

# Candidate's Reference Guide

THE ELECTION FINANCING ACT  
AND THE ELECTIONS ACT

## ABOUT THE REFERENCE GUIDE

Once an individual becomes a candidate for a provincial election there are many responsibilities that they have in addition to campaigning. These responsibilities often begin well before an election is called and extend even after election day. Although a candidate will spend most of their time campaigning and may delegate many tasks, they are still accountable for campaign decisions. Candidates must exercise due diligence and put a system of checks and balances in place to ensure compliance with the requirements of *The Election Financing Act* (the EFA) and *The Elections Act* (the EA).

Elections Manitoba works with campaigns to address unintentional instances of non-compliance and avoid serious consequences. Nevertheless, the consequences can be serious if legislative requirements are not followed. This guide will assist you in fulfilling your responsibilities with respect to the EFA and the EA.

## WHEN DOES A PERSON BECOME A CANDIDATE?

For the purposes of the EFA, a person becomes a candidate in an election when he or she:

- 1) Is nominated by a registered party or a constituency association of a registered party as its candidate in an electoral division for the next election and files Form 904, Notice of Nomination;
- 2) Files a declaration that they intend to be an independent candidate in the next election and files Form 905, Independent Candidate's Declaration of Candidacy; or
- 3) Is nominated as a candidate under the EA by filing Form 400, Nomination Paper, and having it accepted by the returning officer.

**Campaign period** – the period that begins on the day the election is called and ending two months after election day.

**Candidacy period** – the period that begins on the day a person becomes a candidate and ends two months after election day or, if the candidate withdraws, on the day of the withdrawal.

**Election period** – the period that begins on the day the writ of election is issued and ends on election day. In the case of a fixed date election, the election period is set at 29 days. In the case of any other election, the election period is at least 29 days but not more than 35 days.

**Election day** – the day on which voting takes place for the election at the voting stations. This is the last day of the election period.

## A CANDIDATE'S OFFICIAL AGENT

All candidates must appoint an official agent [EFA s.22(1), EA s.55]. The official agent is responsible for the financial matters of a candidate's campaign including maintaining a financial account, keeping financial records, issuing income tax receipts (for registered candidates), paying expenses, and filing an audited financial statement.

An official agent has several specific responsibilities to ensure that a candidate's campaign complies with the EFA. It is important, therefore, that everyone associated with the campaign be committed to keeping the official agent informed of decisions that have a financial impact on the campaign. All campaign payments should be made through the official agent. The official agent must be aware of all campaign financial transactions and will need to be involved before, during, and after an election.

## A CANDIDATE'S AUDITOR

All candidates must appoint an auditor [EFA s.28(2)]. A qualified auditor is a Chartered Professional Accountant (CPA) in good standing. It is important to note that some accounting governing bodies may not permit some members to engage in public practice (i.e. to conduct an audit) even though the members may be in good standing.

An auditor's role is to conduct an audit of Form 922, Candidate's Financial Statements and Supporting Schedules, in accordance with Generally Accepted Auditing Standards and to provide a written opinion on the candidate's campaign. The opinion must be filed with Elections Manitoba along with Form 922. Auditors add value to the electoral process by providing independence, objectivity and credibility in financial reporting. The auditor enhances the reliability of a candidate's financial statement, which is publicly reported, and improves compliance with the EFA. The auditor's opinion does not certify that all matters conform to legislative requirements.

Under the EFA, an auditor receives a public subsidy for the value of audit services provided, up to \$1,500. Note that an auditor could receive less than the maximum amount. Once Form 922 has been filed, the auditor submits a bill to Elections Manitoba for services provided.

**CANDIDATE'S RESPONSIBILITIES BEFORE THE ELECTION PERIOD** (i.e. before writ day)

- A person who becomes a candidate under the EFA before an election is called has 15 days to file Form 907, Notice of Intent to Appoint Official Agent, with Elections Manitoba [EFA s.22(1)]. Even if the candidate files Form 907, they must still provide all requested information for the official agent in their nomination papers (Form 400), filed with the returning officer during an election period.
- A candidate must appoint a qualified auditor and file Form 908, Notice of Appointment of Auditor for a Candidate, with Elections Manitoba. Notification of an auditor's appointment is not due until the time of filing Form 400; however, it is **strongly recommended** that an auditor be appointed as soon as possible. An early appointment allows for consultation and assistance in structuring record keeping and is likely to result in a more efficient audit of a candidate's financial statements after the election [EFA s.28(2)].
- Advise the official agent to attend at least one Elections Manitoba training session, offered before, during and after an election period. The official agent should also carefully review compliance assistance materials provided by Elections Manitoba, and contact Elections Manitoba if there are questions.
- A candidate who has not yet appointed an official agent must open an account in a financial institution and keep books and records for all financial transactions. After appointing an official agent, the candidate turns over all books and records to the person appointed. Every monetary transaction the campaign makes must go through the financial institution account.
- Ensure that everyone associated with the candidate's campaign is aware of the official agent's legal role and the need to advise the official agent of all decisions and activities that have a financial impact on the campaign. This includes all financial transactions. Further, anyone who collects contributions or incurs expenses on behalf of the campaign is required to provide information about these collections or expenses to the official agent. If an individual fails to provide the information to the official agent, they would be considered to have committed a general offence. All campaign payments should be made through the official agent [EFA s.99(3), 99(7)].
- All advertising and promotional material must be authorized by the official agent and a statement of the official agent's authorization must appear with the advertising or promotional material. This is required during both election and non-election periods [EFA s.61].

**CANDIDATE'S RESPONSIBILITIES DURING THE ELECTION PERIOD** (writ day to election day)

- The candidate must ensure that the returning officer has the campaign's contact information (i.e. name, phone number, fax number, and address of the campaign office and a campaign contact person).
- The candidate must ensure that valid nomination papers (Form 400) are received by the returning officer before 1:00 pm on nomination day (i.e. the Monday that is 22 days before election day in the case of a fixed date election or the Monday that is 15 days before election day in the case of any other election). Some key points to remember about completing Form 400 [EA s.55]:
  - Both the candidate and the official agent must complete and sign part 1.
  - There must be at least 50 names in part 2 (65-75 names recommended).
  - All names in part 2 must be eligible voters living within the electoral division.
- Once the nomination papers are accepted, the returning officer will provide a candidate or an official agent with Form 412, Appointment of a Scrutineer. Every scrutineer must have a completed Form 412 signed by either the candidate or the official agent [EA s.114 (1)]. Scrutineers are trained on the rules governing their conduct at the voting stations.
- Signs, posters and campaigning are not permitted within 50 metres of a voting place. The candidate must ensure that all signage within that radius is removed before a voting day [EA s.124(1)], keeping in mind that the returning office is a voting place as soon as the nominations are official.
- The candidate must ensure that Form 908 (Notice of Appointment of Auditor for a Candidate) is filed with Elections Manitoba by the time of filing nomination papers [EFA s.28(2)].
- The candidate must advise everyone associated with the campaign of the official agent's legal role and the need to notify the official agent about all decisions and activities that have a financial impact on the campaign. This includes all financial transactions. Further, anyone who collects contributions or incurs expenses on behalf of the campaign is required to provide information about these collections or expenses to the official agent. If an individual fails to provide an official agent with information requested by the agent, then the individual would be considered to have committed a general offence. All campaign payments should be made through the official agent [EFA s.99(3), 99(7)].

- Candidates must register with Elections Manitoba in order to issue income tax receipts for contributions to their campaign. Note that registration is different from nomination. Candidates cannot register until they have filed their nomination papers (Form 400) and had them accepted. To register, the candidate must file Form 911, Application for Registration, with the returning officer or Elections Manitoba and show their certificate of acceptance. Form 911 may also be filed with Elections Manitoba before the end of the candidacy period. Candidates may not register to issue tax receipts after the end of the candidacy period [EFA s.19].

#### **AFTER THE ELECTION PERIOD** (after election day)

- The candidate must confirm that the official agent will file the financial statement (Form 922) within four months of election day. The responsibility for filing falls to the candidate if the official agent does not file by the deadline [EFA s.63, s.68(1)].
- The candidate may be called upon to authorize the payment of a claim for an expense related to the campaign or file any required return if the official agent is unwilling or unable to do so [EFA s.55(3)].
- If there is a campaign deficit at the end of a year, it becomes the responsibility of the candidate to report the balance to Elections Manitoba by January 30 of the following year until the deficit has been eliminated [EFA s.63(3)]. This report is made by filing Form 925, Candidate's Outstanding Liabilities and Loan Status.
- Where a loan of \$250 or more to a candidate remains outstanding at the end of a year, the candidate must report the balance to Elections Manitoba by January 30 of the following year by filing Form 925 [EFA s.63(3)]. The loan agreement does not have to be filed again.
- The candidate must retain the books and records upon which his or her financial statement (Form 922) is based for a period of at least five year [EFA s.72(1)].

## CONTACTING ELECTIONS MANITOBA

### GENERAL INQUIRIES:

Elections Manitoba  
120 – 200 Vaughan Street  
Winnipeg MB R3C 1T5

Telephone: 204-945-3225  
Toll Free in Manitoba: 1-800-628-6837  
Fax: 204-945-6011

General Email Address: [election@elections.mb.ca](mailto:election@elections.mb.ca)  
Website: [www.elections.mb.ca](http://www.elections.mb.ca)

### INQUIRIES ON THE ELECTION FINANCING ACT:

Email: [finance@elections.mb.ca](mailto:finance@elections.mb.ca)

### INQUIRIES ON THE ELECTIONS ACT:

Email: [operations@elections.mb.ca](mailto:operations@elections.mb.ca)

Candidates, official agents, financial officers, and others are **strongly encouraged** to contact Elections Manitoba as often as necessary in order to understand the requirements of the legislation.

#### **Please Note:**

This guide references some of the important concepts with respect to the role and responsibilities of candidates.

The guide should be read in conjunction with *The Election Financing Act* and *The Elections Act*, the pieces of legislation that set the rules for the financing and conduct of provincial elections in Manitoba. In the event of a conflict or inconsistency between the guide and the legislation, the legislation prevails.

In some cases, the guide provides only general information, which may or may not be useful for a particular circumstance. Readers are strongly advised to request an interpretation where clarification is needed. Requests should be in writing and should include sufficient details in order that a specific response may be provided.