3 years following the date Political Advertising Reports are required to be filed with Elections Alberta. Elections Alberta may request to review the financial affairs and records of the TPA. (EFCDA Section 10.1).

## **POLITICAL ADVERTISING**

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### **Definition of Political Advertising**

“Political Advertising” means advertising at any time other than an election advertising period that promotes or opposes a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or the election of a registered candidate.

Political advertising includes advertising that takes a position on an issue with which a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or a registered candidate is associated.

Political advertising includes all means of transmission of a message to the public, with the following exceptions:

- an editorial, a debate, a speech, an interview, a column, a letter, a commentary, or news;
- the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value;
- the transmission of a document, or the communication, directly by a corporation or a group to its members, employees, or shareholders;
- the transmission by a person, corporation, or group of the political views of that person, corporation or group on a non-commercial basis on the internet;
- telephone calls to electors for the sole purpose of encouraging them to vote; and
- advertising by the Government in any form.

The following activities are political advertising:

- Canvassing for the benefit of a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or a registered candidate, and/or
- Organizing events where a significant purpose is to promote or oppose a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or a registered candidate. The significant purpose of an event will be determined based on the extent to which.
  - It is reasonable to conclude the event was planned to coincide with an election;
  - Marketing materials for the event are similar in format or branding to marketing materials used by a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or a registered candidate;
  - An election, registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or a registered candidate is referred to directly or indirectly in promotional materials for the event, or at the event;
  - The extent to which political messages conveyed at the event are associated with a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant, or a registered candidate; and
  - The extent to which the event is consistent with previous events held by the same third party.

(EFDA Sections 44.1(g) and 44.1(1.3)- 44.1(1.4)).

### Definition of Election Advertising Period

“Election Advertising Period” is defined by the EFCDA as follows:

- **In the case of a general election held within the fixed election period under the *Election Act*:** Dec. 1 until the end of polling day
- **In all other instances:** From the issue of a writ for the election until the end of polling day.

(EFCDA Section 44.1(1)(d1)).

### Examples of Political Advertising

The timing of the advertising in relation to an election advertising period will determine whether the advertising is political advertising or election advertising. The following two examples illustrate this point.

*Example 1:* A TPA incurs an expense for the use of a billboard containing a political message that appears solely within the election advertising period. This should not be reported as political advertising. This is election advertising, and the TPA must register separately as an Election TPA to engage in this type of activity.

*Example 2:* A TPA incurs an expense for the purchase of signs containing a political message which appear outside of the election advertising period. This expense is reported as political advertising.

### Identification of TPAs in Political Advertising

The TPA, or a person acting on the TPA’s behalf, must ensure that political advertising sponsored by the TPA complies with the EFCDA and the guidelines set out by Elections Alberta. Guidelines established by Elections Alberta are published on the Elections Alberta website.

Most importantly, **all** political advertising, regardless of the delivery method used, must:

- clearly disclose the name and contact information of the TPA sponsoring the advertisement; and
- indicate that the TPA authorizes the advertisement.

In this regard, for political advertising, advertising that is:

- broadcast or is made through electronic media, including by telephone or fax, the disclosure referred to above must be stated at the **beginning** of the advertisement; and
- transmitted by telephone, whether in the form of a live call or an automated pre-recorded call:
  - a. the telephone number of the TPA must be capable of being displayed on the call display of called parties who subscribe to call display, and must not be blocked from being displayed; and
  - b. the telephone number of the TPA at which the TPA can be contacted must be stated at the end of the political advertising.

Where an advertisement is not in compliance with the EFCDA, Elections Alberta may direct that it be removed or discontinued. (EFCDA Section 44.8).

## **CONTRIBUTIONS**

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### **Definition of Advertising Contribution**

“Advertising Contribution” means any

- (i) money provided to or for the benefit of a third party, or
- (ii) real property, goods or services, or the use of real property, goods or services, provided to or for the benefit of a third party,

without compensation from that third party, for the purpose of political advertising, whether given before or after the third party becomes registered under section 9.1. (EFCDA *Section 44.1(1)(b)*).

The EFCDA regulates all contributions made at any time for the purposes of political advertising. All contributions result in an official contribution receipt being issued to the contributor. However, **contributions made to a TPA are not eligible for Alberta income tax credits.**

Any funds accepted by a TPA that are intended to be used for political advertising are contributions under the EFCDA. Any money paid by a TPA from its own funds for political advertising is a political advertising contribution of the TPA. (EFCDA *Section 44.21*).

### **Contribution Limits**

There are no contribution limits for political TPAs under the EFCDA.

### **Public Disclosure of Contributions**

Political Advertising Reports, including the financial statements and list of contributors who contributed over \$250 in the aggregate, are public information and disclosed both on the Elections Alberta website and in the public files (located at Elections Alberta). The website discloses contributor names and total amounts contributed; the public files also disclose contributor addresses. (EFCDA *Section 11*).

### **Deposit of Contributions**

All money contributions accepted by or on behalf of a TPA, any contribution other than money that is converted into money, and any other revenue of the TPA, must be paid into the appropriate advertising account on record with Elections Alberta. The advertising account must be used to make any payments for political advertising expenses and any transfers to other TPAs. A TPA may open and operate only one political advertising account. (EFCDA *Sections 44.22 and 44.7*).

### Anonymous and Unauthorized Contributions

Anonymous contributions in excess of \$50 and any contribution in contravention of the EFCDA are ineligible contributions and must not be used or expended. It is the responsibility of the TPA to return ineligible contributions to the contributor. However, if the identity of the contributor cannot be established, Elections Alberta must be notified and the contribution must be paid over for deposit into the General Revenue Fund of the Province of Alberta.

No TPA shall knowingly accept a contribution that is not the contributor's own funds.  
(EFCDA Section 44.51).

### Rules for Groups, Trade Unions, and Employee Organizations

"Group" means an unincorporated group of persons or corporations acting in consort for a common purpose and includes a trade union and an employee organization or any combination of persons, corporations, trade unions or employee organizations. (EFCDA Section 44.1(f)).

A contribution that is made from funds collected from the members of a group, trade union, or employee organization may be attributed to its members only if:

- funds were paid by its members on a voluntary basis;
- it was made explicit that the funds being collected were for political advertising; and
- the names of the members who made the payments, and the amount they each paid, are recorded by the group and, if applicable, provided to the TPA.

Groups, other than trade unions or employee organizations, may make contributions only if they meet the preceding conditions, and the group must attribute the actual amount of contributions to its individual members.

In the case of a trade union or an employee organization, if the preceding conditions are not met, then the contribution is deemed to be a contribution made by the trade union or employee organization and cannot be attributed to its members. (EFCDA Section 44.3).

### Valuing Contributions Other Than Money

Real property, goods or services, or the use of real property, goods or services, provided to a TPA for the purposes of political advertising, without compensation, is deemed a contribution by the EFCDA. These "valued contributions" qualify for official contribution receipts.

When real property, goods or services, or the use of real property, goods or services, are contributed to a TPA for less than the market value at that time, the amount by which the market value exceeds the amount paid is a contribution. It is the CFO's responsibility to assess the appropriate market value at that time. (EFCDA Section 44.31).

Some common examples of real property, goods or services, or the use of real property, goods or services, are:

- a computer or furniture
- signage / pamphlets / buttons
- the use of a car
- the use of a venue to hold a meeting or to use as an office
- creating written resources and advertisements
- telephone canvassing

Services do not include volunteer labour provided by a person, as long as that person does not receive compensation or paid time off from their employer (or any other person).

### Fund-Raising Functions

A fund-raising function includes any event held for the purpose of raising funds for a TPA, either by the TPA or on behalf of the TPA. Third parties are prohibited from incurring expenses for fundraising in support of political parties, candidates, nomination contestants, or leadership contestants.

If a fund-raising function is held by the sale of tickets or otherwise, the contribution portion, if any, of the amount paid to the fund-raiser is to be determined under either clause (a) or under clause (b) of Section 44.32(3) of the EFCDA, as described below. The method chosen is at the option of the TPA.

(a) If the individual charge is:

- **\$50 or less:** it is not considered a contribution unless the person who pays the charge specifically requests that it be so considered, in which case 50% of the amount shall be allowed for expenses and 50% is considered to be a contribution,
- **more than \$50 but not more than \$100:** \$25 is allowed for expenses and the balance is considered to be contribution, and
- **more than \$100:** 25% of the amount is allowed for expenses and the balance is considered to be a contribution;

(b) The amount of the contribution is the difference between the price of the ticket and the market value of what the ticket entitles the bearer to obtain.

The table on the following page shows selected fund-raising events and how to determine the contribution portion.

<b>Fund-raiser</b>	<b>Ticket Price</b>	<b>Contribution Portion</b>	<b>Expense Portion</b>	<b>Section Reference</b>	<b>Explanatory Note</b>
Luncheon	\$35	\$0	\$35	44.32(3)(a)(i)	The CFO opts to follow clause (a). The ticket cost is under \$50 so no Official Contribution Receipt is issued.
Luncheon	\$35	\$17.50	\$17.50	44.32(3)(a)(i)	The CFO opts to follow clause (a). The ticket buyer asks for a receipt, in this case the ticket price is split 50/50 and an Official Contribution Receipt is issued to the buyer for \$17.50.
Dinner	\$75	\$50	\$25	44.32(3)(a)(ii)	The CFO opts to follow clause (a). The ticket cost is more than \$50 but less than \$100. Thus the expense portion is deemed to be \$25; therefore, an Official Contribution Receipt must be issued to the buyer for \$50.
Golf Tournament	\$200	\$150	\$50	44.32(3)(a)(iii)	The CFO opts to follow clause (a). The ticket cost is more than \$100 so 25% is deemed to be an expense. Thus the expense portion is deemed to be \$50; therefore, an Official Contribution Receipt must be issued to the buyer for \$150.
Golf Tournament	\$400	\$100	\$300	44.32(3)(b)	The CFO opts to follow clause (b). The expense portion has been established to be \$300 (market value); therefore, an Official Contribution Receipt is issued to the buyer for \$100.

If the fund-raising function uses some other means of raising funds other than selling tickets (e.g. silent auctions), the price paid in excess of the market value for goods or services received is considered to be a contribution.

The gross income of the fund-raiser, minus the contribution portion determined by either clause (a) or (b) above, must be recorded as revenue from fund-raising functions on the TPA's Political Advertising Report. The CFO should keep a separate record of the event showing the date of the function, the number of people who attended, the number of tickets sold and the amount of the admission charged.

The following examples explain how to report the revenue and contributions from fund-raising activities, specifically silent auctions.

### Example 1

A lawyer, Mr. Doe, agrees to provide legal services in the preparation of a personal will to a silent auction fund-raising event. Mr. Doe advises in writing that the fair market value (FMV) of his services is \$200 based on his current professional fee structure. The CFO verifies the fee reflects FMV.

The donor of the service, Mr. Doe, is eligible for a contribution receipt because services are eligible as a contribution under the EFCDA. Mr. Doe will receive a valued contribution receipt for \$200 from the CFO.

The purchaser of the service (i.e. the successful bidder at the silent auction), pays the bid amount to the TPA; and

- if the bid was for \$200 (the FMV) or less, no contribution receipt is issued to the bidder, or
- if the bid was for more than \$200 (e.g. \$275), then the excess (e.g. \$75) would be the appropriate amount for a money contribution receipt as per Section 44.32(4).

Please note that Section 44.32(4) of the EFCDA applies only to a person acquiring a service through a fund-raising function. It does not apply to the donor of the service.

### Example 2

A decorative crystal vase is donated to a silent auction fund-raising function. The vase along with the donor's purchase receipt for \$60 is given to the TPA's CFO. Again the CFO is responsible to determine the FMV of the vase, which can easily be done using the submitted receipt.

The donor of the vase will receive a valued contribution receipt for \$60 from the CFO.

The purchaser of the vase (i.e. the successful bidder at the silent auction), pays the bid amount to the TPA; and

- if the bid was for \$60 (the FMV) or less, no contribution receipt is issued to the bidder, or
- if the bid was for more than \$60 (e.g. \$75), then the excess over FMV (e.g. \$15) would be the amount of the contribution and no receipt would be required to be issued because it is less than \$50, unless specifically requested by the purchaser that it be considered a contribution or that purchaser's aggregated contributions to the TPA exceed \$50.

### Example 3

A used solid oak kitchen table and 6 chairs in excellent condition are donated to the fund-raising event. The CFO must determine the FMV for the furniture. One option is for the CFO to contact local used furniture stores. Alternatively, the CFO may check on internet sites for the asking price of similar furniture. The CFO must be able to provide a reasonable rationale and supporting documentation for the determined FMV should this information be requested by Elections Alberta.

Assuming the CFO determines the FMV to be \$1,000, the donor of the furniture will receive a Valued Contribution Receipt in the amount of \$1,000 from the CFO.

The purchaser of the furniture (i.e. the successful bidder at the silent auction), pays the bid amount to the TPA; and

- if the bid was for \$1,000 (the FMV) or less, no contribution receipt is issued to the bidder, or
- if the bid was for \$1,500, then the excess of the FMV (e.g. \$500) would be the appropriate amount for a Money Contribution Receipt as per Section 44.32(4).

Should a questionable situation arise, the CFO should contact Elections Alberta in a timely manner to resolve the risk of a potential over-contribution and its associated impact for the contributor and the TPA.

### General Collections

When money is given at a meeting held for a TPA, in response to a general collection of money solicited from the persons in attendance at the meeting, individual amounts given of \$50 or less are not considered a contribution but the aggregate gross amount collected shall be recorded. (EFDA Section 44.33(1)).

### Loans from Financial Institutions

A TPA may borrow money only from a financial institution other than a treasury branch. The details of the loan must be recorded by the CFO and reported to Elections Alberta on the TPA's Political Advertising Report.

Loan payments made by others on behalf of TPAs are considered contributions. All contribution limits and restrictions apply. A contribution receipt must be issued unless the TPA repays the full amount of the loan payments made on its behalf prior to the TPA's filing of the Political Advertising Report for the period. (EFDA Section 44.4).

## **POLITICAL ADVERTISING EXPENSES**

### **Definition of “Advertising Expense” and “Expense”**

Advertising Expense means an expense incurred in relation to:

- the production of a political advertising message in the format in which the message is to be transmitted; and
- the acquisition of the means of transmission to the public of a political advertising message.

All political advertising expenses must be paid from the TPA’s applicable advertising account. Every political advertising expense incurred by or on behalf of a registered TPA must be authorized by its CFO.

“Expenses” means:

- Amounts paid;
- Liabilities incurred;
- The market value of real property, goods, services that are donated or provided; and
- Amounts that represent the difference between the amount paid (or liability incurred) for real property, goods and services and their market value – if they are provided at less than their market value.

(EFCDA Sections 44.1(1), 44.1(2) and 44.7).

### **Transfer of Funds to and from TPA Advertising Accounts**

Subject to limitations of the EFCDA, a TPA may transfer:

- From its political advertising account to the political advertising accounts of other TPAs;
- From its election advertising account to its political advertising account; and
- From its election advertising account to the political advertising accounts of other TPAs.

Any amounts transferred are not considered as advertising contributions, but the source and amount must be recorded.

Funds held in a TPA’s political advertising account are not permitted to be transferred to the TPA’s election advertising account, if such an account exists; or to the election advertising account of another TPA. (EFCDA Section 44.7).

## **OFFICIAL CONTRIBUTION RECEIPTS**

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Official contribution receipts are issued to contributors by TPAs to comply with the EFCDA. The blank, pre-numbered forms are available from Elections Alberta and their use must be accounted for by the CFO of the TPA. It is the CFO's responsibility to prepare official contribution receipts in the form and manner approved by Elections Alberta in accordance with Section 44.6 of the EFCDA.

Although official contribution receipts are not eligible for Alberta income tax credits, due diligence must still be exercised to ensure receipts are fully and properly completed.

### **Control of Contribution Receipts**

Blank official contribution receipts available from Elections Alberta are sequentially numbered, and printed in triplicate for distribution as follows:

1. **Contributor Copy** – for the record of the contributor only.
2. **Chief Electoral Officer Copy** – shall be attached to the applicable Political Advertising Report.
3. **Chief Financial Officer Copy** – shall be retained for a period of three years following the date on which the applicable Political Advertising Report is required to be filed with Elections Alberta.

Each CFO must acknowledge they have received official contribution receipts from Elections Alberta. The CFO is accountable for all official contribution receipts and is expected to store the receipts in a secure location and maintain proper records.

CFOs may issue replacement receipts to contributors who have lost or misplaced their originals or where the receipt has been spoiled as follows:

- A replacement receipt must be cross referenced to the serial number of the spoiled or misplaced receipt by:
  - a. clearly marking the replacement receipt “*Duplicate, Replacing Receipt Number xxx*” and attaching the Contributor's copy to the financial statement
  - b. clearly marking the lost, misplaced or spoiled receipt with “*Cancelled – See New Receipt Number zzz*” and attaching all available copies to the financial statement
- Any receipts written in error shall be clearly marked with “*Cancelled - Not Replaced*”, all available copies attached to the financial statement.

### **Official Contribution Receipt Preparation and Procedures**

Only the CFO whose name is on file with Elections Alberta may issue official contribution receipts for contributions received. The CFO must deposit all contributions (cash and/or cheques) in the appropriate political advertising account on record with Elections Alberta.

When one or more contributions are made during a contribution reporting period, the CFO may issue one contribution receipt for the filing time period to cover all contributions received from the same individual. When contributions are aggregated, the “Amount Received” block will show the total of all contributions which were received.

The CFO of each TPA shall complete the appropriate official contribution receipt for contributions received, by indicating:

- contribution reporting period (quarterly or annually for political advertising);
- received from (individual, corporation, trade union or employee organization);
- contribution type (money or valued; never both combined on the same receipt);
- date the contribution was received;
- date the receipt was issued;
- full name and address of the contributor (only one contributor per receipt);
- the amount of the contribution – a dollar sign “\$” must be placed in the box immediately preceding the first digit of the amount, whether the contribution is money (e.g. cash, cheque) or a valued contribution (e.g. real property, goods or services or the use of real property, goods or services);
- name of the registered TPA; and
- name of the CFO (printed) and the signature of the CFO.

The CFO must print or type his/her name and sign the receipt in the spaces provided. With the advance approval of Elections Alberta, a digital signature on contribution receipts will be accepted.

Contribution receipts must not be issued jointly. The CFO must determine the amount that each person contributed and issue individual receipts accordingly. For example, receipts should not be issued to Mr. and Mrs. Smith, nor to John and Mary Smith. Instead, John Smith and Mary Smith should each receive a separate receipt showing the amount that each contributed.

### ***RESTRICTIONS ON USE OF FUNDS***

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Funds in the TPA’s political advertising account may only be used for political advertising expenses or transfers to other political TPAs.

Third parties are prohibited from incurring expenses for the following activities in support of political parties, candidates, nomination contestants, or leadership contestants:

- Selling party memberships;
- Fundraising;
- Collecting, compiling and sharing information about electors or potential electors; and
- Administrative activities that would otherwise be carried out by political parties, candidates, nomination contestants, or leadership contestants.

(EFDA Section 41.41).

Third parties are prohibited from colluding with political parties, candidates, nomination contestants, or leadership contestants to circumvent expense and contribution limits.

(EFDA Section 41.42 and 44.11).

## **POLITICAL ADVERTISING REPORTS**

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TPAs are required to file quarterly reports that account for all contributions and annual financial reports that account for revenues raised and expenses incurred. The CFO of a TPA is responsible for filing the two types of reports described below.

### **Quarterly Contribution Disclosure Reports**

**Quarterly Contribution Disclosure Reports** are due within 15 days after the end of each quarter of each year, including details of all contributions. The names and addresses of persons that contributed more than \$250 in the aggregate will be publically disclosed.

### **Annual Political Advertising Reports**

An **Annual Political Advertising Report**, due on or before March 31 each year, respecting advertising contributions received for political advertising in the preceding calendar year, including:

- the total amount of advertising contributions received during the year that did not exceed \$250 in the aggregate from any single contributor;
- for each contributor who made advertising contributions totalling more than \$250 in the aggregate during the year, the total amount contributed, the name and address of the contributor, and the date of each advertising contribution;
- for web posting purposes, a second copy of the list of contributors who in aggregate have contributed \$250.01 or more showing only the names of the contributors and the total aggregate amount each contributed;
- if possible, an Excel spreadsheet file containing all contributor-related data to facilitate rapid up-loading of contributor information to the Elections Alberta website;
- the Chief Electoral Officer's Copy of all official contribution receipts issued;
- all copies of official contribution receipts issued in error or for which valid receipts were re-issued;
- a reconciliation of all official contribution receipts (requested, used, voided, spoiled and returned);
- all revenues raised and political advertising expenditures occurred in the year;
- the time and place of all broadcasts or publications of the advertisements to which the political advertising expenditures relate, showing the amount that pertains to each;
- terms and details of loans from financial institutions;
- detailed listing of all transfers to and from other registered TPAs; and
- a bank statement as at December 31 confirming the cash on deposit.

### Filing Procedures and Bookkeeping Tips

Political Advertising Reports required by the EFCDA are to be prepared and signed by the CFO, and co-signed by another principal officer of the TPA.

CFO's must ensure that:

- all revenue and expenses are recorded and reported on the Election Advertising Report;
- a petty cash fund is set up to handle minor expenses that are normally paid in cash (all invoices and major purchases should be paid by cheque);
- a reconciliation of accounts is conducted periodically to maintain an accurate balance;
- copies of all bank deposit slips are retained;
- bank statements are obtained and are reconciled with the record of deposits and withdrawals;
- contribution receipts, when required, are prepared and issued in a timely manner;
- all supporting documents are filed in sequence by date or by other acceptable filing methods; and
- all books of account and supporting documents are securely stored for three years and can be readily made available for examination by the Chief Electoral Officer or his designated representative.

Recording the financial data accurately and in a timely manner will simplify the CFO's responsibilities and will eliminate potential difficulties in preparing the Political Advertising Report at the end of the reporting period.

### Filing Political Advertising Reports

Quarterly Contribution Disclosure Reports must be filed by the following deadlines.

<b>Quarter</b>	<b>Dates Covered by Report</b>	<b>Filing Deadline</b>
1	January 1 to March 31	April 15
2	April 1 to June 30	July 15
3	July 1 to September 30	October 15
4	October 1 to December 31	January 15

To help TPAs meet their legislative requirements, an online Quarterly Reporting System, with user instructions, is available at [qrs.elections.ab.ca](http://qrs.elections.ab.ca). Users require an ID and password to access this Quarterly Reporting System. Contact Elections Alberta for access to QRS.

Annual Political Advertising Reports must be received by Elections Alberta no later than 4:30 p.m. on March 31. The Political Advertising Report must bear original signatures. **Faxed and emailed documents will not be accepted.**

## ***LATE FILING PENALTIES***

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Failure to file an annual financial report with Elections Alberta by the filing deadline will result in an automatic administrative penalty of \$500, and may also result in prosecution. (EFCDA *Section 44.93*)

## ***ADVERTISING OFFENCES***

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A TPA that contravenes Part 6.1 of the EFCDA is guilty of an offence and liable to a fine of up to \$10,000 if the TPA is an individual, and up to \$100,000 if the TPA is a trade union, employee organization, corporation or other organization.

A TPA will not circumvent or attempt to circumvent a limit set out in the EFCDA in any manner, including splitting itself into two or more TPAs. (EFCDA *Sections 44.11(5) and 49.1*).

## SECTION 2 – ELECTION ADVERTISING

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This section of the guide deals specifically with Third Party Advertisers engaged in election advertising. References to “TPAs” in this section refer to Election TPAs. Information pertaining to political advertising can be found in the previous section.

### ***INFORMATION FOR CONTRIBUTORS***

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#### *Definition of Election Advertising Contribution*

“Election Advertising Contribution” means any

- money provided to or for the benefit of a third party, or
- real property, goods or services, or the use of real property, goods or services, provided to or for the benefit of a third party,

without compensation from that third party, for the purpose of election advertising, whether provided before or after the third party becomes registered under section 9.1. (EFCDA Section 44.1(b)).

#### *Making Contributions*

Once a TPA has registered with Elections Alberta, election advertising contributions may be accepted in accordance with section 44.2(3) from Alberta residents, Alberta trade unions and Alberta employee organizations. In addition, contributions may be accepted from permitted Alberta corporations; that is, corporations which are not prohibited under Section 1(1)(l) of the EFCDA.

Prospective TPA contributors for election advertising should be aware of the following:

- contributions over \$250 are required to be reported to Elections Alberta and are publicly disclosed;
- contributors receive official contribution receipts, however, contributions made to TPAs are not eligible for Alberta income tax credits;
- all money, real property, good or services, or the use of real property, goods or services for political advertising during an election period are deemed to be contributions under the EFCDA, regardless of whether contributed during or outside the election period;
- Any money paid by a TPA from its own funds for election advertising is an election advertising contribution of the TPA. (EFCDA Section 44.21).
- No contributor shall contribute to any TPA that is registered, or is required to be registered under section 9.1, if the funds being contributed:
  - do not belong to the contributor, or
  - were given or furnished to the contributor by a person, group, corporation, trade union, or employee organization for the purpose of making an election advertising contribution. (EFCDA Section 44.51).

### Public Disclosure of Contributions

Election Advertising Reports, including the financial statements and list of contributors who contribute over \$250 in the aggregate, are public information and disclosed both on the Elections Alberta website and in the public files located at Elections Alberta. The website discloses contributor names and total amounts contributed; the public files also disclose contributor addresses. (EFCDA Section 11).

## **REGISTRATION FOR ELECTION ADVERTISING**

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### Definition of Third Party

“Third Party” means a person, corporation or group, but does not include the following:

- (i) a registered party;
- (ii) a registered constituency association;
- (iii) a registered candidate or member of the Legislative Assembly;
- (iv) a registered nomination contestant; or
- (v) a registered leadership contestant.

(EFCDA Section 44.1(i)).

### Application for Registration

A TPA must apply for registration when:

- it has incurred, or plans to incur, expenses of at least \$1,000 for election advertising; or
- it has accepted, or plans to accept, at least \$1,000 in election advertising contributions.

(EFCDA Section 9.1(1)).

### Application Requirements for Election Advertising

An eligible TPA must file an application for registration with Elections Alberta and provide the following:

- the name and contact information of the person(s) who is/are the principal officer(s), principal member(s), and/or signing authority(ies) for the TPA;
- whether the TPA will be engaging in political advertising, election advertising, or both;
- the address and telephone number of the place or places in Alberta where records of the TPA are maintained and communications may be addressed;
- the name, address, and contact information of the chief financial officer responsible for the election advertising account of the TPA;

- name and address of the financial institution to be used by the TPA for its election advertising account, and names of the signing authorities on the account;
- any additional information requested by Elections Alberta; and
- if the TPA has a governing body, a copy of the resolution passed by the governing body authorizing the TPA to incur election advertising expenses.

(EFCDA Section 9.1(2.1) and (3)).

### Name Restrictions

A TPA will not be allowed to register if its proposed name or abbreviation of the name:

- resembles the name of a registered TPA, candidate, political party or political organization active in Alberta and which is likely to cause confusion; or
- resembles the name of a political party or TPA that was cancelled or changed since the last general election.

(EFCDA Section 9.1(4)).

### Eligibility

A TPA may be a person, corporation, or group. However, the following are not eligible to be registered:

- a corporation that does not carry on business in Alberta;
- a person not ordinarily resident in Alberta;
- a trade union or employee organization that does not meet the definition outlined in the EFCDA;
- a group with ANY member belonging to one of the above;
- a registered charity; or
- a prohibited corporation.

(EFCDA Section 9.1(5)).

### Registration Acceptance / Refusal

After reviewing the TPA application, notification by Elections Alberta will be provided to the person(s) who signed the application as to whether the application has been accepted or refused. If refused, the reason(s) will be provided. (EFCDA Section 9.1(6)).

### Changes in Registration

Within 30 days of any change in registration information, the TPA must notify Elections Alberta of the changes in writing by mail, fax or electronic mail. (EFCDA Section 9.1(7)).

### Request for Information

Elections Alberta may inquire into or conduct periodic investigations of the financial affairs and records of a TPA in relation to election advertising. If Elections Alberta provides a written request, the TPA must respond within 30 days or within a time period as determined by Elections Alberta. (EFCDA Sections 4(1) and 5(2)).

### Cancellation of Registration

Elections Alberta may cancel the registration of a TPA if:

- the TPA requests cancellation in writing;
- the TPA fails to file an Election Advertising Report;
- the TPA is no longer qualified to be registered; or
- the TPA obtained registration by providing false information in its application.

(EFCDA Sections 10(1), 10(4.1) and 10(5)).

Elections Alberta must provide notification of cancellation of registration by recorded mail including the reason(s) for cancellation. Cancellation is effective on and after the 3<sup>rd</sup> day following the date of mailing the notice. (EFCDA Section 10(6)).

### Cancellation Appeal Process

The TPA may request Elections Alberta to review the cancellation by providing a written request to Elections Alberta within 30 days of receiving notice of cancellation.

Within 48 hours of receiving the TPA's written request, Elections Alberta must give the TPA an opportunity to make representations. Following Elections Alberta's review of a cancellation, written notification will be provided to the TPA advising of Elections Alberta's decision to withdraw or confirm the cancellation. (EFCDA Sections 10(7), (8) and (9)).

### Use of Funds after Cancellation

Upon cancellation of a TPA, all funds in the TPA election advertising account, other than those required to pay for third party election advertising liabilities already incurred, must be dispersed in one or more of the following ways:

- transfer funds to another TPA advertising account;
- donate funds to a registered charity;
- return funds to the TPA's contributors, if they can be identified; or
- if any portion cannot be dealt with in the options listed above, pay that portion into the General Revenue Fund of the Province of Alberta.

The TPA must advise Elections Alberta of the manner in which funds will be dispersed.

An Election Advertising Report is required to be filed with Elections Alberta on or before March 31 of each year until the dispersal of all funds has been reported. (EFCDA Section 44.92).

## **CHIEF FINANCIAL OFFICER DUTIES FOR ELECTION ADVERTISING**

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A Chief Financial Officer (CFO) must be in place in order for a TPA to incur expenses and/or accept contributions. Many of the provisions of the EFCDA and most of the contents of this guide apply directly to the activities of the CFO. Committing to the position is something that should be done by an individual that has read and accepted the duties set out in the EFCDA. In addition, the individual must confirm his or her eligibility to act in the position, in accordance with Section 29(4) of the EFCDA. Elections Alberta is available to assist CFOs with their responsibilities through guides and one-on-one assistance as requested. CFOs are encouraged to contact Elections Alberta with any questions or concerns.

### **Appointing a Chief Financial Officer**

The EFCDA requires that a CFO be appointed on each application for registration. Should it be necessary to appoint a replacement, the principal officers of the TPA must advise Elections Alberta in writing of the name, address and telephone number of the newly appointed CFO within 30 days of the change. (EFCDA Sections 9.1(2.1) and 9.1(7)).

### **Compliance**

The CFO must ensure that all contributions comply with the EFCDA and that ineligible contributions are not accepted.

If the CFO learns that contribution was made that did not comply with the EFCDA, he or she must notify Elections Alberta, in writing, within 30 days. (EFCDA Sections 44.2(6) and 44.51(3)).

### **Retention of Records**

The CFO of a TPA must retain all of the financial records for a period of 3 years following the date Election Advertising Reports are required to be filed with Elections Alberta. Elections Alberta may request to review the financial affairs and records of the TPA. (EFCDA Section 10.1).

## **ELECTION ADVERTISING**

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### **Definition of Election Advertising**

“Election Advertising” means advertising during an election advertising period that promotes or opposes a registered party or a registered candidate, including advertising that takes a position on an issue with which a registered party or registered candidate is associated.

All means of transmission of a message to the public are election advertising, with the following exceptions:

- an editorial, a debate, a speech, an interview, a column, a letter, a commentary, or news;
- the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election;
- the transmission of a document, or the communication, directly by a corporation or a group to its members, employees, or shareholders;
- the transmission by a person, corporation, or group of the political views of that person, corporation or group on a non-commercial basis on the internet;
- telephone calls to electors for the sole purpose of encouraging them to vote; and
- advertising by the Government in any form.

(EFDA Section 44.1(d)).

Election advertising includes (1) canvassing for the benefit of a registered party or candidate, and/or (2) organizing events where a significant purpose is to promote or oppose a registered party or candidate. The significant purpose of an event will be determined based on the extent to which.

- It is reasonable to conclude the event was planned to coincide with an election;
- Marketing materials for the event are similar in format or branding to marketing materials used by a registered party or candidate;
- An election, registered party or candidate is referred to directly or indirectly in promotional materials for the event, or at the event;
- Political messages conveyed at the event are associated with a registered party or candidate; and
- The event is consistent with previous events held by the same third party.

(EFDA Sections 41.1(1)(d), and 44.1(1.1)- 44.1(1.2))

### Definition of Election Advertising Period

The “election advertising period” is defined by the EFCDA as follows:

- **In the case of a general election held within the fixed election period under the *Election Act*:** Dec. 1 until the end of polling day
- **In all other instances:** From the issue of a writ for the election until the end of polling day.

(EFCDA Section 44.1(1)(d1))

### Examples of Election Advertising

The timing of advertising in relation to an election advertising period will determine whether the advertising and related reporting fall under requirements for election advertising or political advertising, as illustrated by the following two examples.

*Example 1:* A TPA incurs an expense for the use of a billboard containing a political message that appears solely within the election advertising period. The total cost of this expense, and the contributors providing the funding, must be reported as election advertising.

*Example 2:* A TPA incurs an expense for the purchase of signs containing a political message which appear outside of the election advertising period. This expense is not reported as election advertising. This is political advertising, and the TPA must register separately as a Political TPA to engage in this type of activity.

### Identification of TPAs in Election Advertising

The TPA, or a person acting on the TPA’s behalf, must ensure that election advertising sponsored by the TPA complies with the EFCDA and the guidelines set out by Elections Alberta. Guidelines established by Elections Alberta are published on the Elections Alberta website.

Most importantly, **all** election advertising, regardless of the delivery method used, must:

- clearly disclose the name and contact information of the TPA sponsoring the advertisement; and
- indicate that the TPA authorizes the advertisement.

In this regard, for election advertising that is:

- broadcast or is made through electronic media, including by telephone or fax, the disclosure referred to above must be stated at the **beginning** of the advertisement; and
- transmitted by telephone, whether in the form of a live call or an automated pre-recorded call:
  - the telephone number of the TPA must be capable of being displayed on the call display of called parties who subscribe to call display, and must not be blocked from being displayed; and
  - the telephone number of the TPA at which the TPA can be contacted must be stated at the end of the election advertising.

Where an advertisement is not in compliance with the EFCDA, Elections Alberta may direct that it be removed or discontinued. (EFCDA Section 44.8).

## **CONTRIBUTIONS**

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### **Definition of Advertising Contribution**

“Advertising Contribution” means any

- money provided to or for the benefit of a third party, or
- real property, goods or services, or the use of real property, goods or services, provided to or for the benefit of a third party,

without compensation from that third party, for the purpose of election advertising, whether given before or after the third party becomes registered under section 9.1. (EFCDA Section 44.1(1)(b)).

Any funds accepted by a TPA that are used for election advertising are deemed to be contributions under the EFCDA, regardless if they are accepted during or outside the election advertising period.

### **Contribution Limits**

No TPA shall, directly or indirectly, accept or solicit an election advertising contribution if the TPA knows, or ought to know, that the person, organization or group is not eligible to contribute to the TPA. (EFCDA Section 44.5).

### **Public Disclosure of Contributions**

Election Advertising Reports, including the financial statements and list of contributors who contributed over \$250 in the aggregate, are public information and disclosed both on the Elections Alberta website and in the public files (located at Elections Alberta). The website discloses contributor names and total amounts contributed; the public files also disclose contributor addresses. (EFCDA Section 11).

### **Deposit of Contributions**

All money contributions accepted by or on behalf of a TPA, any contribution other than money that is converted into money, and other revenue accruing to the TPA, must be paid into the election advertising account on record with Elections Alberta. The advertising account must be used for all payments of election advertising expenses and all transfers to other TPAs. A TPA may open and operate only one election advertising account. (EFCDA Sections 44.22 and 44.7).

### **Anonymous and Unauthorized Contributions**

Anonymous contributions in excess of \$50 and any contribution in contravention of the EFCDA are ineligible contributions and must not be used or expended. It is the responsibility of the TPA to return ineligible contributions to the contributor. However, if the identity of the contributor cannot be established, Elections Alberta must be notified and the contribution must be paid over for deposit into the General Revenue Fund of the Province of Alberta.

No TPA shall knowingly accept a contribution that is not the contributor’s own funds. (EFCDA Sections 44.5 and 44.51)

### Rules for Groups, Trade Unions, and Employee Organizations

“Group” means an unincorporated group of persons or corporations acting in consort for a common purpose and includes a trade union and an employee organization or any combination of persons, corporations, trade unions or employee organizations. (EFCDA Section 44.1(f)).

A contribution that is made from funds collected from the members of a group, trade union, or employee organization may be attributed to its members only if:

- funds were paid by its members on a voluntary basis;
- it was made explicit that the funds being collected were for election advertising; and
- the names of the members who made the payments, and the amount they each paid, are recorded by the group and, if applicable, provided to the TPA.

Groups, other than trade unions or employee organizations, may make contributions only if they meet the preceding conditions, and the group must attribute the actual amount of contributions to its individual members.

In the case of a trade union or an employee organization, if the preceding conditions are not met, then the contribution is deemed to be a contribution made by the trade union or employee organization and cannot be attributed to its members. (EFCDA Section 44.3).

### Valuing Contributions Other Than Money

Real property, goods or services, or the use of real property, goods or services, provided to a TPA for the purposes of election advertising, without compensation, is deemed an advertising contribution by the EFCDA. These valued contributions qualify for official contribution receipts.

When real property, goods or services, or the use of real property, goods or services, are contributed to a TPA for less than the market value at that time, the amount by which the market value exceeds the amount paid is a contribution. It is the CFO’s responsibility to assess the appropriate market value at that time. (EFCDA Section 44.31)

Some common examples of real property, goods or services, or the use of real property, goods or services, are:

- a computer or furniture
- signage / pamphlets / buttons
- the use of a car
- the use of a venue to hold a meeting or to use as an office
- creating written resources and advertisements
- telephone canvassing

Services do not include volunteer labour provided by a person, as long as that person does not receive compensation or paid time off from their employer (or any other person).

### Fund-Raising Functions

A fund-raising function includes any event held for the purpose of raising funds for a TPA, either by the TPA or on behalf of the TPA. Third parties are prohibited from incurring expenses for fundraising in support of political parties, candidates, nomination contestants, or leadership contestants. (EFCDA Section 41.41)

If a fund-raising function is held by the sale of tickets or otherwise, the contribution portion, if any, of the amount paid to the fund-raiser is to be determined under either clause (a) or under clause (b) of Section 44.32(3) of the EFCDA. The method chosen is at the option of the TPA.

(a) If the individual charge is:

- **\$50 or less:** it is not considered a contribution unless the person who pays the charge specifically requests that it be so considered, in which case 50% of the amount shall be allowed for expenses and 50% is considered to be a contribution,
- **more than \$50 but not more than \$100:** \$25 is allowed for expenses and the balance is considered to be contribution, and
- **more than \$100:** 25% of the amount is allowed for expenses and the balance is considered to be a contribution;

(b) The amount of the contribution is the difference between the price of the ticket and the market value of what the ticket entitles the bearer to obtain.

The table on the following page shows selected fund-raising events and how to determine the contribution portion.

<b>Fund-raiser</b>	<b>Ticket Price</b>	<b>Contribution Portion</b>	<b>Expense Portion</b>	<b>Section Reference</b>	<b>Explanatory Note</b>
Luncheon	\$35	\$0	\$35	44.32(3)(a)(i)	The CFO opts to follow clause (a). The ticket cost is under \$50 so no Official Contribution Receipt is issued.
Luncheon	\$35	\$17.50	\$17.50	44.32(3)(a)(i)	The CFO opts to follow clause (a). The ticket buyer asks for a receipt, in this case the ticket price is split 50/50 and an Official Contribution Receipt is issued to the buyer for \$17.50.
Dinner	\$75	\$50	\$25	44.32(3)(a)(ii)	The CFO opts to follow clause (a). The ticket cost is more than \$50 but less than \$100. Thus the expense portion is deemed to be \$25; therefore, an Official Contribution Receipt must be issued to the buyer for \$50.
Golf Tournament	\$200	\$150	\$50	44.32(3)(a)(iii)	The CFO opts to follow clause (a). The ticket cost is more than \$100 so 25% is deemed to be an expense. Thus the expense portion is deemed to be \$50; therefore, an Official Contribution Receipt must be issued to the buyer for \$150.
Golf Tournament	\$400	\$100	\$300	44.32(3)(b)	The CFO opts to follow clause (b). The expense portion has been established to be \$300 (market value); therefore, an Official Contribution Receipt is issued to the buyer for \$100.

If the fund-raising function uses some other means of raising funds other than selling tickets (e.g. silent auctions), the price paid in excess of the market value for goods or services received is considered to be a contribution.

The gross income of the fund-raiser, minus the contribution portion determined by either clause (a) or (b) above, must be recorded as revenue from fund-raising functions on the TPA's Election Advertising Report. The CFO should keep a separate record of the event showing the date of the function, the number of people who attended, the number of tickets sold and the amount of the admission charged.

The following examples explain how to report the revenue and contributions from fund-raising activities, specifically silent auctions.

### Example 1

A self-employed contractor, Mr. Doe, agrees to provide handyman services to a silent auction fund-raising event. Mr. Doe advises in writing that the fair market value (FMV) of his services is \$200 based on his current professional fee structure. The CFO verifies the fee reflects FMV.

The donor of the service, Mr. Doe, is eligible for a contribution receipt because services are eligible as a contribution under the EFCDA. Mr. Doe will receive a valued contribution receipt for \$200 from the CFO.

The purchaser of the service (i.e. the successful bidder at the silent auction), pays the bid amount to the TPA; and

- if the bid was for \$200 (the FMV) or less, no contribution receipt is issued to the bidder, or
- if the bid was for more than \$200 (e.g. \$275), then the excess (e.g. \$75) would be the appropriate amount for a money contribution receipt as per Section 44.32(4).

Please note that Section 44.32(4) of the EFCDA applies only to a person acquiring a service through a fund-raising function. It does not apply to the donor of the service.

### Example 2

A decorative crystal vase is donated to a silent auction fund-raising function. The vase along with the donor's purchase receipt for \$60 is given to the TPA's CFO. Again the CFO is responsible to determine the FMV of the vase, which can easily be done using the submitted receipt.

The donor of the vase will receive a valued contribution receipt for \$60 from the CFO.

The purchaser of the vase (i.e. the successful bidder at the silent auction), pays the bid amount to the TPA; and

- if the bid was for \$60 (the FMV) or less, no contribution receipt is issued to the bidder, or
- if the bid was for more than \$60 (e.g. \$75), then the excess over FMV (e.g. \$15) would be the amount of the contribution and no receipt would be required to be issued because it is less than \$50, unless specifically requested by the purchaser that it be considered a contribution or that purchaser's aggregated contributions to the TPA exceed \$50.

### Example 3

A used solid oak kitchen table and 6 chairs in excellent condition are donated to the fund-raising event. The CFO must determine the FMV for the furniture. One option is for the CFO to contact local used furniture stores. Alternatively, the CFO may check on internet sites for the asking price of similar furniture. The CFO must be able to provide a reasonable rationale and supporting documentation for the determined FMV should this information be requested by Elections Alberta.

Assuming the CFO determines the FMV to be \$1,000, the donor of the furniture will receive a Valued Contribution Receipt in the amount of \$1,000 from the CFO.

The purchaser of the furniture (i.e. the successful bidder at the silent auction), pays the bid amount to the TPA; and

- if the bid was for \$1,000 (the FMV) or less, no contribution receipt is issued to the bidder, or
- if the bid was for \$1,500, then the excess of the FMV (e.g. \$500) would be the appropriate amount for a Money Contribution Receipt as per Section 44.32(4).

Should a questionable situation arise, the CFO should contact Elections Alberta in a timely manner to resolve the risk of a potential over-contribution and its associated impact for the contributor and the TPA.

### General Collections

When money is given at a meeting held for a TPA, in response to a general collection of money solicited from the persons in attendance at the meeting, individual amounts given of \$50 or less are not considered a contribution but the aggregate gross amount collected shall be recorded. (EFDA Section 44.33(1)).

### Loans from Financial Institutions

A TPA may borrow money only from a financial institution other than a treasury branch. The details of the loan must be recorded by the CFO and reported to Elections Alberta on the TPA's Election Advertising Report.

Loan payments made by others on behalf of TPAs are considered contributions. All contribution restrictions apply. A contribution receipt must be issued unless the TPA repays the full amount of the loan payments made on its behalf prior to the TPA's filing of the Election Advertising Report for the period. (EFDA Section 44.4).

### Continuing Use of the Election Advertising Account

Any surplus funds held by a TPA in its election advertising account at the end of an election advertising period must be held in the advertising account to be expended for election advertising during a subsequent election advertising period.

If a TPA decides not to expend the funds for election advertising during the next election advertising period, or does not advertise during the next election advertising period, the TPA must deal with the surplus within 6 months in one or more of the following ways:

- transfer the surplus to its own political advertising account;
- transfer the surplus to the political advertising or election advertising accounts of other TPAs;
- donate the surplus to a registered charity;
- return the surplus to the TPA's contributors if they can be identified; or
- if any portion of it cannot be dealt with in any of the ways listed above, pay that portion into the General Revenue Fund of the Province of Alberta.

The TPA must advise Elections Alberta of its decision(s) regarding the funds, and must file an Election Advertising Report with Elections Alberta on or before March 31 of each year until the dispersal of all funds has been reported. (EFDA Section 44.92).

## **ELECTION ADVERTISING EXPENSES**

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### **Definition of “Advertising Expense” and “Expense”**

Advertising Expense means an expense incurred in relation to:

- the production of an election advertising message in the format in which the message is to be transmitted; and
- the acquisition of the means of transmission to the public of an election advertising message.

“Expenses” means:

- Amounts paid;
- Liabilities incurred;
- The market value of real property, goods, services that are donated or provided; and
- Amounts that represent the difference between the amount paid (or liability incurred) for real property, goods and services and their market value – if they are provided at less than their market value.

All election advertising expenses must be paid from the TPA’s applicable advertising account. Every election advertising expense incurred by or on behalf of a registered TPA must be authorized by its CFO. (EFCD *Sections 44.1(1), 44.1(2) and 44.7*).

### **Election Advertising Spending Limit**

The following spending limits apply for election advertising.

In the case of a general election held in accordance with the fixed election period under the *Election Act*, election advertising expenses are limited as follows.

- No third party shall spend more than \$150,000 in aggregate between December 1 in the year before the election, and the day before the writ is issued. During the same period, no third party shall spend over \$3,000 to promote or oppose the election of one more registered candidates in a single electoral division.
- No third party shall spend more than \$150,000 in aggregate between the day the writ is issued and the end of polling day. During the same period, no third party shall spend over \$3,000 to promote or oppose the election of one more registered candidates in a single electoral division.

For general elections not held in accordance with the fixed election period under the *Election Act*, election advertising expenses are limited to \$150,000 in aggregate between the day the writ is issued and the end of polling day. During the same period, no third party shall spend over \$3,000 to promote or oppose the election of one more registered candidates in a single electoral division.

Promoting or opposing a candidate within a single electoral division includes the following:

- Naming that candidate;
- Showing the candidate's likeness;
- Identifying the candidate by political affiliation; and/or
- Taking a position on an issue with which that candidate is particularly associated.

A TPA may not incur more than **\$3,000** in total for a by-election

The CFO of the TPA is required to report all election advertising expenses to Elections Alberta. (EFCDA Section 44.11).

### Prohibited Expenses

Third parties are prohibited from incurring expenses for the following activities in support of political parties, candidates, nomination contestants, or leadership contestants:

- Selling party memberships;
- Fundraising;
- Collecting, compiling and sharing information about electors or potential electors; and
- Administrative activities that would otherwise be carried out by political parties, candidates, nomination contestants, or leadership contestants.

(EFCDA Section 41.41).

Third parties are prohibited from colluding with political parties, candidates, nomination contestants, or leadership contestants to circumvent expense and contribution limits.

(EFCDA Section 41.42 and 44.11).

### Transfer of Funds from an Election Advertising Account

Subject to limitations of the EFCDA, a TPA may transfer:

- Funds from its election advertising account to the election advertising accounts of other TPAs;
- From its election advertising account to its political advertising account; and
- From its election advertising account to the political advertising accounts of other TPAs.

Any amounts transferred are not considered as advertising contributions, but the source and amount must be recorded.

Funds held in a TPA's political advertising account are not permitted to be transferred to the TPA's election advertising account, if such an account exists; or to the election advertising account of another TPA. (EFCDA Section 44.7).

## **OFFICIAL CONTRIBUTION RECEIPTS**

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Official contribution receipts are issued to contributors by TPAs to comply with the EFCDA. The blank, pre-numbered forms are available from Elections Alberta and their use must be accounted for by the CFO of the TPA. It is the CFO's responsibility to prepare official contribution receipts in the form and manner approved by Elections Alberta in accordance with Section 44.6 of the EFCDA.

Although official contribution receipts are not eligible for Alberta income tax credits, due diligence must still be exercised to ensure receipts are fully and properly completed.

### **Control of Contribution Receipts**

Blank official contribution receipts available from Elections Alberta are sequentially numbered, and printed in triplicate for distribution as follows:

1. **Contributor Copy** – for the record of the contributor only.
2. **Chief Electoral Officer Copy** – shall be attached to the applicable Election Advertising Report.
3. **Chief Financial Officer Copy** – shall be retained for a period of three years following the date on which the applicable Election Advertising Report is required to be filed with Elections Alberta.

Each CFO must acknowledge they have received all official contribution receipts from Elections Alberta. The CFO is accountable for all official contribution receipts and is expected to store the receipts in a secure location and maintain proper records.

CFOs may issue replacement receipts to contributors who have lost or misplaced their originals or where the receipt has been spoiled as follows:

- A replacement receipt must be cross referenced to the serial number of the spoiled or misplaced receipt by:
  - clearly marking the replacement receipt "*Duplicate, Replacing Receipt Number xxx*" and attaching the Contributor's copy to the financial statement
  - clearly marking the lost, misplaced or spoiled receipt with "*Cancelled – See New Receipt Number zzz*" and attaching all available copies to the financial statement
- Any receipts written in error shall be clearly marked with "*Cancelled - Not Replaced*", all available copies attached to the financial statement.

### **Official Contribution Receipt Preparation and Procedures**

Only the CFO whose name is on file with Elections Alberta may issue official contribution receipts for contributions received. The CFO must deposit all contributions (cash and/or cheques) in the election advertising account on record with Elections Alberta.

When one or more contributions are made during a contribution reporting period, the CFO may issue one contribution receipt for the filing time period to cover all contributions received from the same individual. When contributions are aggregated, the "Amount Received" block will show the total of all contributions which were received.

The CFO of each TPA shall complete the appropriate official contribution receipt for contributions received, by indicating:

- contribution reporting period (weekly or annually for election advertising, quarterly or annually for political advertising);
- received from (individual, corporation, trade union or employee organization);
- contribution type (money or valued; never both combined on the same receipt);
- for contributions received during an election advertising period, the end date of that election advertising period;
- date the contribution was received;
- date the receipt was issued;
- full name and address of the contributor (only one contributor per receipt);
- the amount of the contribution – a dollar sign “\$” must be placed in the box immediately preceding the first digit of the amount, whether the contribution is money (e.g. cash, cheque) or a valued contribution (e.g. real property or goods or the use of real property or goods);
- name of the registered TPA; and
- name of the CFO (printed) and the signature of the CFO.

The CFO must print or type his/her name and sign the receipt in the spaces provided. With the advance approval of Elections Alberta, a digital signature on contribution receipts will be accepted.

Contribution receipts must not be issued jointly. The CFO must determine the amount that each person contributed and issue individual receipts accordingly. For example, receipts should not be issued to Mr. and Mrs. Smith, nor to John and Mary Smith. Instead, John Smith and Mary Smith should each receive a separate receipt showing the amount that each contributed.

## **ELECTION ADVERTISING REPORTS**

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TPAs that engage in election advertising are required to file comprehensive Election Advertising Reports that account for all contributions and other revenues raised and all expenses incurred during the reporting period.

The CFO of a TPA is responsible for filing two types of reports, as follows.

### **Weekly Election Advertising Contribution Disclosure Reports**

Weekly Election Advertising Contribution Disclosure reports are required, providing details of all contributions received during each week of the election advertising period (EFCDA *Section 44.81*). The name and address of each contributor who made advertising contributions totalling more than \$250 in the aggregate will be publicly disclosed.

### **Election Advertising Reports**

An Election Advertising Report, consisting of a financial statement, in the form approved by Elections Alberta, and a number of disclosures and required attachments, is due within 6 months after polling day. (EFCDA *Section 44*).

Election Advertising Reports must be filed even if a TPA has not incurred election advertising expenses during the period covered by the report. (EFCDA *Section 44.9(4)*).

The purpose of an Election Advertising Report is to disclose:

- all revenues raised and expenses incurred in relation to election advertising;
- the time and place of all broadcasts or publications of the advertisements to which the election advertising expenses relate, showing the amount that pertains to each;
- all revenues raised and expenses incurred during for the purpose of supporting or undertaking election advertising, including an election advertising spending limit report;
- accounting for the assets and liabilities of the TPA and, if applicable, the disposition of any surplus or deficit from the TPA's election advertising period report.
- the Chief Electoral Officer's copies of all contribution receipts issued;
- reconciliation of contribution receipts (requested, used, voided and returned);
- all copies of contribution receipts issued in error or for which valid receipts were re-issued;
- a list of contributors who in aggregate have contributed more than \$250, including the names and addresses of the contributors and the total aggregate amount each contributed;
- for web posting purposes, a second copy of the list of contributors who in aggregate have contributed more than \$250, showing only the names of the contributors and the total aggregate amount each contributed;
- if possible, an Excel spreadsheet file containing all contributor-related data to facilitate rapid up-loading of contributor information to the Elections Alberta website;
- a detailed listing of all transfers to and from other registered TPAs;

- terms and details of loans from financial institutions; and
- a bank statement confirming the cash on deposit as at the last day of the reporting period (polling day or December 31).

An audited Election Advertising Report is required if election advertising expenses of the TPA are \$100,000 or more in any reporting period. (EFCDA *Section 44.91*).

While an Election Advertising Report would normally only cover activities that occur during the election advertising period, two exceptions may arise:

- a TPA may have begun raising revenues and/or incurring election advertising expenses during that portion of the calendar year preceding the election advertising period; and/or
- a TPA may have continued raising revenues and incurring election advertising expenses after the election advertising period.

When this occurs, the TPA must annually file additional Election Advertising Reports capturing all revenues raised and election advertising expenses incurred outside (i.e. before and after) the election advertising period. All election advertising expenses must be reported, whether incurred inside or outside the election advertising period.

### *Filing Procedures and Bookkeeping Tips*

Election Advertising Reports required by the EFCDA are to be prepared and signed by the CFO, and co-signed by another principal officer of the TPA. All records, books of account and supporting documents are to be retained for a period of three years from the date the Election Advertising Report is required to be filed with Elections Alberta.

CFO's must ensure that:

- all revenue and expenses are recorded and reported on the Election Advertising Report;
- a petty cash fund is set up to handle minor expenses that are normally paid in cash (all invoices and major purchases should be paid by cheque);
- a reconciliation of accounts is conducted periodically to maintain an accurate balance;
- copies of all bank deposit slips are retained;
- bank statements are obtained and are reconciled with the record of deposits and withdrawals;
- contribution receipts, when required, are prepared and issued in a timely manner;
- all supporting documents are filed in sequence by date or by other acceptable filing methods; and
- all books of account and supporting documents are securely stored for three years and can be readily made available for examination by the Chief Electoral Officer or his designated representative.

The CFO must, at the request of the Chief Electoral Officer, provide the original of any bill, voucher or receipt for an election advertising expense of more than \$50.

Recording financial data accurately and in a timely manner will simplify the CFO's responsibilities and will eliminate potential difficulties in preparing the Election Advertising Report at the end of the reporting period. (EFCDA Section 10.1).

### Filing of the Election Advertising Reports

Election Advertising Reports must be received by Elections Alberta no later than 4:30 p.m. on the filing deadline prescribed by the EFCDA and outlined below:

- The filing deadline for Election Advertising Reports pertaining only to the election advertising period is 6 months post polling day, and
- The filing deadline for Election Advertising Reports pertaining to any time period outside an election advertising period is March 31 for the preceding calendar year.

The Election Advertising Report must bear original signatures. **Faxed and emailed documents will not be accepted.**

### LATE FILING PENALTIES

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Failure to file a report with Elections Alberta by the filing deadline will result in an automatic \$500 late filing penalty and may be subject to further administrative penalties or prosecution. (EFCDA Section 44.93)

### ADVERTISING OFFENCES

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A TPA that contravenes Part 6.1 of the EFCDA is guilty of an offence and liable to a fine of up to \$10,000 if the TPA is an individual, and up to \$100,000 if the TPA is a trade union, employee organization, corporation or other organization.

A TPA will not circumvent or attempt to circumvent a limit set out in the EFCDA in any manner, including splitting itself into two or more TPAs. (EFCDA Sections 44.11(5) and 49.1).

## SECTION 3 – CONTACT INFORMATION

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### **Elections Alberta**

Suite 100, 11510 Kingsway NW Edmonton, AB T5G 2Y5

Telephone: (780) 427-7191

Toll free: 310-0000-780-427-7191 Fax: (780) 422-2900

Email: [info@elections.ab.ca](mailto:info@elections.ab.ca)

Public access to provincial legislation is also available through our website at: [www.elections.ab.ca](http://www.elections.ab.ca) by following the tab: Legislation.

Hard copies of provincial legislation may be obtained from the Queen's Printer bookstore at:

Queen's Printer Book Store

5<sup>th</sup> Floor, Park Plaza, 10611-98 Avenue

Edmonton, Alberta T5K 2P7

Telephone: (780) 427-4952 Fax: (780) 452-0668

Internet: [www.qp.alberta.ca](http://www.qp.alberta.ca)