

QUICK REFERENCE

The Auditor of an Authorized Political Party

Financing of Municipal Political Parties, Independent Candidates, and Control of Election Expenses

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

This document is intended for municipalities with 5,000 or more inhabitants

Roles and functions of various officials

The auditor of an authorized political party

The auditor of an authorized political party is a person who is legally entitled to perform public auditing in Québec, who has been appointed by the party leader as the auditor of the party, and whose name is entered as such in the Chief Electoral Officer's register of political parties (s. 388 and 397(6)).

The auditor is responsible for taking the steps required to issue an auditor's report (independent auditor) on the party's financial report, in cases where the amounts collected¹ 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 auditing expenses, interest income) and the receipts from non-operating activities (e.g. loans).

The following persons cannot act 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 leader of the party or another executive officer of the party.
5. The official agents or representatives of parties carrying on their activities in the territory of the municipality, and those of independent candidates running for election as members of the municipal council.
6. The candidates who ran or are running for election 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 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 convicting the person becomes a *res judicata*.
10. The associates and members of the personnel of the people listed in paragraphs 1 to Chief8 (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.

The official representative of an authorized political party

The official representative of a party acts as the official agent, 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).
- Must take mandatory training within 30 days after being appointed (s. 387.1).
- Must keep the accounting records of the party. For this purpose, a computerized register known as the RCM (Municipal Accounting Register) has been developed.
- Must, where applicable, appoint people to solicit contributions and issue certificates (s. 432).
- Must prepare a list of the people appointed to solicit contributions and attach it to the financial report (D-M-6).
- Must collect and cash contributions (s. 432).

- Must control the booklets of receipts that are distributed.
- Must ensure that the receipts used are those prescribed by the Chief Electoral Officer, or if not, approved by the Chief Electoral Officer.
- Must ensure that a contribution receipt is given to every person who pays a contribution (s.434).
- Must ensure that the contributor has signed, on the contribution receipt, the declaration stipulating that the contribution is made out of the contributor's own property, voluntarily, without compensation or consideration, and that it has not and will not be reimbursed in any way (s. 434)
- Must ensure compliance of contributions (s. 440).
- Must send to the treasurer of the municipality, every three months, the treasurers' copies and the Chief Electoral Officer's copies of the contribution receipts issued during this period (s. 483)
- Must cash the sums received during political activities or political events (s. 439).
- Must ensure that the 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 report (s. 440.1).
- Must return illegal contributions to the municipality (s. 440).
- May contract loans (s. 446).
- Must pay the interest due on loans each year (s. 448).
- Must reimburse loans in accordance with the Act (s. 449).
- Must provide every candidate of the party with a list of the publicity expenses incurred before the candidate filed his or her nomination papers (s. 162.1).
- Must ask the treasurer of the municipality to reimburse expenses incurred to audit the annual financial report, when the revenue collected is more than \$5,000 (s. 490).
- May cash any other funds in accordance with the Act (s. 439).
- Must replenish the election fund of the official agent of the party (s. 458).
- Must, where applicable, pay claims for contested election expenses (s. 471).
- Must pay claims made to the treasurer for which no amount had been provided for by the official agent (s. 471).
- Where applicable, receives the reimbursement of election expenses from the treasurer of the municipality (s. 478).
- Is responsible for incurring expenses other than election expenses (s. 443).
- Is responsible for signing and producing the financial report and the reports on political activities (s. 479).
- Must sign a declaration prescribed by the Chief Electoral Officer, to accompany the financial report (s. 481.1).
- May act, where necessary, as the official agent of the party (s. 382).

The leader of an authorized political party

The main responsibilities of the party leader are as follows:

- Appoint an official agent if it is someone other than the official representative (s. 382).
- Appoint an auditor of the party no later than 30 days after the authorization of the party is granted (s. 388 and 389).
- Approve the nomination of the official agent's deputies (s. 385).
- Fill the offices of official representative, official representative's delegate(s) (if necessary) and official agent as soon as they become vacant, and fill the office of auditor in the 30 days following the vacancy (s. 387 and 391).
- Ensure that the information required to update the register of political parties is sent to the Chief Electoral Officer and to the treasurer of the municipality (s. 392, 424 and 425).
- Certify the nomination papers of every official candidate of the party (s. 163).
- Sign a declaration, jointly with the official representative and agent, regarding the party's financial report and return of election expenses (s. 481.1 and 492.1).
- Submit an application for the withdrawal of the party's authorization, if necessary (s. 403).
- Notify the returning officer if he or she would like to have authorization as a private intervenor, in case the party does not present any candidates during an election.

The 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 or more inhabitants (s. 367).

The Chief Electoral Officer must basically:

- Authorize independent candidates and political parties (s. 368).
- Ensure that parties and candidates comply with the Act (s. 368).
- Give directives on the application of chapter XIII (s. 368).
- Receive and examine the reports and returns that are submitted (s. 368).
- Keep a register of authorized entities (authorized parties and independent candidates (s. 424)).
- Process withdrawals of authorization (s. 403 to 407).
- Publish the notice of authorization or of withdrawal 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 party's financial affairs (s. 368).

- Inform the parties, the candidates and the general public (s. 90.6).

In addition, the Chief Electoral Officer may:

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

The treasurer

The role of the treasurer is to assist the Chief Electoral Officer with the application of Chapter XIII of the Act. Among other things, the treasurer must:

- Give instructions and relevant documents to any authorized independent candidate (*Guide for official representatives and official agents of authorized independent candidates*, and booklets of contribution receipts).
- Display and update the list of official agents of parties, the list of authorized independent candidates and, where applicable, the list of deputies of official agents of parties (s. 394).
- Calculate the preliminary and final limits on election expenses and send a copy of them to all official agents.
- Receive, every three months, the treasurers' copies and the Chief Electoral Officer's copies of the contribution receipts issued by the official representative of an authorized political party during the period (s. 483)
- Send the copies of the contribution receipts to the Chief Electoral Officer, every three months.
- Pay an allowance to the official representative of an authorized party upon presentation of vouchers (for municipalities with populations of 20,000 or more) (s. 449.2).
- Calculate and pay the matching sums (for municipalities with 20,000 or more inhabitants).
- Receive the annual financial reports of political parties and the reports of their political activities.
- Where the financial report must be audited, reimburse part of the cost of the audit to the 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.
- In accordance with the Act, reimburse the election expenses of parties and independent candidates who are entitled to reimbursements (s. 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 report or return within the stipulated deadlines to those concerned (s. 64 and 502 to 504).
- Send copies of all financial reports and activity reports to the Chief Electoral Officer and, upon request, copies of all returns of election expenses received (s. 500).
- Where applicable, produce and file with the municipal council, not later than April 1 of each year, a report of his or her activities for the previous fiscal year, as outlined in Chapter XIII of the Act, and send a copy of the report to the Chief Electoral Officer (s. 513).

Funds held by a party at the time of an application 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 (s. 397(9)).

"Funds held" means cash and, in general, cash assets that were obtained by electors of the municipality for the formation of the party.

Opening balance

The official representative of a political party that holds funds must, within 30 days following the granting of authorization 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 (s. 449 and 458).

Complementary information to the financial report

The annual financial report of a political party, to be filed by the official representative, must include a detailed follow-up statement of funds held on the date the authorization is granted, along with revenues generated by those funds since that time. The statement is required for as long as the funds exist. The funds are used on a first in, first out basis.

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 cheques honoured (image showing front and back, scanned or original).

For all deposits, copies of slips must be kept and must show the amount and **origin** of the cheques deposited, and the **origin** of any other amount received in cash. In addition, it is recommended that the official representative should keep a copy of every cheque cashed.

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

Keeping of accounting books

The party's official representative must prepare the annual financial report required by the Act. This involves compiling all the party's financial operations. To facilitate the preparation and auditing of these reports, operations must be entered in various registers.

A computer application known as the RCM (the French acronym for Municipal Accounting Register) has been developed by Élections Québec. For additional information, official representatives may contact one of Élections Québec's financing coordinators.

The official representative's accounting books

The official representative's accounting books are as follows:

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

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

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

Additional requirements

The official representative must 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, for a period of seven years, all receipts, invoices or vouchers related to his or her expenses; all these documents are required to prepare and audit the financial report.
- Keep a copy of every bank deposit slip.
- Make all payments by 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 report

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

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

In addition, for the financial report to be valid, the balance sheet must be signed and the sections entitled "Signature and declaration of the official representative" and "Signature and declaration of the leader" must also be signed.

The content of the auditor's report

The auditor of an authorized political party examines the party's financial report and, when the amounts collected exceed \$5,000, issues an auditor's report (as an independent auditor) to the party's officers, not later than the fifth day preceding April 1 of each year, in accordance with the Chief Electoral Officer's directive D-M-9 (s. 388 and 488).

The report must be sent to the party's officers. It may also contain comments or observations to explain any departure from generally accepted accounting practices, from the Act or from the directives of the Chief Electoral Officer.

Rules stipulated 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 for official representatives of authorized political parties* (DGE-1041).

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