



Third Party Advertising during the 2021 General Election

Information Session

April 13 & 14, 2021



Agenda

1. On the ballot
2. Legislation: Local Authorities Election Act (LAEA)
3. What is a Third Party Advertiser (TPA)?
4. Election advertising
5. Registration process
6. Expenses and contributions
7. Disclosures and post election requirements
8. Questions

What's on the ballot?

General Election

- Mayor
- Councillors
- Calgary Board of Education trustees
- Calgary Roman Catholic School Division trustees
- Question: “are you in favour of reintroducing fluoridation of the municipal water supply?”

Anticipated

- Alberta Senate election (Alberta Senate Election Act)
- Provincial referendum question(s) (Referendum Act)



Local Authorities Election Act (LAEA)

Legislation updates

- Prior to 2018, third party advertising in municipal elections was not addressed in the LAEA
- Rules have been added governing the finances and accountability of third parties that advertise during an election period.
- Current third party advertiser rules came into force September 1, 2020.



LAEA Part 8 Third Party Advertising

- Registration requirements
- Rules for contributions, receipts, and handling of funds
- Disclosure requirements
- Offences and fines

LAEA section 166 Collusion



A registered third party shall not circumvent, or attempt to circumvent, a contribution limit or an expense limit set out in Part 5.1 or an expense limit set out in this Part by colluding with a candidate. A candidate shall not collude with a third party to circumvent, or attempt to circumvent, a contribution limit or an expense limit set out in Part 5.1 or an expense limit set out in this Part.

Third party advertising is separate from any candidate's campaign and must be done independently from a candidate. Any advertisements or materials that are made and distributed by a candidate or under a candidate's direction are part of the candidate's campaign.

Third party advertising is a way for those outside of the candidate's campaign to express support of or opposition to candidates and to try to persuade voters to vote a certain way.

Who is a Third Party?

May be:



Individual residing in Alberta



Corporation operating in Alberta



Group operating in Alberta:

- Trade unions
- Employee organizations
- Unincorporated groups

A third party may be an individual, corporation or group. A group may include an unincorporated group of individuals or corporations acting together for a common purpose and includes a trade union and an employee organization, or any combination of individuals, corporations, trade unions or employee organizations. Individuals must reside in Alberta and corporations, trade unions or employee organizations must operate in Alberta.

May not be:



Candidates



Registered charities



Outside of Alberta

- Individuals
- Corporations
- Groups

References:

LAEA sections 162(1)(d)(I), (6)
EFCDA (1)(I)

What is election advertising?



- A message **promoting or opposing the election of a candidate or the vote on a question** during an election advertising period.



- Election advertising period is **May 1 to October 18, 2021.**

References:

LAEA sections 162(1)(d)(e)

(3)

Election advertising examples



TV, radio, newspaper ads



Signs, billboards, posters



Newsletters, brochures, mailing inserts



Ads on the internet with a placement cost (pay-per-click, paid social media, pop-up ads, etc.)



Canvassing for the benefit of a candidate



Organizing events where the primary purpose of the event is to promote or oppose a candidate

References:

LAEA 162

Election advertising does NOT include



Editorial, a debate, a speech, an interview, a column, a letter, a commentary or news



Distribution, promotion or sale of a book for no less than its commercial value



Document or communication directly by a corporation or a group to its members, employees or shareholders



Transmissions of political views on the internet



Telephone calls to electors encourage them to vote



Advertising by the local jurisdiction in any form (i.e., City of Calgary, Elections Calgary, school boards)



Unintended transmission in another jurisdiction

References:

Identification of a TPA in advertising

All TPA sponsored election advertising must include the following three elements:

1. TPAs name
2. Contact information
3. Indicate whether the third party authorizes the election advertising

Telephone advertising requirements:

Election advertising via telephone calls (live calls or automated pre-recorded calls) must include:

- **Call display of telephone number.** The number must be displayed and cannot be blocked from being displayed.
- **Name of third party.** The name must be stated at the beginning of the election advertising.
- **Authorization.** Must state whether the election advertising is authorized by the third party.
- **Contact telephone number.** A contact number must be stated at the end of the election advertising.

Registration of TPA

Who should a TPA register with?

1. **A local jurisdiction (Elections Calgary):** Register with Elections Calgary if you are planning to advertise a message that opposes or supports the election of a municipal candidate (mayor, councillor or school board trustees).
2. **Provincial registrar with Municipal Affairs:** Register with the Provincial Registrar if you are planning to advertise in more than 10 local jurisdictions that opposes or supports the election of a municipal candidate.

If you are planning to advertise in other local jurisdiction but not more than 10, then you would register in each local jurisdiction (no need to register at the provincial level). For example, you could register with Elections Calgary and The City of Brooks.*

*Where expenses or contributions exceed or intend to exceed \$1,000.

References:

LAEA sections 163, 164



Registration of TPA, Cont'd

Who should a TPA register with?

- 3. Elections Alberta:** Register with Elections Alberta if you are planning to advertise on a provincial issue or entity such as MLAs, provincial political parties, Alberta Senate election candidates, or provincial referendum questions.

References:

Election Finances and Contributions Disclosure Act (EFCDA) section 44.1(g)

Summary

Is the third party a resident of Alberta, or a corporation or group operating in Alberta?

Is it election advertising?

Will the message be transmitted to the public?

Will it occur during the election advertising period (May 1 – October 18, 2021)?

Will it promote or oppose a candidate?

Have contributions of at least \$1,000 or expenses of at least \$1,000 been incurred?

• **IF YES to all, likely TPA should register:**

• Elections Calgary (fewer than 10 local jurisdictions)

• Provincial Registrar (10 or more local jurisdictions)

• **IF on a provincial issue or entity such as MLAs, provincial political parties, Alberta Senate election candidates, or provincial referendum questions.**



Registration requirements

To register with Elections Calgary:

- Complete Form 27 – Registration of a Third Party ([available on website](#))
 - Primary contact
 - CFO contact
 - Location of where records are maintained
 - Financial institution information including signing authorities
- If a group, provide name and contact information of principal officers or principal members.
- If the TPA has a governing body, application must include resolution passed by the governing body authorizing the third party to incur election advertising expenses.
- Third Party Advertiser Information Consent Form ([available on website](#))

TPA must notify Elections Calgary of any changes in the registration documents in writing within 30 days. Email is acceptable (elections@calgary.ca).

All forms are available on ElectionsCalgary.ca. Go to the **“For Third Parties”** section.

References:

LAEA section 163



Contributions

General

- TPAs must register where expenses or contributions exceed or intend to exceed \$1,000.
- Election advertising donations can only be accepted from eligible contributors (an individual, a corporation, a trade union or employee organization residing or operating in Alberta)

Ineligible contributors

- An individual who is not ordinarily a resident in Alberta;
- A trade union or employee organization that does not operate in Alberta;
- A prohibited corporation (as defined in the [Election Finances and Contributions Disclosure Act](#) section 1(1)(l)).
Example: municipality or post secondary institutions
- A group where any member is one of the above; or
- A registered charity.

Election advertising contributions must be deposited into the TPAs advertising account.

References:

LAEA section 167

EFCDA section 1

Receipts

A TPA must issue a receipt for every election advertising contribution.

As set out in The City of Calgary Election Bylaw 35M2018, each receipt must include the following information:



1. date of contribution;
2. name of contributor;
3. address of contributor; and
4. amount contributed.

The type of receipts used is not prescribed by or issued by Elections Calgary.

Contributions, cont'd



Contributions limits

- A contributor (i.e. individual, corporation, trade union or employee organization) may donate to more than one TPA.
- Total, aggregate contributions cannot exceed \$30,000 during the advertising period.
- For example, an individual may contribute \$10,000 to three different TPAs. Their total contributions to TPAs is \$30,000.

Valuing contributions other than money

- If any real property, goods or services are provided to the TPA for a price that is less than the market value (or provided for free), the amount by which the value exceeds the price is considered an advertising contribution.

Contributions \$50 or less

- Amounts of \$50 or less are not considered an election advertising contribution but the Chief Financial Officer (CFO) of the TPA must record the aggregate amount as part of the disclosure.

Anonymous contributions

- Anonymous contributions in excess of \$50 must be returned to the contributor if their identity can be established.
- If their identity cannot be established, the contributions must be paid to the local jurisdiction (The City of Calgary).

References:

LAEA section 167,
171, 173, 175



Expenses

Expenses and receipts

- TPAs must register with Elections Calgary when it has incurred or plans to incur election advertising expenses of \$1,000 or more.
- TPAs subject to aggregate expense limits established by regulation. Currently, no limit established.
- All election advertising expense must be paid from the TPAs advertising account.
- Every TPA must appoint a Chief Financial Officer (CFO) and all expenses must be authorized by the CFO.
- Volunteer labour not considered an expense.
- All election advertising expenses must be recorded in the advertising return, which is due on or before March 1, 2022.

Fund-raising event ticket prices

- When a fund-raising event ticket is \$50 or less, up to half of the ticket value can be allowed for expenses.
- When the event ticket is between \$50 and \$100, \$25 is allowed for expenses.
- When the event ticket is more than \$100, 25% of the amount is allowed for expenses.

References:

LAEA section 162,
172, 178



Disclosure requirements

Deadline to file disclosure requirements is March 1, 2022.

- Form 28 Advertising contribution report by March 1, 2022.
- File advertising return which includes
 - financial statement
 - List of contributions
 - List of expense
 - List of time and place of broadcast or publication of the advertisements to which the election advertising expenses relate
 - Any supporting documents.

Form 28 form is under development and will be posted on the Elections Calgary website.

TPAs must retain all records until 3 years after required filing date (March 1, 2025)

References:

LAEA sections 180, 182, 185

Summary

SUBJECT	Candidate LAEA Part 5.1	Third Party LAEA Part 8
Eligible contributors	Individuals ordinarily resident in Alberta.	Individuals ordinarily resident in Alberta. Corporations, trade unions, employee organizations and groups operating in Alberta.
Contribution limits	\$5,000 per candidate \$10,000 self-contribution	\$30,000 per contributor in total
Expense limits	Subject to regulation. Currently, no limit on campaign expenses.	No limit on election advertising expenses.
Disclosure name & address of contributors	Whose contributions exceed \$50.	Whose contributions for election advertising exceeds \$250.
Disclosure statement due on or before.	March 1, 2022 (Form 26)	March 1, 2022 (Form 28 & advertising return)
Surplus carryover	Surplus amounts above \$999.99 must be donated to a registered charity. Recorded in the disclosure.	Can be carried over to next election; must be disposed of within 6 months after.
Enforcement	Election Commissioner (Part 5.1 – campaign finances only)	Election Commissioner (Part 8)

Canceling registrations

Cancellations

- Written application to Elections Calgary or Provincial Registrar, if applicable
- Registration cancelled where CFO fails to file election advertising return or fails to report advertising contributions
- Disclosures required even if registration is cancelled.

All the funds in the election advertising account must be dealt with according to the LAEA.

Name restrictions

As per LAEA section 163, a TPA **will not be allowed to register** if its proposed name or abbreviations of the name:

- Resembles the name of a registered TPA.
- Resembles the name or nickname of a candidate active in Calgary or anywhere in the province.
- Resembles the name of a registered TPA whose registration was cancelled or changed since the last election.

References:

LAEA section 163,
164

Enforcement



- Election Commissioner has the authority to investigate violations, or potential violations of Part 8 of the LAEA (third party advertising).
- Complaints should be directed to the Election Commissioner.
- A local jurisdiction, returning officer (Elections Calgary) or the Registrar is required to refer any complaint related Part 8 of the LAEA to the Election Commissioner.
- Filing a complaint requires:
 - Complainant's name, address, telephone number and email address;
 - A factual description of matters related to the complaint; and
 - Any relevant documents.
- Penalties of up to \$10,000 (individual), or up to \$100,000 (union, organization, corporation)
- Send your complaint and all relevant documents and materials to complaints@elections.ab.ca

References:

LAEA Part 9

Questions



E-mail questions to: elections@calgary.ca



Questions and answers to be published on the Elections Calgary website.



Sign-up for the e-Newsletter:

- Go to www.ElectionsCalgary.ca
- Click on “eNewsletter sign up” on the homepage and choose “Candidates and Third Party Advertisers”