

QUICK REFERENCE

Audit of the financial report of an authorized political party

Control of election expenses and financing for municipal political parties and independent candidates

Chapter XIII of the *Act respecting elections and referendums
in municipalities*

This document is intended for auditors of political parties in municipalities
with 5,000 inhabitants or more.

Roles and functions

The auditor of an authorized political party

The auditor of an authorized political party must be entitled to perform public auditing in Québec and have been designated by the party leader to perform this task. In addition, his or her name must be entered as such in the register of political parties of the Chief electoral officer (s. 388 and ss. 397(6)).

The auditor must take all steps required to issue an independent auditor's report on the party's canvassing, in cases where the amounts¹ collected during the fiscal year exceed \$5,000.

1. The amounts collected are receipts from operating activities (e.g. contributions), related activities (e.g. reimbursement of election expenses and audit fees, interest income) and the receipts from non-operating activities (e.g. loans).

The following persons cannot be designated as auditors:

1. The Chief Electoral Officer.
2. The officers or employees of the municipality or a mandatory body of the municipality.
3. The members of the Parliament of Québec and the Parliament of Canada.
4. The party leader or another person leading the party.
5. The official agents or representatives of political parties carrying on their activities in the territory of the municipality as well as independent candidates running for seats as members of the municipal council.
6. The candidates who ran or who are running for seats as members of the municipal council at the last general election, any subsequent by-election or the current election.
7. The municipality's auditor.
8. The staff members of the municipality's election officers.
9. Any person who is convicted of an offence that is a corrupt electoral practice within the meaning of section 645 of the Act respecting elections and referendums in municipalities, of the Act respecting school elections or of the Election Act. Disqualification lasts for five years from the day on which the judgment of conviction comes into force.
10. The associates and staff members of the people listed in the first eight subparagraphs (s. 389).

The auditor may resign by signing and sending a written notice of resignation to the party leader (s. 390). A copy of the resignation must be sent to the Chief Electoral Officer.

Official representative of an authorized political party

The official representative of a political party acts as the official agent of this party, unless the leader appoints another person to this position (s. 382).

The official representative of an authorized political party:

- Is responsible for opening the account of the party in a financial institution having an office in Québec (s. 439).
- Completes a compulsory training within 30 days after being appointed (s. 387.1).
- Keeps the accounting records of the party.
- Appoints canvassers and delivers certificates to them, where applicable (s. 432).
- Prepares a list of canvassers and attaches it to the financial report (D-M-6).
- Collects and cashes contributions (s. 432).
- Controls the distributed booklets of receipts.
- Ensures that the receipts used are those prescribed by the Chief Electoral Officer or that they are approved by the Chief Electoral Officer.
- Ensures that a contribution receipt is given to every person who makes a contribution (s. 434).

- Ensures that the contributor has signed, on the contribution receipt, the declaration stipulating that the contribution is made out of his or her own property, voluntarily, without compensation and for no consideration, and that it has not been and will not be reimbursed in any way (s. 434).
- Ensures that contributions are compliant (s. 440).
- Send to the Chief Electoral Officer, quarterly, copies of contribution receipts issued during this period and intended for them.
- Cashes the amounts collected during political activities or events (s. 439).
- Ensures that revenues from activities for which receipts were not issued do not exceed 3 % of the total contributions collected during the period covered by a financial return (s. 440.1).
- Returns non-compliant contributions to the municipality (s. 440).
- Can take out loans (s. 446).
- Pays interest due on loans each year (s. 448).
- Reimburses loans in accordance with the *Act* (s. 449).
- Provides each party candidate with a list of advertising expenses incurred before the filing of his or her nomination papers (s. 162.1).
- Asks the treasurer of the municipality for the reimbursement of the audit fees for the annual financial return when the revenue collected by the party is more than \$5,000 (s. 490).
- Cashes any other revenues in accordance with the *Act* (s. 439).
- Replenishes the election fund of the official agent of the party (s. 458).
- Pays claims for contested election expenses, where applicable (s. 471).
- Pays any claim made to the treasurer when the official agent had not provided any amount for this purpose (s. 471).
- Receives the reimbursement of election expenses from the treasurer of the municipality, where applicable (s. 478).
- Incurs non-election expenses (s. 443).
- Produces and signs the financial return and the reports on political activities (s. 479).
- Signs the declaration prescribed by the Chief Electoral Officer accompanying the financial return (s. 481.1).
- Can act, where applicable, as the official agent of the party (s. 382).

Authorized political party leader

The party leader's main responsibilities are to:

- Appoint an official agent if it is someone other than the official representative (s. 382)
- Appoint an auditor no later than 30 days after the authorization of the party (sections 388 and 389).

- Approve the nomination of the official agent's deputies (s. 385).
- Promptly fill the positions of official representatives; their delegates, where applicable; official agents; and auditor no later than 30 days following the vacancy (sections 387 and 391).
- Provide the Chief Electoral Officer and, as needed, the treasurer of the municipality with information required to update the register of political parties (sections 392, 424 and 425).
- Certify the nomination papers of every candidate of the party (s. 163).
- Sign a declaration, jointly with the official representative or official agent, regarding the party's financial return and return of election expenses (sections 481.1 and 492.1).
- Apply for the withdrawal of the party's authorization, if applicable (s. 403).
- Notify the returning officer should the party like to have authorization as a private intervenor, in case the party does not present any candidates during an election.

Chief Electoral Officer

The Chief Electoral Officer is responsible for ensuring that Chapter XIII of the *Act respecting elections and referendums in municipalities* is applied for municipalities with 5,000 inhabitants or more (s. 367).

Essentially, the Chief Electoral Officer should:

- Authorize independent candidates and political parties (s. 368).
- Confirm that political parties and candidates comply with the *Act* (s. 368).
- Give directives on the application of Chapter XIII (s. 368).
- Receive and examine the reports he or she is submitted (s. 368).
- Keep a register of authorized entities (authorized political parties and authorized independent candidate [s. 424]).
- Process withdrawals of authorization (sections 403 to 407).
- Publish notices of authorization or withdrawals of authorization (s. 423).
- Give appropriate instructions to treasurers of municipalities and coordinate their duties under Chapter XIII of the *Act respecting elections and referendums in municipalities* (s. 376).
- Have access to all the books, accounts and documents pertaining to the political party's financial affairs (s. 368).
- Inform political parties, candidates and general public (s. 90.6).

In addition, the Chief Electoral Officer can:

- Train official representatives and official agents (subparagraph 90.6(5)).
- Make inquiries into the application of Chapter XIII and institute proceedings (s. 90.1 and 647).
- Conduct studies on political financing and election expenses (s. 367).

Treasurer

The role of treasurer of the municipality is to assist the Chief Electoral Officer with the application of Chapter XIII of the *Act*. In particular, he or she should:

- Give required instructions and relevant documents to any authorized independent candidate (such as the guide for official representatives and official agents of authorized independent candidates).
- Display and update the list of official agents of political parties, as well as the list of authorized independent candidates and, where applicable, the list of their deputies (s. 394).
- Calculate the preliminary and final limits on election expenses and send a copy to all official agents.
- Pay an allowance to the official representative of an authorized political party upon presentation of supporting documents (for municipalities with 20,000 inhabitants or more) (s. 449.2).
- Calculate and pay the matching sums (for municipalities with 20,000 inhabitants or more).
- Receive the annual financial returns of political parties and the political activities reports.
- Reimburse, where the financial return must be audited, part of the audit fees of the financial return to the political party, out of the municipality's general fund (s. 490).
- Receive and audit the returns of election expenses of political parties and authorized independent candidates.
- Reimburse, in accordance with the *Act*, the election expenses of eligible political parties and authorized independent candidates (sections 475 and 476).
- Publish a summary of the returns of election expenses, in a newspaper distributed in the territory of the municipality (s. 499).
- Issue notices for failure to submit a return within the stipulated deadlines to those concerned (sections 64 and 502 to 504).
- Send copies of all financial returns and activity reports to the Chief Electoral Officer and, upon request, copies of all returns of election expenses received (s. 500).
- Produce and file with the municipal council, where applicable, no later than April 1 of each year, a report on the activities carried out, referred to in Chapter XIII of the *Act*, in the previous fiscal year and send a copy of the report to the Chief Electoral Officer (s. 513).

Funds held by a party at the time it applied for authorization

A party leader who sends a written application for authorization to the Chief Electoral Officer must declare the amount of funds at the party's disposal at the time of the application (subsection 397(9)).

These funds include cash and, generally, cash assets that were obtained by electors of the municipality for the formation of the party.

Opening balance sheet

The official representative of a political party that holds funds must, no later than 30 days after the authorization is granted by the Chief Electoral Officer, file an opening balance sheet as at the date of authorization. The balance sheet must indicate the amount and the nature of the funds, the full address of the place at which the funds are held and the account number of the financial institution, if any.

Eventual use of funds held

The funds cannot be used to pay election expenses or to repay the principal or pay interest on a loan whose principal was deposited into the election fund (sections 449 and 458).

Complementary information to the financial return

The annual financial return of a political party, which is filed by the party's official representative, must include a detailed follow-up statement of funds held on the date of the authorization and with revenues generated by those funds since then. The statement is required for as long as the funds exist. The first funds in must be the first funds out.

Opening an account in a financial institution

As soon as the official representative of a party is authorized to act, he or she must open an account in a Québec branch of a financial institution. The account must be identified under the name of the political party.

The account must allow the official representative to receive monthly account statements and compensated cheques (scanned or original).

A copy of the deposit slip for all deposits must be retained. This deposit slip must indicate the **origin** of the cheques deposited, their amount as well as the **origin** of any cash amount received. The official representative should keep a copy of all cashed cheques.

The account opened by the official agent of an authorized political party must be separate from the account of the official representative.

Bookkeeping

The party's official representative must prepare the annual financial report required by the *Act*. This involves compiling all financial operations of the party. To make it easier to prepare and audit these reports, operations must be entered in various registers.

Accounting records of the official representative

The accounting records of the official representative include the following:

- The cash receipts journal which:
 - Records all cash inflows.
 - Takes into account all contribution reports and any other amounts received, as well as copies of deposit slips.
- The cash disbursements journal which:
 - Records all disbursements.
 - Can be complemented by account statements and petty cash expense reports.
- The wages journal, which contains all entries relating to wages paid.
- The general ledger, which contains all accounts shown in the above registers as well as those required to, where applicable, move from a cash basis accounting method to an accrual method of accounting.

To prepare the financial return, the following elements must be taken into account:

- Expenses incurred but not paid (accounts payable and incurred costs).
- Interest on deposited amounts or other investments that have been earned but not yet collected; as well as contributions received and receivable prior to the end of the fiscal year but not deposited by the end of that fiscal year. As a result, a contribution must only be recorded as income for the fiscal period during which it collected.
- Contributions received and receivable prior to the end of the fiscal year but not deposited by the end of that fiscal year. As a result, a contribution must only be recorded as income for the fiscal period during which it collected.
- Contributions of goods or services provided free of charge.

Additional requirements

The official representative should also:

- Deposit all amounts received (cash or cheque) in the current account before using them to pay expenses other than election expenses or to reimburse loans.
- Keep, during seven years, all receipts, invoices or supporting documents related to his or her expenses as these documents are required to prepare and audit the financial return.
- Keep a copy of every bank deposit slip.
- Make all payments with the help of cheque (except those made out of petty cash).
- Ascertain in writing any loans obtained from an elector or a financial institution.

The content of the financial return

The annual financial return of an authorized political party includes the balance sheet, the income statement, the statement of changes in net assets and a cash flow statement as well as the corresponding comparative data for the previous fiscal year.

It must be accompanied by additional notes and sections including additional information (sections 1 to 5) of the activity reports, where applicable, and a duly signed auditor's report where the amounts collected² exceed \$5,000.

In addition, for the financial return to be valid, the balance sheet must be signed and the sections "Signature and declaration of the official representative" and "Signature and declaration of the party leader" must also be signed. The financial return must also be accompanied list of canvassers, which should be signed even if no canvasser was appointed during the fiscal year.

2. The amounts collected are receipts from operating activities (e.g. contributions), related activities (e.g. reimbursement of election expenses and audit fees, interest income) and the receipts from non-operating activities (e.g. loans).

Content of the auditor's report

The auditor of an authorized political party examines the party's financial return and files a report (as an independent auditor) with the party leadership when the revenues collected² exceed \$5,000. The auditor shall file the report no later than the fifth day before April 1 of each year, in accordance with Directive D-M-9 of the Chief Electoral Officer (sections 388 and 488).

The report must be sent to the party leadership. It can also contain comments or observations to explain any deviation from generally accepted accounting practices, from the *Act* or from the directives of the Chief Electoral Officer.

Rules enacted in Chapter XIII of the *Act respecting elections and referendums in municipalities*

For additional information on the rules governing the financing of municipal political parties, please see the *Guide of the official representative of an authorized political party* (DGE-1041).