

# Leadership Contest Legislative Reference Guide For Official Agents

*The Election Financing Act*

**Legislative references in this guideline are to The Election Financing Act (EFA) unless otherwise stated**

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# Table of Contents

<b>About The Guide</b> .....	1
<b>Leadership Contest Basic Provisions</b> .....	2
Caveat – Leadership Reviews versus Leadership Contests .....	2
Basic Provisions of the EFA Related to Leadership Contests .....	3
<b>Checklists</b> .....	4
Checklist # 1: Considerations Before Appointment.....	4
Checklist # 2: Immediately Upon Appointment.....	5
Checklist # 3: Getting Ready For The Leadership Contest .....	6
Checklist # 4: During The Leadership Contest Period.....	7
Checklist # 5: After The Leadership Vote .....	8
<b>EFA - Terms and Concepts</b> .....	9
I. The Official Agent .....	9
II. Time Periods .....	12
III. Maintaining a Financial Account.....	13
IV. Record Keeping .....	15
V. The Auditor .....	17
VI. Income .....	18
VII. Loans .....	35
VIII. Expenses .....	37
IX. Advertising and Promotional Materials .....	40
X. Inventory.....	41
XI. Capital Assets.....	42
XII. REPORTING .....	43
XIII. Advisory Opinions.....	49
XIV. Consequences and Penalties.....	50
XV. Compliance Assistance Program .....	51
<b>Appendix A – Contributions and Limits Clarification</b> .....	52
<b>Appendix B - Form 947 Leadership Contestant’s Financial Statements and Supporting Schedules</b> ....	57
<b>Appendix C – Leadership Reviews and Contests</b> .....	61
<b>Appendix D – Sample Memorandum</b> .....	62
<b>Contacting Elections Manitoba</b> .....	63



# About The Guide

This guide is intended to assist you as you progress through all the stages of your role as an Official Agent. While the Guide will help to simplify and explain some of the more difficult concepts of *The Election Financing Act* (EFA), it is meant to provide you with far more than merely a legislative reference or interpretation manual for the EFA. The *Official Agent's Guide* has been written with the help of information received from interviews conducted with experienced official agents.

## Checklists:

Checklists have been provided that breakdown the responsibilities of an official agent into manageable time periods. These checklists will help you to identify what is expected and required of you at each phase of the campaign. It is not necessary that you understand every aspect and detail of your role at the outset of the campaign. However, it is important that you are familiar with your responsibilities during each particular period.

## EFA terms and concepts:

The majority of the content of this guide consists of reference material on specific concepts and requirements of the EFA. Depending on your existing level of knowledge and experience as an official agent and the relevance of specific concepts to your candidate's campaign, you may not need to read every section of this manual in depth. However, it is strongly recommended that you review each section to identify any concepts which may be unfamiliar to you.

## Appendices:

The appendices provide information that is more selective than the reference material. In other words, the extent to which you look at the appendices depends on your individual skills and comfort level with the tasks that you are expected to perform as an official agent. Some may find the appendices very helpful, whereas some may not need this additional information. Appendices are referred to directly from the reference material.

**Please note:** The Official Agent's Guide is a summary of, but does not take precedence over *The Election Financing Act*. This guide should be read in conjunction with the Act.

# Leadership Contest Basic Provisions

## **Caveat – Leadership Reviews versus Leadership Contests**

A periodic leadership review, where the leader of a political party is required by the constitution of the party to stand for re-election, is not automatically considered to be a leadership contest in the context of *The Election Financing Act*. Where the leadership of a political party is reviewed and is confirmed or unopposed then no leadership contest results and it follows that the requirements under *The Election Financing Act* concerning leadership contests do not arise.

A leadership review may, on the other hand, result in a leadership contest where the leader is challenged and a vote is required to determine the leadership of the party from among two or more individuals. In these cases it generally follows that the leadership provisions of *The Election Financing Act* apply.

While the above situations suggest a very clear cut distinction can be made between leadership reviews and leadership contests, there are situations that have occurred in which a review occurs simultaneously with a contest. Given the uniqueness of this situation, a description of the responsibilities of leadership contestants and financial officers has not been included in the body of this guide. However, this information is provided in Appendix C of *Leadership Contest Legislative Reference Guide for Official Agents*.

## Basic Provisions of the EFA Related to Leadership Contests

The financial officer of a registered party is required to notify Elections Manitoba:

- When a leadership contest takes place (Form 941) [s.21(3)]; and
- Of any leadership contestants (Form 942) [s.21(3)].

The term *leadership contestant* refers to any person seeking the leadership of a registered party at a leadership contest. Upon becoming a leadership contestant, the individual is required to immediately:

- Appoint an official agent and notify Elections Manitoba (Form 944) [s.24(1)]; and
- Appoint an auditor and notify Elections Manitoba (Form 945) [s.28(2)].

Additional requirements of the EFA related to leadership contestants:

- Maximum contributions during the leadership contest period to any combination of leadership contestants is \$3,000, and only individuals normally resident in Manitoba can contribute [s.34(2)].
- This contribution limit is separate and in addition to the \$3,000 annual contribution limit applicable to registered parties, candidates, constituency associations, and a leadership contestant if the contribution is made after the leadership contest period ends [s.34(1)];
- No contributions can be made or accepted and no expenses can be incurred before the registered party officially announces the contest [s.35(6)];
- No tax receipts can be issued for contributions to contestants [s.39(4)];
- Within thirty days after the contest period, each contestant's official agent must file an audited statement of receipts/income, disbursements, and assets and liabilities, as well as a statement of contributions received [s.65];
- The "leadership contest period" is from the date of the call of a leadership contest until two (2) months after the date of the leadership vote [s.115];
- Advertising expenses of a leadership contest, whether incurred by a contestant or by the party, are not included in the party's annual advertising limit for the year of a fixed date election [s.60(1)];
- Registered parties, constituency associations, and candidates cannot transfer money, property or services to leadership contestants [s.40];
- A leadership contestant who has a surplus at the end of the contest must transfer the surplus funds to the registered party. Aside from this isolated exception, contestants **cannot** make transfers to registered parties, constituency associations, candidates or other contestants [s.42(2)];
- A contestant with a deficit at the end of the contest must continue to report annually contributions and other income used to reduce the deficit [s.65(3)]; and
- There is an audit fee subsidy up to a maximum of \$1,500 which will be paid by Elections Manitoba when the audited statements are filed (the audit fee invoice should be directed to Elections Manitoba; payment is GST exempt) [s.30(d)].

# Checklists

## Checklist # 1: Considerations Before Appointment

If you have been approached to serve as the official agent for a leadership contestant, before making your decision, consider the following:

- Whether or not you are eligible to be official agent.
- Whether or not you will be able to handle the role and responsibilities of an official agent. (Consider contacting Elections Manitoba if you have questions about the responsibilities of an official agent.) Elections Manitoba also offers information seminars (some by teleconference) in most areas of the province on how to perform the duties of this position.
- Whether or not you will be able to commit the time required to fulfill the responsibilities of this position. (While it is normally a volunteer position, it is a significant one and requires time before, during, and after a leadership contest.)
- Whether or not you understand and accept that there may be consequences for you and/or the leadership contestant if the job is not done as required.
- Whether or not you have the leadership contestant's commitment that you will have timely and appropriate access to and disclosure of all financial matters of the contestant required under *The Election Financing Act* (EFA).

## Checklist # 2: Immediately Upon Appointment

The following must be done within days of becoming an official agent:

- Sign and date Form 944 *Notice of Appointment of Official Agent of a Leadership Contestant* which gives your consent to act in this capacity. Your leadership contestant will provide this form to you.
- Open an account in a financial institution immediately in the name of the leadership contestant. At its inception, the account must have a zero balance. All money received (deposits) and disbursed (cheques and other withdrawals) must go through this account. Remember, there can be no financial transactions prior to a leadership contest period.
- Remind the leadership contestant to appoint an auditor (Form 945) if one has not been appointed. An auditor must be appointed and notice filed immediately upon becoming a leadership contestant.
- At a minimum, learn and understand the terms and concepts from the EFA related to leadership contests. This material is technical, but essential. Contact Elections Manitoba if you require further assistance.
- Review *Accounting Guide – Accounting For Purposes of The Election Financing Act* so that you know what is in it. This is more of a reference to look things up if you are not sure how to record something. Contact Elections Manitoba or your auditor if you need additional help.
- Meet with the campaign auditor to discuss the auditor's role, your role in the audit, planning of the audit, and key reporting dates.
- Review a blank Form 947 *Leadership Contestant's Financial Statements and Supporting Schedules*.
- Set up a record keeping system.
- File any loan agreements with Elections Manitoba immediately after the loan is made.

### **Checklist # 3: Getting Ready For The Leadership Contest**

Do the following before the contest begins (if the contest has already begun, do these things immediately):

- Meet with the leadership contestant and campaign team and remind them of the financial requirements:
  - Only the official agent (or someone designated by the official agent) may make a payment for a leadership contest expense.
  - Contributions to leadership contestants are limited by source and amount. This is especially important for those who are receiving contributions on behalf of the contestant's campaign.
  - Tax receipts cannot be issued.
  - The official agent must be informed of all financial transactions and campaign decisions having a financial implication.
  - The official agent must authorize all signs, advertisements and promotional material that will be used during the leadership contest period. A statement of the authorization must also be displayed or communicated.
- Finalize your recordkeeping system and how you will track money received and paid, and property and services that are received and used during the contest period (non-monetary contributions). Understanding what is on Form 947 is necessary to do this step.
- File any loan agreements with Elections Manitoba immediately after the loan is made.

## Checklist # 4: During The Leadership Contest Period

The following has to be done during the leadership contest period:

- Remind the leadership contestant and campaign workers about prohibited contributions (i.e. to not solicit or accept them);

**Reminders:**

- *Prohibited contributions cannot be accepted; and*
- *You must return any prohibited contributions that are accepted even if you only learned they were prohibited after the fact.*

- Keep your books and records up-to-date;

**Suggestion:** *Spend time on this regularly (weekly or even daily); the job will be much easier at the end if you take the time now.*

- Make sure all advertising and promotional material has been authorized by you during the leadership contest period;
- Call Elections Manitoba if you need help.

## Checklist # 5: After The Leadership Vote

- Continue recording income received and expenses incurred for the leadership contest until the end of the leadership contest period, being two months after the leadership vote;
- Collect all outstanding invoices and, where possible, pay them;
- Confirm with the auditor the day that you will be providing the completed Form 947 (the financial statement that has to be sent to Elections Manitoba) and the books and records for examination;
- Finalize Form 947 and the Leadership Contestant's Detailed Contributors' List (Form 948);
- Make copies of all expense invoices for filing with Form 947;
- Give the completed Form 947, along with your books and records, to your auditor and meet to answer any questions;
- File with Elections Manitoba within 30 days of the end of the leadership contest period the following:
  - a completed and signed Form 947;
  - the Auditor's Report and invoice;
  - loan agreement copies (if any exist that were not filed when the loan was created);
  - invoices and vouchers that support the expense amounts on the form;
  - any clarifying explanations for items reported on Form 947, and
  - a completed and signed Leadership Contestant's Detailed Contributors' List.
- Respond to questions from Elections Manitoba no later than 30 days after a request;
- Pay the campaign surplus (if any) to the financial officer of your registered party;
- Turn over the campaign financial books and records to the leadership contestant who must keep them for at least 5 years from the date that Form 947 was filed;
- At the end of each year following the review of Form 947, the leadership contestant will have to complete Form 949 if there are outstanding liabilities and/or an outstanding loan balance. The contestant may ask for the official agent's assistance in completing the form. Elections Manitoba will advise the contestant concerning the filing requirement.

# EFA - Terms and Concepts

## I. The Official Agent

### A. Who is an “Official Agent” and what does he or she do?

Every leadership contestant is required to appoint an official agent [s.24(1)]. An official agent is normally a volunteer and is responsible for the finances of a contestant’s leadership campaign. Specific **responsibilities** are as follows [s.25]:

- Opening and maintaining a bank account for the contestant;
- Ensuring that records are kept of all income, expenses, assets, and liabilities of the contestant;
- Making sure that detailed records are kept of contributions received;
- Paying all expenses of the contestant from the bank account [s.27];
- Authorizing advertisements and promotional material [s.61];
- Preparing the financial statement for the contestant (Form 947), getting it audited, filing it with Elections Manitoba on time [s.65];
- Filing the Leadership Contestant’s Detailed Contributors’ List [s.65];
- At the end of the contest, paying the surplus (if one exists) to the financial officer of the party [s.42(2)].
- Providing information to Elections Manitoba if requested [s.67].

If your leadership contestant has received money or incurred expenses before you were appointed, the contestant shall maintain sufficient records until your appointment. Your contestant will turn all books and records over to you at this time [s.72(3)].

If your contestant withdraws during the contest, your responsibilities continue. You are still responsible for filing the financial statement (Form 947) for the contestant with Elections Manitoba [s.65(2)]. In addition, if a surplus exists at the time of withdrawal, you must pay it to the financial officer of the party [s.42(2)].

## **B. Are You eligible to be an official agent?**

There are no restrictions on who may be an official agent unless you are a leadership contestant, candidate, or an auditor of a contestant, candidate, or party [s.24(3), 28(3)]. There is no formal training required to serve effectively as an official agent and there are no specific qualifications. However, given the responsibilities of the position, you would probably find it beneficial to have:

- Some basic accounting or bookkeeping skills and the ability to understand a simple financial statement (or have access to someone who does);
- Organizational and communication skills; and
- Most importantly, a desire to do the job correctly.

As an official agent, you will need to have a solid grasp on your responsibilities and role early in the contest process. Your work in this position is critical to ensuring that the requirements of the EFA are met.

A final consideration in determining whether you can effectively perform the role of an official agent is to consider the time requirements. You must have the necessary time available before, during, and after the leadership contest to complete all of the requirements (as there may be penalties or other consequences for you and/or the contestant for failing to do so).

With the above in mind, it is important to note that the vast majority of leadership contests are not overly demanding from the perspective of volume of activity.

## **C. Complete Form 944**

Immediately upon becoming a leadership contestant, an official agent must be appointed [s.24(1)]. To do this, the leadership contestant must file Form 944 (*Notice of Appointment of Official Agent of a Leadership Contestant*) with Elections Manitoba. The official agent must sign and date Form 944 indicating acceptance of the position.

## **D. What else should an official agent know?**

As an official agent, you will need to learn some of the basic concepts and requirements of the EFA. There are three avenues available to help you work towards this end:

- Reading and understanding the concepts discussed in this guide;
- Attending a leadership contest information seminar put on by Elections Manitoba (approximately 2 hours); and
- Consultation with Elections Manitoba (available by phone, by email, and in person).

## **E. Compliance with the Act**

You, the leadership contestant, and other officers of the contestant all play a major role in ensuring that the campaign and all related activities comply with the requirements of the *EFA*. However, you may encounter or discover instances where the activities are not in compliance with the Act. If reasonable attempts to correct the non-compliance are not successful, you should report all such instances to Elections Manitoba. Should the matter not be satisfactorily resolved, you should use judgment to determine whether resignation is appropriate or necessary.

## **F. Requirements of others related to your role**

As an official agent, your ability to have access to all pertinent information about the contributions to and expenses of your contestant's campaign is critical. In order to ensure that this is possible, the Act states that if at any time, you (or the contestant) provide an individual with a written request for a record or information related to a contribution that the individual collected or expense that the individual incurred or approved related to the leadership contestant, that individual is required to provide the requested information [s.99(7)]. If the individual fails to do so, then he or she would be guilty of an offence.

### **Keys to performing your role effectively:**

- 1) Maintain an account in a financial institution.
- 2) Create records (and maintain documentation) for all transactions.
- 3) Communicate with your contestant openly and regularly.
- 4) Attend all campaign meetings.
- 5) Communicate with other contest campaign workers.
- 6) *Be Proactive* - establish spending guidelines and other procedures early.
- 7) Contact Elections Manitoba promptly if you have any questions or require clarification.

## II. Time Periods

It is essential to understand the time periods in the *EFA* relating to leadership contests in order to keep records, report and conduct activities in accordance with the Act. For example, contributions cannot be received prior to the leadership contest period [s.35(6)]. Thus, it is critical that both you and the contestant's auditor know when these periods begin and end.

### A. Time Period Definitions

The following periods are defined under the *EFA* [s.1]:

**Year** – the calendar year.

**Leadership Contest Period** – means the period starting when a leadership contest is officially called, as set out in a statement filed by a registered party under section 21(3), and ending two months after the day the leadership is determined or, if the contestant withdraws, on the day of the withdrawal.

*Note: If the period end falls on a holiday, the next business day marks the end of the leadership contest period.*

All income and expenses of a leadership contestant in the leadership contest period must be reported and **no transactions may take place prior to the official start of the contest (income or expense transactions)** [s.99(4)].

### B. Filing Deadline

You have a responsibility to complete Form 947 (*Leadership Contestant's Financial Statements and Supporting Schedules*), have it audited, and sent to Elections Manitoba. Form 947 reports on all income and all expenses in the leadership contest period. The form will also ask for assets and liabilities of the contest *as of the last day* of the leadership contest period. See *Accounting Guide – Accounting For Purposes of The EFA*, Section 300, "Assets and Liabilities" for more technical information on what an asset and liability is.

Form 947 has to be completed, audited, and sent in to Elections Manitoba **no later than 30 days after the end of the leadership contest period** [s.65(1)].

### III. Maintaining a Financial Account

One of the first and most important tasks is to open an account in a financial institution. It should be opened immediately after a person becomes a contestant.

#### A. What does The Election Financing Act require?

As an official agent, under the EFA, you are required to:

- Open and maintain an account in a financial institution in the name of the contestant [s.23(a)].
- Ensure that all monetary receipts and disbursements of the contestant's campaign flow through the account before, during and after an election [s.27];
- Ensure that each disbursement is substantiated by an invoice or a voucher [s.27];
- Ensure that only money pertaining to the leadership contestant is deposited into the account [s.27].

**"Financial Institution" means:**

- (a) A bank;
- (b) A credit union;
- (c) A trust company or loan company authorized under the law to accept money for deposit and carrying deposit insurance in accordance with the Canada Deposit Insurance Corporation Act

#### B. Why is it important for all transactions to go through the account?

It is essential that all money received and spent goes through one account for the following reasons:

- It helps you to stay on top of the "financial position" of the campaign. At all points of the campaign you should know:
  - How much money is available to be spent;
  - How much money has already been spent; and
  - The nature of the existing expenditures.
- You will be able to report more confidently during the contest for amounts spent and received.
- It will allow for a more efficient audit and may mean that Elections Manitoba needs less time to complete the review of the contestant's financial statement (where applicable).

### C. What will the financial institution require?

To open an account the financial institution will normally need to know or have the following:

- **The type of account needed:** The account must be a business account or a not-for-profit or community account. Do not open a personal account. An account must return all cancelled cheques (copies of the front and back of every cheque are acceptable) and statements that show what went through the account.
- **Information about yourself:** You may be asked to provide additional personal and financial information which may include your date of birth, social insurance number, occupation, home and business addresses and phone numbers. You may also be asked for authorization to complete a credit bureau check.
- **Evidence that it is a third party account:** Be prepared to provide evidence that you are opening an account for a third party (i.e. for your contestant). This would include the name, address and phone number of the third party. You may be asked to provide a letter from the third party confirming your appointment as the financial agent.
- **Account name:** Assuming that the official agent is John Smith and the contestant is Jane Doe, some suggested names for the account would be:
  - Jane Doe, Leadership Contestant Account;
  - John Smith, Official Agent for the Jane Doe Leadership Contest;
  - John Smith, Official Agent for Jane Doe.
- **Signing authority:** The institution will want to know who will be able to sign cheques against the account, so consider this beforehand. You must have control of the account.
- **Personal identification:** The financial institution will need to obtain and record personal identification from each signing officer on the account. If the signing officer is new to the financial institution two pieces of identification may be required. If a signing officer has a valid account or credit card from the financial institution one additional piece of information may be sufficient. Acceptable identification includes:
  - A valid driver's license issued in Canada;
  - A passport issued in Canada;
  - A birth certificate issued in Canada;
  - A Social Insurance Number (SIN) card issued by the Government of Canada;
  - Any similar official document or card issued by a federal, provincial or state government;

**Note:** For financial control and accountability purposes it is recommended that the account require two signatures and that one of the signatures must always be that of the official agent.

## IV. Record Keeping

Record keeping refers to the recording of every transaction in a manner that is:

- Accurate;
- Organized; and
- Timely.

### A. What is a transaction?

Your job is to record transactions. A transaction has occurred every time:

- the contestant receives money, goods or services,
- the contestant spends money or incurs a liability,
- the contestant uses property or services

### B. Accurate Recording

Accurate recording means making sure that you track every transaction and that none are missed. There are rules that have to be followed for every transaction that you record. The rules are set out by the *EFA* and are clarified in this Guide.

### C. Organization

You will want to track the transactions in a way that does not take a lot of your time and that you can easily understand. There are many ways of doing this and the system you use does not have to be much more involved than what you might use for your own chequing account. You could choose to record transactions using a manual system (i.e. recording them in a book) or an electronic system (i.e. using a computer). The best method for you to use is whatever method you find to be the most comfortable.

### D. Timeliness

The sooner you record a transaction after it has happened, the greater the likelihood that it will be properly recorded. Taking a little bit of time each week to update your books and records is a good idea and helps to keep you on top of things. **Waiting to record everything at the end of the leadership contest period is not advisable and is strongly discouraged.**

## **E. The contest ends...but keep recording!**

The leadership contest period does not end until two months after the date of the leadership vote. There may not be much activity following the leadership contest vote, nevertheless, keep recording income and expenses as they occur until the end of the leadership contest period. Within this period, you should try to get all of your expenses and income cut-off as soon as you can because you'll have to complete your Form 947 and have the auditor examine it fairly quickly in order to meet the filing deadline (which is 30 days after the end of the leadership contest period) [s.65(1)].

## **F. What other things should I know?**

The basis of every good record keeping system is that every monetary transaction goes through the financial institution account. This is required under the EFA and it makes it easier for you to record. If a transaction goes through the account, then there is a record of it on your bank statement, and on your cheque or deposit slip.

However, if the transaction involves a non-monetary contribution or expense, then this transaction cannot go through the account and so you will have to make sure that you have prepared a way to accurately and reliably track these transactions.

## V. The Auditor

Every leadership contestant must appoint an auditor. The auditor examines Form 947, Form 948, and the books and records that you keep for your contestant's campaign and then provides a report on the examination. The auditor reviews the financial statements that you have prepared and then expresses an opinion regarding whether or not your statements have been prepared in accordance with the EFA. .

You should contact the auditor and set up a meeting in order to find out what is expected of you, and when items will be needed from you in order to meet the required deadlines. Have the auditor explain his or her role so that matters are as clear as possible. The auditor will have a good understanding of accounting, bookkeeping systems, and the *EFA*, and is a great resource for you to get information.

When it comes time for the auditor's examination of Form 947 you should contact your auditor and confirm the date that you will have the form available. Let the auditor know immediately if you cannot meet the deadline and work out an alternate plan. Send the form and the books and records that support it, to your auditor for examination.

**Remember:** It is the **auditor's job** to express and opinion regarding whether the form presents fairly the financial results and position of the contest. It is **not** the auditor's job to correct the form.

### A. Auditor Payments

The maximum amount paid to auditors by the Province of Manitoba for the audit of a leadership contestant's statements required to be filed under the Act is as follows:

- 1) To audit a candidate's election financial statement under s.30(d) - \$1,500 or such lesser sum as deemed reasonable by the Chief Electoral Officer.

The Province will pay an auditor (up to the maximum permitted plus PST) for the value of services provided and billed. An auditor could receive less than the maximum amount. Auditors will be paid after submitting a bill for the full amount of audit services provided and after a statement has been filed if the audit meets the requirements of the Act. No payment will be considered until the required financial statement (including an auditor's report) and an auditor's invoice have been submitted to Elections Manitoba. Audit fees above the maximum amounts paid by the Province are the responsibility of the contestant (as the case may be).

## VI. Income

The types of income that normally arise during a campaign are:

- Contributions (both monetary and non-monetary);
- Transfers;
- Fundraising; and
- Sale of Merchandise;

All monetary income must be deposited into the financial account of the candidate's campaign and all disbursements must be supported by an invoice or voucher as proof of payment [s.27].

### A. Contributions

It is essential to have a good understanding of contributions so that you can effectively track and record them in detail. **Tax receipts cannot be issued for contributions to leadership contestants** [s.39(4)].

The following are contributions when provided to a recipient or for a recipient's benefit (s. 32(1)):

- Money provided without compensation (**monetary contribution**).
- Property or services provided free of charge or at less than market value (**non-monetary contribution**).

Examples of contributions include (s.32(3)):

1. Fees paid for membership in a political party.
2. Fees paid to attend a political party conference or convention, including a leadership conventions, that exceed the reasonable expenses of the conference or convention
3. An amount determined to be a contribution under section 32(6) (fundraising events)
4. An amount determined to be a contribution under subsection 32(7) (selling items)
5. The value of services provided free of charge by a self-employed individual who normally charges for them.
6. Money, property or services that a candidate or leadership contestant provides in support of his or her own election campaign.
7. An amount determined to be a contribution in relation to a loan under section 45.

**A person who is or intends to become a leadership contestant may not receive contributions before the beginning of the leadership contest period [s.35(6)].**

There are two types of contributions: monetary and non-monetary.

## **A.1. Monetary Contributions**

A monetary contribution is any money paid to a leadership contestant that is:

- For the benefit of the contestant;
- Provided without return compensation to the contributor (i.e. the contributor receives nothing in exchange for the cash); and
- Not a loan or transfer.

Monetary contributions include contributions in the form of money, cheque, credit card payment or other similar instrument.

## **A.2. Non-monetary Contributions**

A non-monetary contribution is the provision of property or services provided free of charge or at less than market value to or for the benefit of a recipient. There is no compensation to the contributor, and the transaction is not a loan or a transfer.

A non-monetary contribution **includes**:

- A service provided by a self-employed individual if the service is normally sold or otherwise charged for by that individual.

A non-monetary contribution **excludes**:

- A service provided without compensation by an individual outside the individual's working hours (i.e. volunteer labour), other than a service of a self-employed individual as described above; and
- The services of any person who serves without compensation as an auditor, official agent, or legal counsel for a leadership contestant.

Examples of non-monetary contributions are:

- An individual providing newspaper advertising to a leadership contest at no charge;
- An individual providing signs or pamphlets without charge.

### A.2.1. Value of Non-monetary Contributions

The value of a non-monetary contribution is the market value of the property or services at the time the contribution was made [s.32(2)].

Market value is defined as the lowest price generally charged by the supplier for an equivalent amount of the same property or services at or about the time and in the market area in which the property or services are supplied [s.115]. Where a non-monetary contribution is the service of a self-employed individual, the value of the contribution is the regular fee or amount that the self-employed individual would charge.

**Example:** *John D. is running as a contestant in the leadership contest of XYZ Party. When John was trying to rent office space for his campaign headquarters at the beginning of his campaign, the landlord of the office that he wanted offered to give him the space for the entire leadership contest period (33 days) at no-charge. Normally, the landlord can rent the office space for \$1,000 every 30 days.*

*In this case, John's official agent would have to record that a non-monetary contribution has been received (because the office space is provided without a charge/compensation). The value of the contribution would be the cost of renting the office space under normal conditions (i.e. in this case the value would be \$1,000 for each month the space is used and pro-rated of \$1,000 for each partial month of use).*

<i>Value of donation - first 30 days: (<math>\\$1,000 \times 30/30</math>)</i>	<i>\$1,000</i>
<i>Value of donation - final 3 days: (<math>\\$1,000 \times 3/30</math>)</i>	<i>100</i>
<i>Total Non-monetary contribution (resulting from free rent)</i>	<i>\$1,100</i>

*Further, the same amount recorded as a non-monetary contribution would also have to be recorded as an election expense since the space was donated and used by the campaign during the contest period.*

It is important to note that if the office had been owned by a corporation rather than a sole-proprietor, this contribution would have violated the contribution limit provisions of the EFA as only individuals normally resident in Manitoba may contribute to a party, candidate, leadership contestant or constituency association [s.33].

### A.2.2. Discounted Non-monetary Contribution

If property or services are provided to a recipient at less than market value, the provider of the property or service is considered to have made a contribution equal to the difference between the market value and the amount charged [s.32(2)].

**Example:** *A self-employed individual provides computer services (with a regular market price of \$2,500) to a leadership contestant for \$1,000.*

*In this case, the individual has made a non-monetary contribution of \$1,500 ( $\$2,500 - \$1,000$ ). The \$1,500 must be recorded and reported as a contribution from the individual.*

It is important to note that if the contribution was from a corporation, it would be in violation of the contribution limit provisions of the EFA as only individuals normally resident

in Manitoba may contribute to a party, candidate, leadership contestant or constituency association [s.33].

### **A.2.3. Non-monetary Contributions of less than \$25**

Individuals normally resident in Manitoba (and only such individuals) may make two non-monetary contributions of less than \$25 in a year to a candidate, constituency association, registered party or leadership contestant without the contributions having to be recorded under the Act. A third such contribution by an individual in a year, regardless of value, must be reported [s.32(5)].

**Key Action to Remember:** You must keep track of the number of non-monetary contributions of less than \$25 made by an individual in a year so that you can determine when the threshold for not recording such donations has been reached.

### **A.2.4. Indirect Contributions**

Money, property or services provided indirectly by an individual, with no expectation of reimbursement, for the benefit of a contestant with the knowledge and consent of the contestant are non-monetary contributions. They would also be non-monetary expenses where utilized during the leadership contest period.

***Example:** The purchase of a newspaper advertisement by an individual on behalf of and with the knowledge and consent of a contestant is a contribution from the individual and an expense of the contest where the individual is not reimbursed for the expense [s.32(1)(a)]*

### **A.2.5. Leadership Contest Workers**

There are some recording issues (contributions and expenses) related to non-monetary contributions with respect to payments made to individuals working for a leadership contestant's campaign. Individuals may be paid by the campaign, paid by another person, or not paid at all. Each of these circumstances is reported differently and will be discussed later in this guide.

### **A.2.6. Forgiven or Unpaid Trade Payables**

Leadership contestants often arrange for property and services to be received from suppliers with the agreement that payment will be made at a later date. These trade accounts or trade payables sometimes do not get paid. This may result when there are not sufficient resources to provide payment.

In situations of non-payment, these transactions could be viewed as donations of property or services (i.e. non-monetary contributions) and therefore a prohibited contribution unless the property and services were supplied by an individual normally resident in Manitoba. Provided that the transactions were bona fide and at "arm's length", any unpaid accounts should not be considered non-monetary contributions, but should instead be considered and reported as a payable (liabilities still outstanding).

### A.3. Deemed contributions

Any loan that is uncollected may result in a deemed contribution. A deemed contribution could also result in a prohibited contribution when the lender is not an individual normally resident of Manitoba. For more information consult the loans section further in this document.

### A.4. Who Can Contribute

Only individuals normally resident in Manitoba may contribute to the following entities:

- A political party registered in Manitoba;
- Any provincial candidate;
- Any constituency association of a political party registered in Manitoba; and
- Leadership contestants.

Corporations, unions, trusts, federal political parties, federal riding associations and provincial political parties from other provinces are examples of organizations that are prohibited from making contributions. It should be noted that a contestant may contribute to his or her own campaign as long as the above requirements are met [s.32(3.7)].

The determination of whether an individual is considered to be **normally resident** in Manitoba involves the consideration of numerous factors called "residential ties". (It should be noted that that facts used to determine residency for electoral contribution purposes are the same factors used to determine residency for tax purposes). Below are three of the factors (*the Primary Residential Ties*) that may be taken into consideration by Elections Manitoba when determining whether an individual should be considered a resident.

- Dwelling place or places in Manitoba: If the individual owns or rents a residence in Manitoba where he or she lives, then this is typically sufficient for establishing residency.
- Spouse or Common-law partner: If the individual's spouse or common-law partner normally resides in Manitoba, then typically the individual would be considered a resident of Manitoba.
- Dependents: If the individual has children or other dependents that live in Manitoba, then typically the individual will be considered to live in Manitoba.

Other factors that may be considered include owning a Manitoba driver's license or Manitoba Health card. Residency is determined on a case by case basis through consideration of all of the relevant residency factors.

In general, if it can be determined that an individual contributor has a true, fixed, and permanent home and principal residence in the province, or can provide the above mentioned identification cards, then this is probably sufficient for the purposes of accepting contributions (as they likely satisfy the eligibility requirement).

It is important to note that the "normally resident" criterion applies to the point in time the contribution is made, not to the year in which the contribution is made. An individual can contribute in a year where he or she moves in or out of the province; however, at the time the contribution is made the individual must be normally resident in Manitoba.

## A.5. Collections of Contributions

If a contributor wants to make a contribution to a provincial candidate, leadership contestant, political party, or constituency association he or she can do so in two ways:

1. The individual can make the contribution directly to the political entity; or
2. The individual can give the contribution amount to another individual normally resident in Manitoba who is collecting contributions to be forwarded to the political entity at a later date.

It is critical to understand here that the only manner in which contributions can be collected aside from direct contributions is through collection by an individual who is normally resident in Manitoba.

**Note:** Non-resident individuals and organizations are not permitted to collect contributions on behalf of recipients [s.37(1)].

### A.5.1. Responsibilities of an Individual Collecting Contributions

When an individual decides to undertake the responsibility of collecting contributions for a leadership contestant or other political entity, there are two specific requirements that he or she must follow.

*Requirement 1 - Record keeping:* When collecting contributions, the collector is responsible for maintaining a contribution record which will include the following information about the contributors from whom the collector has received payments:

1. The name of the individual serving as the collector;
2. The name of the recipient;
3. The contributors name and residential address;
4. The amount or value contributed; and
5. The signature of all contributors providing cash in excess of \$100. [ss.37.2(1)]

*Requirement 2 - Forwarding Contributions:* If the collector is receiving cash contributions, then after collecting, must either forward the cash directly to the recipient or deposit the cash into his or her own bank account. In the latter case, the collector is required to immediately draft a cheque or money order on his or her account in the amount of the contributions collected, payable to the recipient. This cheque or money order needs to be forwarded to the recipient as soon as reasonably possible. Regardless of whether the contributions are forwarded as cash, cheque or money order, the contributions must be accompanied by the contribution record kept by the collector.

If the collector is receiving the contributions in the form of cheque or credit card payments, then these contributions must be collected already payable to the recipient, and must be forwarded to the recipient on a timely basis (i.e. as soon as reasonably possible). When forwarding the contributions, as with cash collections, the contributions must be accompanied by the detailed contribution records kept by the collector.

## **Key Things to Remember about Forwarding Collected Contributions:**

If an individual collects cash, he or she must:

- Forward cash directly to the recipient or deposit the amount in his or her own bank account and then make a cheque or money order payable to the recipient and forward it to the entity on a timely basis; and
- Forward a contribution record to the recipient at the same time. [s.37(3)]

If an individual collects cheques or credit card payments:

- Cheques and credit card payments must be made payable directly to the recipient;
- Contributions must be forwarded to the recipient on a timely basis; and
- Contribution records must be forwarded at the same time. [s.37(3)]

### **A.5.2. The Role of Professional Fundraisers**

S.37(1) permit professional fundraisers, event organizers, call centres, and other similar entities that are retained by the recipient for fundraising purposes to:

- Solicit contributions on behalf of the recipient; and
- Collect information from individuals who are interested in making contributions and forward this information to the recipient that retained the organization.

## A.6. Contribution Limits and Restrictions

The *Election Financing Act* limits contributions:

- Only individuals normally resident in Manitoba may contribute to a leadership contestant [s.33]
- The combined total of all contributions made by an individual to one or more leadership contestants may not exceed \$3,000 per leadership contest period (i.e. not \$3,000 to each leadership contestant) [s.34(2)]

***Please Note:*** This limit does not include contributions made to parties registered in Manitoba, provincial candidates, constituency associations of provincially registered parties, and persons contesting nominations of provincial constituency associations (deemed to be contributions to respective constituency associations).

- The combined total of all contributions made by an individual to all recipients (including contributions to leadership contestants after the leadership contest period ends) may not exceed \$3,000 per calendar year [s.34(1)]
- Individuals must use their own resources when contributing. A director of a corporation, for example, may not make a contribution using corporate funds, but may contribute using his or her own personal funds [s.35(3)];
- No person or organization is allowed to accept a contribution from an individual if the person or organization knows that the individual expects to be reimbursed or compensated for all or part of the contribution made [s.35(5)];
- No person or organization can provide (or offer to provide) reimbursement or compensation (either in part or in whole) to an individual for making a contribution [s.35(4)];
- Individuals cannot make contributions if in doing so they are expecting to be compensated or reimbursed by another person or organization for all or part of the value of the contribution [s.35(5)];
- No person may solicit or knowingly accept a prohibited contribution. Any contributions of this type must be returned. Further, if subsequent to receiving a contribution a person learns that the contribution was prohibited, then that contribution must be returned (even though it was not known to be prohibited at the time of receipt) [s.37(4) & s.38];
- There are penalties for making or knowingly accepting prohibited contributions [s.99(1)]
- Anonymous contributions of more than \$10 must not be used and must be returned [s.38] except for some non-monetary donations as outlined in s.32(5);
- Leadership contestants must disclose to Elections Manitoba the details of all contributions [s. 65(1.3)]

A contribution has not been made if a cheque is not honored on presentation (i.e. it has been returned marked "not sufficient funds" or "payment stopped" or something similar).

### **A.6.1. Use of Force or Intimidation**

One final note is necessary concerning a matter taken very seriously with regards to the contribution process. No one is permitted to directly or indirectly, use or even threaten to use force or violence, or threaten to inflict injury, damage, harm or loss, upon another person in order to get them to make (or to get them not to make) a contribution. Engaging in such behavior is considered a general offence [s.99(11)].

### **A.7. Reporting Contributions**

Reporting of contributions received is required for:

- a) Public disclosure; and
- b) Tracking individual contribution limits of \$3,000 (not public).

The *EFA* sets out specific, and differing, disclosure requirements for (a) and (b) above.

#### **A.7.1. Public Disclosure (Form 947)**

For every contributor who made one or more contributions in the leadership contest period to a contestant totaling \$250 or more (monetary and non-monetary), the following information must be disclosed for the period [s. 65(1.3)]:

- a) The name of the individual, and,
- b) The aggregate value of contributions received from that individual.

Information to be disclosed above is reported on a contestant's Form 947 and is available for public inspection.

#### **A.7.2. Tracking contribution limits (Detailed Contributors' List – Form 948)**

Leadership contestants must also disclose to Elections Manitoba information concerning all contributions (both monetary and non-monetary) received during a leadership contest period. Accordingly, records must be maintained for all contributions, and would include [s. 10(8)(c)]:

- a) A contributor's full name and middle initial (if any);
- b) The contributor's Manitoba residential address and postal code;
- c) The date of each contribution;
- d) The amount of the contribution (for a non-monetary contribution, documents supporting the valuation of the contribution should be maintained).

Although records must be kept for the above, for reporting purposes where one contributor has made several contributions in a calendar year the contributions may be aggregated as one contribution for the calendar year. Information on aggregate contributions of less than \$250 is not public and is only provided for Elections Manitoba to ensure compliance with the contribution limit provisions of the *EFA*.

## **A.8. Tax Receipts**

**Tax receipts may not be issued for contributions to leadership contestants. [s. 39(4)]**

## **A.9. Additional Information and Discussion of Contribution Concepts**

Appendix A provides additional clarification on many of the contribution topics discussed above including:

- a) Examples of contributions, non-contributions, and prohibited contributions
- b) Guidelines in determining when a contribution is made
- c) Identification of contributors
- d) Receiving a prohibited contribution

## **B. Transfers**

A “**transfer**” means a transfer of money, property or services among registered parties, candidates, constituency associations and leadership contestants without compensation from the entity or person receiving the transfer [s.115]

**Transfers to leadership contestants from any of the parties, constituency associations, and candidates and transfers from leadership contestants to any of the parties, constituency associations, and candidates are not permitted under the *EFA*** [s.40]. This excludes the transfer of a surplus to the financial officer of a political party at the end of a leadership contest, or where a leadership contestant withdraws from a leadership contest [s.42(2)].

Where property or services are provided to a leadership contestant by a registered party, constituency association, or candidate but are ultimately paid for by the contestant, then a transfer has not occurred. Rather, the expense to the receiver of the property or services (i.e. the leadership contestant) is treated in the same way as any other supplier expense.

## C. Fundraising Events

A “**fundraising event**” is a social function or other event held for the purpose of raising money for a registered party, candidate, leadership contestant, or constituency association [s.115].

***Examples:** Dinners, dances, luncheons, and raffles.*

Depending on the circumstances, a portion of a fundraising event’s income may be a contribution (and a portion may not be) which impacts on contribution limits.

The general rule for income generated from a fundraising event is that 75% of the ticket price or individual charge is deemed a contribution and 25% is fundraising income [s.32(6)]. The general rule is applicable in the following circumstances:

- The ticket price or individual charge is for an amount of \$25 or more; or
- The ticket price or individual charge is for an amount that is less than \$25, but multiple tickets totaling \$75 or more are purchased.

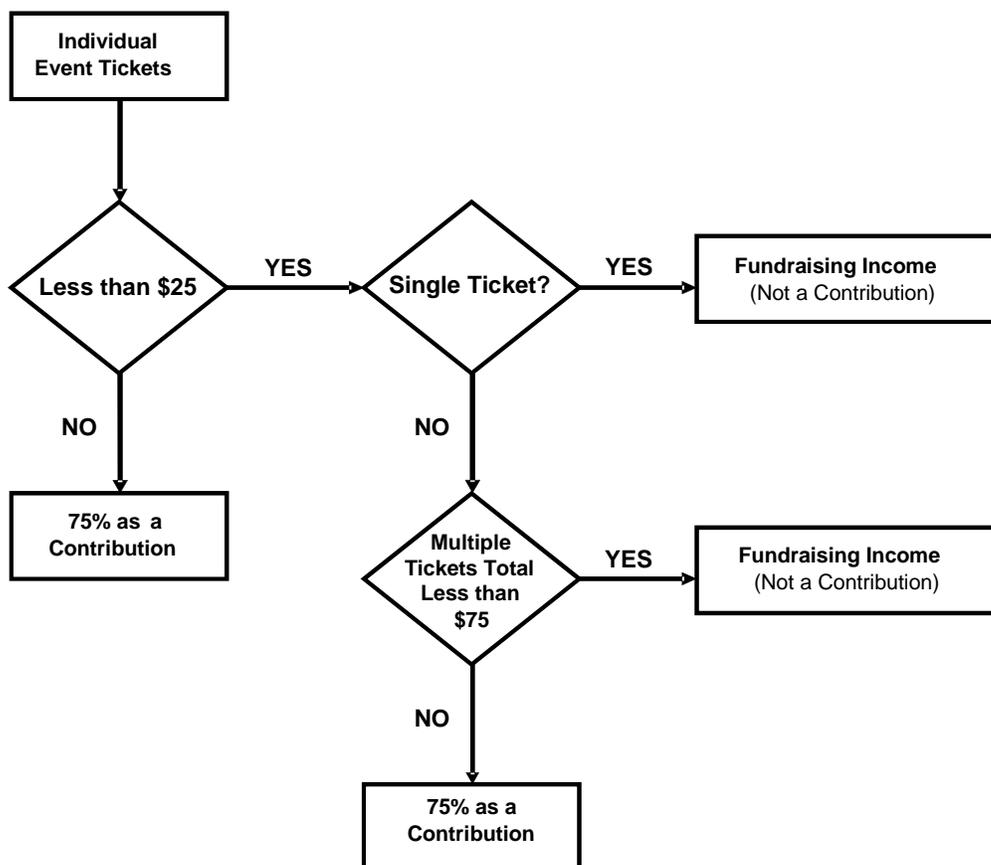
Where the ticket price or individual charge is less than \$25 or where multiple tickets, priced at less than \$25 each, purchased for a single fundraising event total less than \$75, all of the income reported is fundraising income [ss.32(6)] (i.e. **no portion is considered contribution income**). As a result, a prohibited contributor such as a corporation or union may purchase a single fundraising event ticket as long as it is less than \$25, or multiple tickets totaling less than \$75 (the individual ticket price must be less than \$25). The purchases would not be contributions under the Act and, therefore, there would be no requirement to record the contributors' information.

A prohibited contributor may not provide property or services (non-monetary contributions) for fundraising events, directly or indirectly, in any amount.

***Example:** A golf bag donated directly by a company or union to a contestant’s fundraising event or to an individual who subsequently provides it to the contestant’s fundraising event would be a violation of the EFA.*

When a fundraising event is held where raffle tickets are sold, it is considered that each activity is a separate and distinct fundraising event. Each of these events would be subject to the EFA requirements. The sale of liquor at a fundraising event, even though there is a separate ticket price, is not a fundraising event if the liquor price is controlled by the Manitoba Liquor Control Commission and it is required that tickets be used.

### C.1. Fundraising Event Income Classification Decision Tree



**Example 1:** During the leadership contest period, a contestant held a breakfast event (for the purpose of raising funds) for which tickets were sold for \$10. Fifty tickets were sold and it cost the contestant \$8 per person to put on the event. A company purchased 4 tickets for \$40; the remaining forty-six tickets were sold individually.

Since the ticket price was less than \$25, the forty-six individual tickets purchased would not result in contribution income. In addition, because the company purchased multiple tickets for an amount not exceeding \$75 and each ticket cost less than \$25 each, the company has not made a contribution and consequently, contribution income would not be recorded. Instead, the \$500 of income (\$10 x 50 tickets) would be recorded as fundraising event income.

The \$400 cost of the event (\$8 x 50 people) would be reported as an expense.

**Example 2:** *Two weeks before the leadership contest voting day, a dinner was held for a contestant for the purposes of raising funds. Two hundred individual tickets were sold for \$150 each. The total cost of the event was \$10,000.*

*Each individual who purchased a ticket made a contribution of \$112.50 ( $\$150 \times 75\%$ ) to the contestant. Contribution income would be reported in the amount of \$22,500 ( $\$112.50 \times 200$  tickets). Income in the amount of \$7,500 ( $\$150 \times 200$  tickets  $\times 25\%$ ) would be reported as fundraising income.*

*An expense would be recorded in the amount of \$10,000.*

## D. Sale of Merchandise

When an item is sold for the purposes of raising money for a leadership contestant it is necessary to determine how the resulting income should be classified. What is critically important is the extent to which a commercial sale may be considered a contribution. Any portion considered a contribution will impact:

- The contribution limits by source (only individuals); and
- The contribution limits by amount (maximum of \$3,000).

### D.1. Contributions from a Sale of Merchandise

When, for the purpose of raising money, an item is sold by or on behalf of a candidate, leadership contestant, constituency association or registered party, the amount by which the proceeds from the sale exceed the item's acquisition cost is a contribution [s.32(7)]. The acquisition cost of merchandise sold is determined as the greater of the actual cost of the item and the fair market value of the item (at the time it was acquired).

#### D.1.1. Sales of items with prices greater than or equal to \$25

When the selling price of the item or items sold exceeds \$25 there are two possible situations that may result:

- Selling price (SP) equals the Acquisition Cost (AQ) resulting in a sale with no net profit and thus no contribution income.

**SP = AQ → No contribution**

**Example:** Merchandise sold by a contestant at a price of \$350, where the market value cost to acquire the merchandise was also \$350, would **not** result in a contribution.

- Selling price is greater than Acquisition Cost resulting in net profit on the transaction and thus a contribution must be recorded.

**SP > AQ → Contribution**

**Example:** Merchandise sold at a price of \$350, where the cost to the contestant to acquire the merchandise is \$250, would result in a net profit (and a contribution) of \$100.

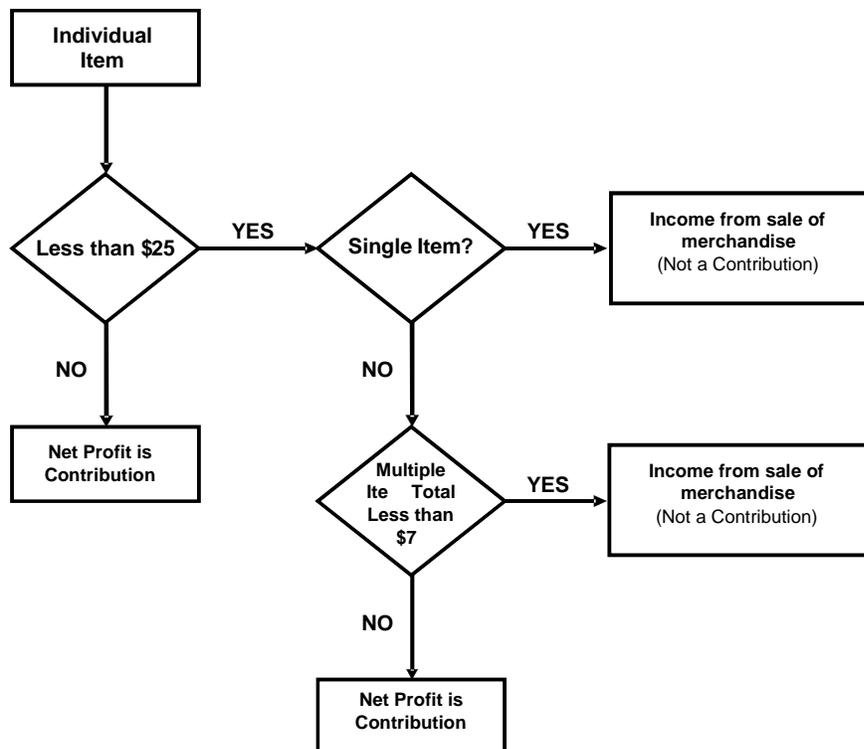
### D.1.2. Exception for Nominal Amounts: Sales of Items with Prices Less Than \$25

While the above rules work in the general situation, when the proceeds from the sale of merchandise is nominal in amount, exceptions exist which allow the entire amount of the proceeds to be considered "other income". The exception conditions are as follows:

- A single item sold for proceeds less than \$25; or
- Multiple sales of the same item totaling \$75 (where the individual item price is less than \$25).

In either situation, all of the income recognized in the sale would be classified as fundraising income as opposed to a contribution income.

### D.1.3. Sale of Merchandise Income Classification Decision Tree



**Example:** During the leadership contest period, a contestant chose to sell t-shirts in order to raise funds for the campaign. T-shirts had a selling price of \$12 and cost the contestant \$8 each to acquire.

In one transaction, a single t-shirt was sold. Under the general rules for a sale of merchandise, \$4 (the difference the selling price of \$12 and the cost of \$8) would be recognized as a contribution. However, as per the decision tree above, we classify this income according to the following steps:

- 1) The selling price on the T-shirt is less than \$25.
- 2) The sale is of a single item.

3) *Therefore: All income should be classified as other income (i.e. no contribution should be recognized).*

In a second transaction, an individual purchases 10 t-shirts. We will again consider each of the steps in the above decision tree:

- 1) The selling price on each individual T-shirt is less than \$25.
- 2) The sale is not of a single item (i.e. move to the "Multiple Sales" box).
- 3) The total revenue from the sale is \$120, which exceeds the proceeds threshold for sales of multiple items (\$75).
- 4) Therefore: This sale should be treated according to the regular contribution rules for sales of merchandise.

Total revenue = \$12/shirt x 10 shirts = \$120 → Reported as sale of merchandise income to the extent of the acquisition cost.

Total Acquisition Cost = \$8/shirt x 10 shirts = \$80 → Reported as expense.

Net Profit = \$120 - \$80 = \$40 → Reported as a contribution.

## VII. Loans

The *EFA* sets out specific requirements regarding the lending of money. Candidates, leadership contestants, constituency associations, and registered parties may all borrow funds to finance their activities. However, the following limitations have been established regarding the lending/borrowing of funds by political entities:

- Leadership contestants cannot lend to any person or organization (including their party) money that has been raised for the purposes of a leadership contest. [s.48(2)]
- A constituency association cannot lend money to a leadership contestant [s.48(3)];
- The maximum period of any loan made to a leadership contestant (including refinancing loans) is 24 months [s.46(1)]; and
- No person or organization shall, in a single year, provide a loan to a leadership contestant in excess of \$3,000 [s.46(2)].

It should be noted that limitations 3 and 4 above are not applicable to loans made from financial institutions [s.46(3)].

Where an eligible loan is entered into, which includes lines of credit and financial institution overdrafts, all such loan agreements must [s.47(1)]:

- Be in writing;
- Set out the amount and term of the loan;
- Include the name and address of the lender and any guarantor;
- Include the details of any agreements made to assign any portion of the election expense reimbursement; and

A copy of all loan agreements (including line of credit or overdraft agreements) must be filed with the Chief Electoral Officer **immediately after they are made**. Information regarding these loans is disclosed to the public by the CEO, except where the loan is made by a financial institution or is for an amount less than \$250 [s. 47(2)].

Loan proceeds received must be deposited into the leadership contestant's campaign financial institution account.

## **A. Loans Deemed to be Contributions**

Loan proceeds may be received to finance expenses of a leadership contestant. Such loans are generally not contributions. However, there are circumstances where a loan results in, or is deemed to be a contribution. Where any of the following deeming provisions apply, and the deemed contribution is from a prohibited contributor, a violation of the *EFA* has occurred.

### **A.1. Loans Made at Low Rates of Interest**

A deemed contribution results if a loan is given at a rate of interest that is less than the prime rate of the government's principal banker at the time the loan's interest rate was set. The applicable prime rate of interest and the effective date may be obtained from Elections Manitoba or its website.

The deemed contribution is equal to the difference between the amount of interest that would be payable at the prime rate and the amount of interest that is actually payable.

### **A.2. Uncollected Loans**

A loan becomes a deemed contribution if it is not paid within 6 months after becoming due and the creditor has not commenced legal proceedings to collect the debt, unless the creditor is a financial institution.

### **A.3. Loans Settled by Third Parties**

Where someone other than the debtor makes a payment on a loan to the leadership contestant, that payment is deemed to be a contribution [s.45(2)].

## **B. Reporting for Loans Outstanding**

Where a loan to a leadership contestant remains outstanding at the end of a year, and is \$250 or more, the contestant must report the balance within 30 days of the end of the year to Elections Manitoba (Form 949) [s.65(3)]. The loan agreement does not have to be filed again.

## VIII. Expenses

As is the case with income from contributions, expenses are further defined as monetary (i.e. they are or will be paid with credit or cash) or non-monetary (i.e. the use of property or services that were provided). There is no legislated limit in the *EFA* on the amount of expenses that a leadership contestant may incur, however restrictions do exist on the timing of expenses (see below). All monetary expenses must be disbursed from the financial account of the leadership contestant and must be supported by an invoice or voucher as proof of payment [s.27]. A non-monetary expense may result only from the acceptance of a non-monetary contribution and the "using up" of the property or service contributed. This will be clarified further in this section.

Expenses may be incurred indirectly by individuals with the knowledge and consent of the contestant (a transaction of this nature would be a non-monetary contribution and a non-monetary expense). However, individuals not normally resident in Manitoba, organizations (including unions), and corporations are prohibited from incurring expenses on behalf of and with the knowledge and consent of contestants as these would represent prohibited contributions.

**Exception:** Individuals not normally resident in Manitoba can incur petty cash expenses on behalf of a candidate provided that:

- 1) The candidate consents;
- 2) The individual is reimbursed for the amount of the petty cash expense;  
And
- 3) Appropriate records and supporting documentation for the expenses are maintained.

### A. No Expenses Before Leadership Contest Period

No leadership contestant may incur an expense related to a leadership contest before the leadership contest period begins [s.99(4)].

### B. Non-monetary Contributions as Expenses

Expenses include the value of non-monetary contributions which are used during the leadership contest period. The time at which an item was donated is not relevant in determining whether it is an expense or not. The test is whether the item was **used** during the leadership contest period.

The value of a non-monetary contribution is the market value of the property or services at the time of the contribution.

**"Market value"** is defined as the lowest price generally charged by the supplier for an equivalent amount of the same property or services at, or about the time, and in the market area in which the property or services are supplied [s.115].

This means that the official agent must determine how much it would normally cost to purchase or rent the item donated and then record that amount as an election expense and contribution.

Most property and services provided at no charge to a contestant or provided for the benefit of a contestant that are used or consumed in a leadership contest period are non-monetary expenses. Notable exceptions are:

- Volunteer labour [s.32(4.1)];
- Volunteer financial officer, official agent, auditor, or legal counsel [s.32(4.2)];

### **C. Paying for Expenses**

In order to ensure the official agent maintains control of the financial affairs of a leadership contestant, only the official agent, or an individual acting on behalf of and with the knowledge and consent of the official agent, may make a payment for a leadership contest expense.

The only exception to this rule is in the event of a leadership contest where the official agent is unwilling or unable to authorize a payment for an expense. In this case, the leadership contestant may make or authorize payment.

### **D. Leadership Contest Workers**

There are some recording issues concerning individuals working for leadership contests. Individuals may be paid by the contestant, paid by another, or not paid at all. Each of these circumstances is reported differently.

#### **D.1. Contest Workers Paid by the Contestant**

If the contestant is paying an individual directly (fees and expenses for example) thru the financial account of the leadership contestant then the costs are expenses of the contest and should simply be reported as such.

#### **D.2. Contest Workers Paid by Another Entity**

An individual may be working for a contest and may be receiving compensation from a source other than a contestant. This is a non-monetary contribution and a non-monetary expense since a service is being provided for the benefit of the leadership contestant.

It is also important to note that such a contribution would be considered a "prohibited contribution" if the worker was paid by an organization (including a union, or corporation), paid by another individual who is not normally resident in Manitoba (i.e. from outside of the province), or paid by an individual resident in Manitoba and the value of the services were greater than \$3,000.

### **D.3. Contest Workers Volunteering Time**

If an individual is volunteering on his or her own time (i.e. the individual is not getting paid or is using vacation time) such work is not considered a contribution or an expense but rather a volunteer service and does not have to be reported. The only exception is for services provided by a self-employed individual who normally sells or charges for the services provided. In this case, the contestant must record a non-monetary contribution and a non-monetary expense for the market value of the self-employed individual's services.

## **IX. Advertising and Promotional Materials**

### **A. Limitations on Advertising Spending?**

There is **no legislative limit imposed by the EFA on the amount that may be spent** on advertising (and promotional material) by a leadership contestant in a leadership contest. Further, the advertising expenses of leadership contestants do not impact the annual registered party's limit on advertising expenses in the year of a fixed election [s. 60(1)]

### **B. Authorization of Advertising and Promotional Materials**

As the official agent, you must authorize all advertising and promotional material that is printed or distributed by your leadership contestant during the leadership contest period [s.61(1)]. (If you have not yet been appointed as the official agent, then all advertising and promotional material used must be authorized by the contestant). Further, advertising done by third parties with the knowledge and consent of the contestant must be similarly authorized.

It is also necessary that your authorization appear on all printed advertisements or promotional material, or is announced or shown on all advertisements made through television, radio, or other electronic media [s.61(2)].

The statement of authorization should be presented in a form similar to the following:

- a) Authorized by the Official Agent for (*contestant's name*);
- b) Authorized by the Official Agent (if the full name of the contestant is evident on the material).

#### **Key Points to Remember:**

- 1) All advertising and promotional material must be authorized by the official agent or contestant (if there is no official agent).
- 2) A public statement of authorization must appear with all advertising and promotional material.

## **X. Inventory**

For purposes of leadership contests, inventory should not be recorded as an asset at the end of the leadership contest period, but should instead be expensed as incurred.

Section 640 (Inventory) of *Accounting Guide – Accounting For Purposes of The Election Financing Act* is not applicable to leadership contests.

## **XI. Capital Assets**

Capital assets should be expensed given the short-term nature of a leadership contest (i.e. treated in the same manner as capital assets of a candidate during an election as explained in Section 650 of *Accounting Guide – Accounting For Purposes of The Election Financing Act*).

## **XII. REPORTING**

Before you can finalize your books and records and Form 947, you want to make sure that you have all of the invoices and expenses from all of the leadership contest workers. Whoever was responsible for petty cash and miscellaneous (small dollar) expenses should be called and their remaining cash and supporting invoices should be turned over to you to deposit back in the bank. You can record the expenses based on the invoices given back to you. Contact each campaign worker, including the contestant, and campaign manager to collect any invoices that they may have paid through petty cash (i.e. reconcile your petty cash). Do this early in this period.

### **A. Form 947**

Form 947, *Leadership Contestant's Financial Statements and Supporting Schedules* is where you will report the results of the leadership contest finances once the leadership contest is over. All of the amounts that you have to track throughout the campaign are being tracked so that you can put them on this form. This is also the form that the auditor will review, along with the books and records of the campaign, once you have completed it. Therefore, it makes sense for you to take the time to understand the types of things that are on the form so you have some idea of what you have to track. It is your job to ensure that at the end of the contest you have all the information you need to complete the form.

Leadership contestants should file copies of all vouchers and invoices in support of all expenses reported on Form 947 (Leadership Contestant's Financial Statements and Supporting Schedules) when filing Form 947.

If you have developed your accounting system with Form 947 in mind, filling in the form should not be too difficult a task. You will simply need to transfer amounts from your accounting system to the form and make sure that amounts flow from one page to the next as required. Many of the lines on one page flow to another line on another page – recheck these figures and make sure that all columns add and balance.

#### **Questions to consider when completing Form 947:**

- 1) Are all expenses recorded accurately?
- 2) Have you answered all of the questions?
- 3) Have you signed the form?
- 4) Have you made copies of all expense invoices?
- 5) Have you completed the form in **ink** as required (rather than pencil)?

It is important to emphasize that the amounts reported on Form 947 must always reflect, fairly and transparently, the underlying substance and form of transactions and events.

**Example:** A "cheque exchange" must be recorded as a non-monetary transaction and not as a cash transaction.

A "cheque exchange" could be a situation where as a result of an understanding, a campaign purchases goods from an individual and some or all of the money provided for the purchase is contributed back to the campaign by the individual.

A copy of Form 947 is included in the information package. Each page will be discussed briefly below in the order that it appears on the form. Refer to Appendix B, *Form 947, Leadership Contestant's Financial Statements and Supporting Schedules* for detailed explanations of the line items of Form 947 if you need more help.

### **A.1. Cover Page**

The cover of the form is straightforward. Names of the leadership contestant, registered party, official agent, and auditor are required. The front page also specifies the start and end dates for the leadership contest period (i.e. the period that the form covers) and a declaration from the official agent (signature and date).

### **A.2. Statement of Assets, Liabilities and Surplus (Deficit) as at the End of the Leadership Contest Period**

In accounting terms, this page is a balance sheet. This statement essentially requires you to list the assets and liabilities of the leadership campaign *as of the last day of the leadership contest period*. Guidance on what an asset and liability are can be found in *Accounting Guide – Accounting For Purposes of The Election Financing Act*, Section 300, "Assets & Liabilities".

You should note that the leadership contest period surplus or deficit that is reported on this form is really just the "net income" or income less expenses for the campaign (flowing from the income statement).

Keep in mind that this statement asks for information as of a specific point in time. In other words, every line item on this page reports a balance of an account as of the day the leadership contest period ends.

**Example:** The cash that the leadership campaign has on hand (i.e. the balance of the bank account) is reported as of the day that the leadership contest period has ended.

This statement provides a "snapshot" of the remaining assets and liabilities of the campaign after everything is over. Sections 610 to 680 of *Accounting Guide – Accounting For Purposes of The Election Financing Act* provide the necessary accounting guidance.

### **A.3. Statement of Income and Expenses for the Leadership Contest Period**

This statement reports the cumulative results of the financial activities of the leadership campaign *over the entire leadership contest period*. This statement requires that all income items are listed first, followed by all expense items. The total income minus the total expenses results in the leadership contest period surplus or deficit (which is carried forward to the Statement of Assets and Liabilities discussed above). Sections 690 and 695 of *Accounting Guide – Accounting For Purposes of The Election Financing Act* provides further accounting guidance on these items.

It is critical to note the breakdown of income and expense items that is required for this statement. When you are deciding how you will track income and expenses of the campaign, you must consider how the items will be broken down for reporting purposes to ensure that your method of tracking will be able to provide the necessary detail.

**Example:** *Income is broken down into contributions, fundraising, and other income. Your system of tracking will need to be set up so that you can separate amounts you receive from, say, contributions as opposed to fundraising.*

All income and expenses get reported on this page including:

- a) Non-monetary contributions; and
- b) Non-monetary expenses.

### **A.4. Schedule 1 – Leadership contest period expenses including Non-monetary expenses**

This schedule supports the “expense side” of the Statement of Income and Expenses for the Leadership Contest Period. The purpose of this page is to provide a greater breakdown of the expenses of the leadership campaign. As you did with the prior page, look closely at the level of detail that you will need to provide on this schedule as that is what you need to track. The accounting system that will be used to track these things will need to give you this level of detail.

### **A.5. Schedule 2 – Contributions to a leadership contestant (including non-monetary contributions)**

This schedule gives the details behind the contribution amount that you report on the Statement of Income and Expenses for the Leadership Contest Period. Not only does it require that you break contributions into monetary and non-monetary, but it also requires that contributions be further separated into categories based on their amounts (i.e. greater than \$250 and less than \$250).

## **B. Filing Deadline and Extensions**

Once you get Form 947 and the Auditor's Report back from the auditor, make sure you have signed the front page of the form, attached any additional information that is required, such as loan agreements and copies of expense documentation, and send it to Elections Manitoba. This form, and related information, is due within 30 days of the end of the leadership contest period. Please note that it is not the auditor's responsibility to file these documents.

A faxed report received before the deadline will be considered to have been filed on time but an original copy must be immediately mailed or sent by courier to Elections Manitoba. It is your responsibility to ensure that a facsimile copy was received as intended. Keep a copy of Form 947 for reference because there may be questions for which you need to provide answers.

### **B.1. What if you cannot meet the filing deadline?**

As the official agent, you may apply in writing to Elections Manitoba for an extension to a filing deadline. A request must include a brief explanation of circumstances that are reasonably beyond your control. An extension request received after the filing deadline cannot be considered [s.69].

### **B.2. What if you miss the deadline?**

Provided that you did not request and receive approval for an extension, if you fail to file the required forms prior to the deadline you will be subject to late-filing fees. For each day that the required forms are late, a late filing fee of \$25 per day will be charged (up to a maximum of 30 days).

While failing to file any required forms is an offense that could lead to prosecution, such an outcome can be avoided by ensuring that these late-forms are still filed within 30 days of the filing deadline and that the appropriate late-filing fees have been paid.

**Note:** If late filing fees are owed and the contestant is entitled to reimbursement, the Chief Electoral Officer has the authority to deduct the late fees from the reimbursement payable [s.70(5)].

**Important Fact:** The Chief Electoral Officer may publicly disclose the names of any person who is obligated to pay late filing fees as well as the amount owing [s.71].

## **C. Detailed Contributors' List**

Leadership contestants must disclose to Elections Manitoba information concerning all contributions (both monetary and non-monetary) received during a leadership contest period. Accordingly, records must be maintained for all contributions, including:

- The contributor's full name and middle initial (if any)
- The contributor's **Manitoba residential address** and postal code;
- The date of each contribution;
- The amount of the contribution; and.
- If the contribution is a non-monetary, documents supporting the valuation of the donation contribution should be kept.

Although records must be kept for the above, for reporting purposes where one contributor has made several contributions, the contributions may be aggregated as one contribution. Information on aggregate contributions of less than \$250 is not public and is only for Elections Manitoba to ensure compliance with the overall contribution amount limit provisions of the *EFA*.

The additional disclosure requirements outlined in the previous paragraph do not alter or substitute for the public reporting requirements for leadership contestants (Form 947). A contributors' list detailing aggregate contributions of \$250 or more must still be provided on Form 947.

## **D. Elections Manitoba May Have Questions**

The work that a campaign's auditor does may provide a good level of compliance assurance; however, sometimes more information is needed. Elections Manitoba is responsible for making sure that the information on Form 947 is correct and in compliance with the *EFA*. Elections Manitoba may request additional information if it is needed to clarify or verify the information contained in a contestant's Form 947 [s.67]. Elections Manitoba will make the request in writing to the official agent who must provide the requested information within 30 days of receiving the written request.

### **D.1. Extension to filing deadline**

If you cannot file the requested information within the 30-day deadline, you can request an extension from Elections Manitoba in accordance with the following:

- Requests should be made in writing by the person responsible for filing;
- Requests must be received before expiration of filing deadline; and
- Requests must include a reason – circumstances reasonably beyond the control of the person responsible for filing.

### **D.2. Detailed audits/inspections**

You should also be aware that Elections Manitoba will sometimes perform more detailed audits and inspections to ensure compliance with the *EFA*. If your leadership campaign is selected at random for a detailed review, you may be asked to provide all books, records, bank statements and other information relating to the leadership campaign [s.95].

### **E. Leadership Contestant Outstanding Liabilities and Loan Status**

A leadership contestant who reported liabilities (bank overdraft, accounts payable) and/or a loan on Form 947, must complete and file Form 949 *Leadership Contestant's Outstanding Liabilities and Loan Status* with the CEO not later than 30 days after the end of each calendar year that the liabilities remain outstanding.

This statement includes the following information:

- The outstanding balance of any loan made to the contestant, if the balance is \$250 or more at the end of the year;
- The amount of any other outstanding liabilities at the end of the year;
- The source of the funds used to reduce or eliminate the outstanding liabilities in the year; and
- For contributors who made contributions of a total amount of \$250 or more in the year, their name and the aggregate value of their contribution

The contestant must also file a separate statement of the contributions received during the year that lists each contributor's name, address and the total amount contributed (Form 935). [s.65(3)]

### **XIII. Advisory Opinions**

If you are unsure about whether a particular act or omission or proposed act or omission complies with the requirements of the Act, you can obtain clarification in the form of a written opinion from the CEO by requesting what is called an *Advisory Opinion* [s.96(1)]. The only people who are permitted to make such requests of the CEO are financial officers (for political parties), financial officers (for constituency associations), candidates, leadership contestants, and their official agents [s.96(1)]. Make requests in writing in order to provide a clear explanation of the issues as well as the facts and assumptions that are underlying the issues.

In response to a request for an opinion, the CEO may either:

- Provide a written advisory opinion; or
- When declining to provide an opinion, provide a written explanation of the reasons for declining [s.96(2)].

Once an opinion has been issued there is a deemed non-contravention of the Act when the act or omission is performed provided that:

- The opinion states that the act or omission (or proposed act or omission) will not contravene the EFA; and
- In requesting the advisory opinion, the requesting individual disclosed all relevant material facts to the CEO. [s.96(3)]

It should be noted that even after the CEO has issued an opinion, the CEO maintains the right to revoke or amend it as he or she feels is necessary [s.96(4)]. Such actions may be taken on the basis of the CEO's own initiative, or they may be upon the requests of political entities. There are many reasons why such actions may be necessary, for example, if the facts upon which the advisory opinion was based changed, then the CEO may need to revoke or amend the issued opinion.

If the CEO revokes the opinion, it can no longer be relied upon [s.96(4)]. When a previously issued advisory opinion is subsequently revoked or amended (regardless of the reason), the person who originally requested the opinion will be provided with written notification.

## **XIV. Consequences and Penalties**

If the rules are not followed there may be consequences. The areas of the *EFA* that can result in negative consequences for you, specifically, are outlined below. While they are fairly straightforward, it is recommended that you take time to review these provisions to ensure that you understand them clearly.

As an official agent, please make sure that you abide by the following:

- Do not complete or partially complete any form, financial statement, or other document with information that you know is false [s.99(8)];
- Do not withhold any information, record, or document that Elections Manitoba has requested as this may be considered “obstruction” [s.99(10)];
- File all forms and financial statements required by Elections Manitoba on time and ensure that these submissions are complete [s.100(1)];

Failure to do any of the above could result in further proceedings (e.g. fines). Overwhelmingly, however, most matters of non-compliance are resolved without further legal proceedings.

### **A. Late-filing Fees**

Late-filing fees of \$25 per day (to a maximum of 30 days) will be charged when required forms are not filed by the deadline date. Late-filing fees are applicable when the following forms are not submitted prior to the deadline [s.70]:

- Form 947 - Financial statements (responsibility of the Official Agent);
- Form 948 - Detailed contributors list (responsibility of the Official Agent);
- Form 949 – Outstanding Liabilities return (responsibility of the Leadership Contestant).

Individuals will not be subject to further proceedings provided that:

- The required forms are filed within 30 days of the deadline; and
- The late-filing fee incurred is paid [s.70(4)].

### **B. Force and Intimidation**

No one is permitted to directly or indirectly, use or threaten to use force or violence, or threaten to inflict injury, damage, harm or loss, upon another person in order to get them to make (or to get them not to make) a contribution.

## **XV. Compliance Assistance Program**

Elections Manitoba has a legislated mandate to provide assistance to financial officers, official agents, candidates, political parties, constituency associations and auditors in helping them comply with the *EFA*. Some of the ways assistance is provided include:

- Information sessions throughout the province for official agents, campaign managers, candidates, and leadership contestants;
- Web site information – [www.electionsmanitoba.ca](http://www.electionsmanitoba.ca);
- Meeting individually with official agents and representatives;
- Telephone inquiries
- Periodic reminders to participants (e.g. a reminder of a filing deadline);
- Providing tools and printed material such as this Handbook.

Elections Manitoba works with leadership campaigns to rectify unintentional instances of non-compliance without serious consequences, nevertheless, the consequences can be serious if legislative requirements are not followed.

# Appendix A – Contributions and Limits Clarification

## I. Examples of Contributions

- Services provided at no charge by a self-employed individual if the services are normally sold or charged for by the individual [s.32(1)(b)].
- A provincial candidate (or another individual) providing money to eliminate the candidate's campaign liability.
- Expenses incurred by individuals on behalf of and with the knowledge and consent of candidates, political parties and constituency associations
- Where a payment on a loan is made by someone other than the debtor, a non-monetary contribution is deemed to have been made [s.45(2)].
- Where loans have been uncollected, unpaid, or forgiven the lender, in some cases, is deemed to have made a permitted contribution [s.45(3)].
- Membership fees are contributions [s.32(3)].
- 75% of the ticket price of a fundraising event where the ticket price is \$25 or more, or where multiple tickets are purchased for one fundraising event totaling \$75 or more [s.32(6)].
- Net profit on a sale of merchandise (i.e. the price less the acquisition cost of the merchandise) where the individual items have a selling price of \$25 or more, or where multiples of the same item (with a unit price less than \$25) are purchased for total proceeds greater than \$75 [s.32(7)].

## II. Examples of Prohibited Contributions

- Money, property, or services provided from federal political parties, federal riding associations, and political organizations in other jurisdictions are prohibited contributions [s.115“organization”].
- Services of an employee provided by a prohibited contributor.
- Expenses incurred by organizations (other than a candidate’s party or constituency association) on behalf of and with the knowledge and consent of candidates, political parties and constituency associations [s.33].
- A website provided to a registered party by a web development company at no charge (the company will have provided property or service to or for the benefit of the party which is essentially the definition of a non-monetary contribution).
- Where property or services are provided by a prohibited contributor at a price below market value, a non-monetary contribution has been made to the extent that the market value exceeds the price charged [s.32(2)].

**Note:** Prohibited contributions would include expenses incurred by or on behalf of the contestant by a provincial or federal political party or a federal riding association. The sharing of property or services between a contestant and a registered party may not meet the requirements of *The Election Financing Act* (EFA) unless the expenses of the contestant can be determined with certainty and are supportable. Allocation of shared expenses, as being federal or provincial, or of the contestant, based on a general guideline would not be sufficient to meet the requirements of the EFA.

## III. Examples of Non-contributions

- A service provided without compensation by an individual outside his or her working hours unless he or she is self-employed and normally sells or otherwise charges for the services [s.32(1)(b)].
- A leadership contestant on paid leave under a collective or other employment agreement is not a contribution.
- The services of a person who acts without compensation as an official agent, auditor, or legal counsel to a leadership contestant [s.32(4.2)].
- A fundraising event ticket purchased where the individual ticket price is less than \$25 is not a contribution [s.32(6)].
- Multiple fundraising event tickets purchased for a fundraising event totaling less than \$75 where the individual ticket price is less than \$25 is not a contribution [s.32(6)].
- A sale of a single item of merchandise where the price of the item is less than \$25 is not a contribution [s.32(7)].
- When more than one of the same item of merchandise is sold and the total sale is less than \$75, there is no contribution [s.32(7)].

## IV. Issues Related to the Annual Limits on Contributions

The timing of when a contribution is recognized could have a significant impact on an individual's compliance with the \$3,000 contribution limit, especially in instances where a contribution is "in-transit" at the time a new calendar year arrives. **The date of contribution is the date of payment by a contributor.** Generally, the date of payment is the date that a contribution is delivered to an entity (i.e. a registered party, candidate, constituency association, or leadership candidate) or an entity's recognized agent. However, the general rule will not apply in the following circumstances:

- In the case of a post-dated cheque, the indicated future date is the contribution date.
- Where a contributor mails a cheque the contribution date would be the date that the contribution was delivered to Canada Post (assuming it was not a post-dated cheque). It would be similar if the contribution was sent via courier. Where a contribution is "in transit", it is advisable to keep records supporting the date of contribution (such as post-markings from Canada Post, courier vouchers, or signed contributor declarations).

### Examples that illustrate the contribution date:

- If a contributor gives cash to a representative of a leadership contestant on March 15<sup>th</sup>, the contribution date is March 15<sup>th</sup>.
- If a contributor gives a cheque to a representative of a leadership contestant on March 15<sup>th</sup> and the cheque is dated for the same day, the contribution date is March 15<sup>th</sup>. This is true, even if the cheque is forwarded to the contestant and does not arrive until April 2<sup>nd</sup> and/or is not cashed on April 10<sup>th</sup>.
- If a contributor mails a cheque on December 20<sup>th</sup> (dated December 20<sup>th</sup>); the cheque arrives on January 4<sup>th</sup> of the following year; and the cheque is deposited on January 12<sup>th</sup>; the contribution date will still be December 20<sup>th</sup> as that is the date that the payment was made.
- If a contributor mails a cheque on December 20<sup>th</sup>; the cheque arrives on January 4<sup>th</sup> of the following year; and the cheque is post-dated for January 12<sup>th</sup>; the contribution date will be January 12<sup>th</sup>.

**Note:** No contribution has been made if a cheque is not honored on presentation (i.e. it has been returned marked "Not Sufficient Funds" or "Payment Stopped" or something of similar effect).

## V. Identifying Contributors and Disclosing Contributions

Recipient entities must always know and be able to identify the source of a contribution otherwise the contribution cannot be accepted and used. There are 2 exceptions:

- Cash contributions of \$10 or less where the contributor is not known (contribution amount must still be recorded but not the identity of contributor)[s.38].
- Individuals normally resident in Manitoba (and only such individuals) may make two non-monetary contributions of less than \$25 in a year to each candidate without the contributions having to be recorded under the Act. A third such contribution by an individual in a year, regardless of value, must be recorded [s.32(5)]. What this means is that the official agent must keep track of the number of non-monetary contributions of less than \$25 made by a single individual in a year to know when the threshold of two has been reached.

Generally, determining the identity of the contributor will be straightforward if the contribution is made in the form of a cheque. The contributor will generally be the owner of the financial account on which the cheque was drawn.

**Note:** A contribution made with a cheque issued from a corporate bank account, even if done so at the instruction of a sole shareholder, would be a corporate contribution and would be prohibited.

The only exception to this general rule is if the contribution is drawn from the financial account of a sole proprietorship. Sole proprietorships and the individuals who own them are legally only one entity. Therefore, a contribution made with a cheque drawn on a sole proprietorship financial account would be a contribution of the individual who owns the sole proprietorship and would be:

- a) Applied against the individual's annual contribution limit; and
- b) Disclosed as the individual's contribution.

Nevertheless, it may be difficult to determine the legal structure of a business operation (i.e. partnership, sole proprietorship). Contributions made by cheque should only be accepted if the cheque is drawn from a personal account. **Leadership contestants must always know the identity of a contributor before a contribution may be accepted.** A contributor's identity should not be assumed.

There may be a concern with identifying a contributor if a personal cheque is received that is drawn on a joint account. In such a case, generally, the contribution is considered to be from the person who signed the cheque. Additional written instructions are required describing the contributions made per person if the cheque represents a contribution from more than one contributor. You should try to obtain written instructions from the contributors before cashing the cheque. Further, it would be beneficial to keep a photocopy of the cheque in situations where written instructions have been provided.

**Note:**

- 1) It is critical that those receiving contributions clearly identify all contributors and the dates of contributions.
- 2) It is also important that the contributor's signatures are obtained when a cash contribution received is greater than \$100.

## **VI. Returning Contributions**

No person may solicit or knowingly accept a prohibited contribution and such a contribution must be returned. The Act specifies that contributions must not be accepted and must be returned in the following circumstances:

- Anonymous contributions of more than \$10 except for some non-monetary contributions of less than \$25 as outlined in s.38;
- Individuals not using their own resources when contributing;
- Contributions that are prohibited by source (i.e. contributor is not an individual normally resident in Manitoba); and
- Contributions that are prohibited by amount (i.e. in excess of \$3,000).

Contributions should be reviewed further where it is suspected that a contribution is from a prohibited contributor such as an organization or from an individual with an address outside of Manitoba. If a prohibited contribution is received it must be returned immediately. It may be that despite the entity's best efforts a prohibited contribution is accepted. The circumstances of each situation will be considered.

Prohibited contributions that are accepted must be returned in the reverse order they are received (i.e. the last contribution received must be the first returned).

**Example:** *A contributor may give \$2,500 to one leadership contestant and later in the same contest period give \$1,000 to another leadership contestant. The second leadership contestant, upon learning of the prohibited contribution, is required to return \$500 to the contributor.*

In the above example, the contestant would likely become aware of the prohibited contribution as a result of Elections Manitoba reviewing the records of all contributions made. Although the contestant has a responsibility to return the contribution, in this example, the issue of an individual contributing in excess of the \$3,000 limit is a separate matter which would be reviewed by Elections Manitoba.

If a contribution is not accepted by an entity (i.e. deposited and/or used) and is returned within a reasonable period of time, no contribution is considered to have been made.

# Appendix B - Form 947 Leadership Contestant's Financial Statements and Supporting Schedules

## Statement of Assets, Liabilities and Surplus/(Deficit) as at the End of the Leadership Contest Period

### Line 100 Cash

On this line you must report your leadership campaign financial account balance (i.e. the bank account balance) if there is a balance remaining. To determine the amount that you have to report:

- Take the balance that you find on the statement for your account that includes the day that the leadership contest period ends;
- Subtract the cumulative amount of cheques that have been written before that date but have not yet cleared the account; and
- Add any deposits that were deposited before that date but have not cleared as of that date.

### Line 110 Accounts Receivable

Amounts that are owing to the leadership campaign on the day that the leadership contest period ends should be reported on this line. Because contributions and fundraising income cannot be reported until received, accounts receivable will normally be nil.

### Lines 120 & 130 Other Assets

Record the amount of any other asset that is held by the campaign, if any, on this line.

For purposes of leadership contests, inventory should not be recorded as an asset at the end of the leadership contest period, but should instead be expensed as incurred. Section 640 (Inventory) of *Accounting Guide – Accounting For Purposes of The Election Financing Act* is not applicable to leadership contests.

Capital assets should be expensed given the short-term nature of a leadership contest (i.e. treated in the same manner as capital assets of a candidate during an election as explained in Section 650 of *Accounting Guide – Accounting For Purposes of The Election Financing Act*).

### Line 140 Total Assets

This line is an addition of lines 100 to 130.

## **Line 200 Accounts Payable**

Any amounts that the leadership campaign owes to others, including suppliers, on the last day of the leadership contest period, should be put on this line. Only bona fide amounts owing that are reasonably expected to be paid should be reported. Keep a list on hand of these amounts and to whom they are payable. This list will form part of your books and records.

## **Line 210 Overdraft/Line of Credit**

The leadership campaign may have arranged for a line of credit or overdraft protection that could be drawn on during the contest as a source of cash. Any amounts outstanding as of the last day of the leadership contest period as a result of these arrangements should be reported on this line.

While it should have been done at the time of obtaining the line of credit or overdraft protection, if you have not already filed a copy of the agreement between the campaign and the financial institution that set up these amounts, you **must** do so now when submitting Form 947.

## **Line 220 Loans**

Loan balances outstanding on the last day of the leadership contest period should be reported on this line. Similar to line of credit and overdraft protection agreements, if you have not already filed any signed loan agreements with Elections Manitoba (which should have been done immediately after obtaining the loan) you **must** do this now when filing Form 947.

## **Lines 230 & 240 Other Liabilities**

Record the amount of any other liability that is payable by the leadership campaign, if any, on this line.

## **Line 250 Leadership Contest Period Surplus/(Deficit)**

This line is a carry-forward of an amount reported on line 410 (from the following page) and is the net amount of income after deducting expenses.

## **Line 260 Total Liabilities and Surplus**

This line is an addition of lines 200 to 250.

## **Statement of Income and Expenses for the Leadership Contest Period**

### **Line 300 Contributions**

Report the leadership campaign's total contributions received here, including non-monetary contributions. This line is carried forward from Schedule 2, line 630, column C.

### **Line 310 Fundraising**

Amounts recorded as fundraising income should be reported on this line. The total reported here does not include the portion of fundraising income that is categorized as contribution income. Make sure these amounts are appropriately separated.

### **Lines 320 & 330 Other Income**

Report any other types of income (such as income from the sale of merchandise that is not included as contribution income) that the leadership campaign may have received that cannot be classified as any of the other income lines.

### **Line 340 Total Income**

This line is an addition of lines 300 to 330 and reports the total income of the leadership campaign, from which the expenses of the campaign will be deducted.

### **Line 400 Expenses**

This line summarizes the total expenses from line 585 column C on Schedule 1 and includes non-monetary expenses.

### **Line 410 Leadership Contest Period Surplus/(Deficit)**

Line 410 reports the excess (or deficiency) of total income less total expenses for the campaign. Line 400 is subtracted from line 340 and reported on this line. The total on this line is also carried forward to line 250 on the Statement of Assets, Liabilities and Surplus/(Deficit) as at the end of the Leadership Contest Period.

## **Schedule 1 – Leadership Contest Period Expenses (Including Non-monetary expenses)**

This schedule breaks the expenses of the leadership campaign into their accounts, or categories, by type of expense. Your accounting system should use these accounts as a means of categorizing the expenses and payments that are made from the leadership campaign. The expenses you record include non-monetary expenses.

### **Lines 500 to 580**

These lines provide a place for you to record any type of expense that the leadership campaign incurs. Where a category does not exist, include it on line 575 or 580 with an explanation as to what it is.

### **Line 585 Total Expenses**

This line is an addition of all lines 500 to 580 and is carried forward to line 400 on the Statement of Income and Expenses for the Leadership Contest Period.

## **Schedule 2 – Contributions to a Leadership Contestant (Including Non-monetary Contributions)**

This schedule provides a little more detail on the amounts and source of the contributions received during the leadership contest period and reported on line 300.

### **Part A Contributions Summary**

Lines 600 to 630 breaks the contributions received into various dollar amount categories, and columns A and B split them further into monetary contributions and non-monetary contributions.

### **Part B Contributions of \$250 or More**

Individuals who contribute \$250 or more, in aggregate, during the leadership contest period are reported here. The required information includes the contributor's name and address, and the aggregate amount that he or she contributed.

# Appendix C – Leadership Reviews and Contests

The purpose of this guideline is to clarify the responsibilities, if any, that arise in the case of a leadership review resulting from the constitution or practice of a registered party.

Pursuant to *The Election Financing Act*, when there is a leadership contest, registered party financial officers and leadership contestants assume certain responsibilities (primarily related to contributions and disclosure). A periodic leadership review, where the leader of a registered party is required by the constitution of the party to stand for re-election, is not automatically considered to be a leadership contest in the context of *The Election Financing Act*. Where the leadership of a registered party is reviewed and is confirmed or unopposed then no leadership contest results and it follows that the requirements under *The Election Financing Act* concerning leadership contests do not arise.

A leadership review may on the other hand result in a leadership contest where the leader is challenged and a vote is required to determine the leadership of the party from among two or more individuals. In these cases it generally follows that the leadership provisions of *The Election Financing Act* apply. One such scenario that has been experienced is when a leadership contest arises simultaneously with a leadership review. When a leadership review results in contestants being nominated from the floor of a meeting, technically speaking, a leadership contest has occurred. It is assumed in this case that no contributions would have been received and no expenses incurred. In fact, s.35(6) and s.99(4) direct that leadership contestants are not permitted to raise or spend money until the party has called a leadership contest. Because no money can be raised or spent by contestants and because the Act anticipates a contest period preceding a selection, the requirements for notice in advance of a leadership contest and the purpose of a disclosure statement are less clear. In these unique circumstances, it is recommended that the financial officer of the party should provide written notice to Elections Manitoba of the names of the contestants as well as the date and the specific circumstances of the simultaneous leadership review and contest. The notice should state that no contributions were received, no expenses were incurred and no advance notice could have been provided. The notice should be signed by the financial officer and the contestants. In the alternative, the contestants may choose to file NIL financial statements in the prescribed form. In either case the specifics of the circumstances are required from the financial officer.

Leadership contests may also arise in other manners and are subject to the provisions of *The Election Financing Act*. If you are in doubt as to the appropriate manner of dealing with the circumstances of a particular leadership contest under *The Election Financing Act* you may seek specific guidance from Elections Manitoba.

# Appendix D – Sample Memorandum

## MEMORANDUM

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**To:** Financial Institution Official

**From:** \_\_\_\_\_ (leadership contestant)

Principal business or occupation of contestant:

\_\_\_\_\_

Home address and telephone: \_\_\_\_\_

\_\_\_\_\_

Business address and telephone: \_\_\_\_\_

\_\_\_\_\_

**Subject:** Appointment of Official Agent

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This is to advise of my intention to stand as a leadership contestant in the leadership contest of \_\_\_\_\_ which is being held from \_\_\_\_\_ to \_\_\_\_\_. Further, this is to inform you that the following person has been appointed and has agreed to act as my official agent, and in this capacity is requesting access to services from your financial institution:

Official Agent Name \_\_\_\_\_

Home address & phone \_\_\_\_\_

\_\_\_\_\_

Business address & phone \_\_\_\_\_

\_\_\_\_\_

*The Election Financing Act* requires a contestant's official agent to open and maintain an account in a financial institution for the sole purpose of the contestant's campaign. All transactions involving the receipt and disbursement of funds must be made through the leadership campaign account. There may be serious consequences for an official agent who does not satisfy the financial account requirements of the Act. I would, therefore, ask for your assistance in facilitating access to services by my official agent.

\_\_\_\_\_  
Leadership Contestant Signature / Date

\_\_\_\_\_  
Official Agent Signature / Date

# Contacting Elections Manitoba

## General Inquiries:

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

**Telephone:** 204-945-3225

**Toll Free in Manitoba:** 1-800-282-6069

**Facsimile:** 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 and others are **strongly encouraged** to contact Elections Manitoba as often as necessary in order to understand the requirements of *The Election Financing Act* or *The Elections Act*.