



Association of Fundraising Professionals (AFP)

Written Comments

Canada Revenue Agency Fundraising Guidance

August 15, 2011

**Association of Fundraising Professionals
260 King Street East
Suite 412
Toronto, ON M5A 4L5
(416) 941-9212**

Background

The Association of Fundraising Professionals (AFP) is a professional association representing individuals responsible for generating philanthropic resources for charitable and public service organizations. AFP is the largest association of fundraisers in the world, representing more than 30,000 practitioners across the globe, including 3,400 members in 16 chapters across Canada.

AFP sets the highest standards for ethical behavior in the fundraising profession. AFP members are required annually to sign our *Code of Ethical Principles and Standards*, which was first developed in 1964 and is one of the few codes that is enforced. The AFP *Code of Ethics* has provided the basis for subsequent codes of conduct for fundraising in different countries around the world, including Canada. AFP also instituted a credentialing process in 1981, which was designed to identify for the giving public fundraisers who possess the demonstrated knowledge and skills necessary to perform their duties in an effective, conscientious, ethical and professional manner. More than 4,000 fundraisers around the world have earned the CFRE (Certified Fund Raising Executive) and ACFRE (Advanced Certified Fundraising Executive) credentials.

AFP collaborates with fundraising communities, government agencies and partners internationally to advance fundraising and philanthropy. AFP convened more than 30 national fundraising associations from around the world to draft the *International Statement of Ethical Principles*, a series of values and standards for the global fundraising community.

AFP appreciates the opportunity to comment on the proposed revised version (2011) of the Canada Revenue Agency's (CRA) fundraising guidance. This revised version of the guidance is much more user-friendly and having one document, as opposed to the original two documents, will make the guidance more accessible to fundraisers, charitable organizations, the media and the public. We do, however, have a few suggestions that we feel will strengthen the fundraising guidance.

Comments

Our main area of concern is that the revised version unintentionally casts a negative light on fundraising. A quick glimpse at the table of contents supports this perspective with phrases such as “when is fundraising not acceptable,” “illegal fundraising activities” and “indicators that a charity is engaging in unacceptable fundraising.” A comparison with the table of contents of the previous version of the fundraising guidance is much more factual in content and merely references “prohibited fundraising conduct.”

Perhaps some minor rewording would enable a more proactive approach to fundraising compliance without inadvertently associating fundraising with negative connotations.

A. Summary

1. In the summary section, it is stated that “[a]s a general rule, fundraising is any activity that includes a solicitation of present or future donations of cash or gifts in kind, whether the solicitation is explicit or implied.” The word “implied” is vague. The reference to implied solicitations also appears on pages 5 and 23. Providing either a definition in Section E or some examples of implied solicitations would give this sentence much needed clarity.
2. Similarly, clarity is needed in the summary section where it is noted that fundraising is acceptable provided that it is not a “purpose of the charity.” How does the CRA define fundraising that rises to the level of “purpose”? Is it a set percentage of expenditures or some other threshold? Clarification around this question would ensure proper understanding and compliance.
3. As AFP has noted previously, we urge the CRA to consider three to five-year rolling averages when reviewing a charity’s fundraising expenditures and its fundraising expenses to fundraising revenue ratio in addition to the review of the previous year. We believe that rolling averages will provide trends and information that will serve the CRA far better than a simple annual review.
4. The summary section refers to fundraising initiatives or arrangements that are not “well documented.” This phrase is ambiguous. Some models of good documentation would provide clarity and assist fundraisers and charitable organizations with compliance.
5. The CRA should consider listing a few other elements to the last bullet point under the range of indicators and factors listed on page 2. These would include the age or maturity of the fundraising program and the mix of fundraising methodologies.

B. Introduction

AFP suggests a slight rewording of the first paragraph to frame the role of fundraising in more positive light. Perhaps the paragraph could read:

Registered charities in Canada often depend on donations to fulfill their altruistic missions and carry out their charitable activities. Many charities, therefore, devote a proportion of their resources (including time, property and money) to fundraising to support their charitable work. While recognizing the vital role of fundraising, the CRA expects charities to be transparent and conduct all fundraising within acceptable legal boundaries or parameters.

These are subtle changes, but they convey a slightly different, more positive message around fundraising.

D. What is fundraising?

1. In this section, face-to-face canvassing, telemarketing and direct mail are listed together. We recommend adding major gift work with individuals to this list.
2. The CRA also states under the guidance that “fundraising does not include seeking grants from other charities or government.” It is unclear as to whether a foundation solicitation program would (or would not) constitute as fundraising. Similarly, would a donation arising from a fundraising request that a prospective donor decides to fund through their private foundation count as fundraising revenue according to the guidance? We urge the CRA to contemplate answers to these questions and include them in the guidance.

E. Definitions

The CRA might consider adding a definition for third party fundraising.

F. When is fundraising not acceptable?

1. On page 8, the CRA states that it is “reasonable to expect such [fundraising] costs to be proportionate to the funds expected to be raised.” Providing instructions setting out the differences between fundraising approaches and their associated costs would be beneficial here. For instance, direct mail fundraising would differ in terms of cost from major gift fundraising. Assigning the same ratio to both fundraising approaches to determine reasonableness is inequitable.
2. In the subsection regarding deceptive fundraising, the bullet point on page 10 should not be limited to fundraising campaigns conducted by third parties. All campaigns, including in-house fundraising, result in fundraising costs. Therefore, all campaigns that claim that 100 percent of money raised goes to the charity are misleading.

G. Evaluating a charity’s fundraising

1. In the subsection covering unnecessary fundraising, the CRA contends that if a registered charity has “substantial reserves, such as many years’ worth of operating funds or substantial investments that will generate the revenue to cover its operating costs for many years to come, the need for fundraising may be questionable.” AFP contends that charitable organizations, particularly in a tumultuous economy such as this one, may need to establish substantial reserves while still continuing to fundraise. This is particularly so when a charity is embarking on an endowment campaign as is frequently done by large charities, such as universities or health care organizations. Even more than their for-profit counterparts, charities are very much at the mercy of economic ebbs and tides. It is worth noting that fundraising extends beyond the mere raising of dollars—it also includes ongoing engagement and communication with donors to ensure continuity and support of charitable mission.

We find this section ambiguous and potentially restrictive if interpreted narrowly. We urge the CRA to reconsider this section and either eliminate it in its entirety or ensure

that it will not result in unintended negative consequences for those charities that might be good stewards of their funds.

2. In the subsection covering high fundraising ratios, the CRA states that it may calculate a charity's fundraising ratio in the course of an audit or other review. We recommend adding a sentence to this paragraph from the Questions and Answers document that states, "The ratio, as presented in these guidelines is a global calculation for a fiscal period."
3. In the subsection regarding commission-based fundraising, we recommend a reference to the *AFP Code of Ethical Principles and Standards* and the Imagine Canada Ethical Code Program that prohibit this type of fundraising compensation. References to the two codes would highlight the concept that such fundraising activity is "harmful to the public interest and therefore contrary to public policy and/or deceptive."

H. Factors that may influence the CRA's evaluation of a charity's fundraising

In the donor acquisition and planned giving campaigns subsection, the CRA notes that "donor development costs should generally decline over time as the charity, and its fundraising activities, become more established." (This assumption also is found in the Question and Answer section under Question 10). We believe that it is incorrect to assume that development costs decline. This subsection also fails to recognize the essential need for relationship building, stewardship activities and related issues. There will always be associated costs to building and maintaining a donor base, the chief asset of a charity.

Appendix B – Allocating fundraising expenditures

1. In the subsection providing examples where there is no allocation of costs to fundraising, example 3 includes the hypothetical assumption that the "fundraising staff earn a higher salary than the program staff." This statement is not necessary for the fact pattern or to enhance the example. We suggest removing this sentence.
2. Example 5 also raises questions. The example notes that the "substantially all" test is not met when a charity's website has 10 pages but the initial page is used extensively to solicit donations or provide information on giving opportunities. Although this particular example makes sense, it leads to the follow-up question as to whether the test would be met if the website had more than 10 pages. Is there a threshold/number of pages at which point the test would be met? We recommend providing an explanation of this example or rephrasing the fact pattern to avoid confusion.
3. In the subsection covering pro-rated allocation of costs to fundraising and other expenditures, the CRA declares that an application "for grants or other types of government funding, and/or for gifts from other qualified donees (usually foundations)" falls under management and administrative content (and not fundraising content). As we have discussed in meetings, fundraising staff are normally responsible for grant-writing and these costs sit with, and are allocated to,

the fundraising budget. We believe that costs and revenues should be applied to fundraising.

Appendix C – Best practices

1. We found the best practices appendix extremely helpful. We do have some suggested changes. In the subsection concerning payment for goods, services and staffing, we recommend changing the first sentence such that it reads that a “charity should pay no more than is reasonable.” This would diminish the unintended negative connotation of salaries associated with fundraising, which the word “necessary” otherwise reinforces. We also recommend some additional explanations and parameters regarding the concepts of “potential suppliers” and “request for proposal” to ensure that charities do not utilize bidding and RFP processes unnecessarily (e.g., for small projects costing very little money).

In the same subsection, there is a reference to avoiding “performance evaluation based solely or excessively on results achieved (for example, bonuses or incentives exclusively tied to the number or amount of donations). Although AFP prohibits commission-based fundraising, there are permissible bonus structures based upon a variety of performance-based benchmarks, which also are recognized by Imagine Canada.

2. AFP recommends changes to the subsection regarding the disclosure of “truthful, accurate, accessible and timely disclosure about fundraising costs, revenues, practices and arrangements.” Although AFP strongly supports timely and accurate disclosure of information, particularly to donors, in the *AFP Code of Ethical Principles and Standards* and the *Donor Bill of Rights*, we believe that parts of this subsection will have unintended consequences.

For instance, where the CRA references “accessible” information in the subsection, the CRA encourages distribution methods such as “web sites, annual reports, mailings, print and broadcast media, events, and through contacts made during solicitations.” This suggestion is ambiguous, and it is possible that without some clear parameters, donors, the public and the media will have unreasonable expectations in terms of the disclosures provided through those methods.

Similarly, we find the CRA’s list of proposed disclosures before or during a fundraising initiative challenging and at times unrealistic for charities to fulfill. We agree that charities must maintain such information and make that information available upon request but it is not reasonable to expect that most charities will be able to do so before and during a fundraising campaign.

Although the CRA suggests that charity “might” take these actions, we believe that the public, media and perhaps auditors will view these as mandatory disclosures and expect them to be made. For some charities, particularly small ones, these added disclosure requirements could represent a considerable increase in the burden of compliance. Therefore, we recommend removing or recasting the language regarding

such disclosures. We also urge a stronger emphasis on the disclosure of the information from a charity's Form T3010.

Appendix D – Questions and Answers

Given the confusion regarding the evaluation grid regarding fundraising ratios, we strongly recommend that the CRA move Question and Answer number 17 to the top of the section.

Question and Answer number 3 concerning the disbursement quota should be revised to clarify that the disbursement quota refers now to only the 3.5 percent DQ as opposed to the 80 percent DQ.

As well, since the Questions and Answers contain important information that is not necessarily contained elsewhere in the guidance, it would be helpful to include a statement at the beginning of the guidance that the reader should ensure that they refer to the questions and answers at the end of the guidance, since the questions and answers are an integral part of the overall guidance document.

Conclusion

AFP appreciates the opportunity to provide feedback and recommendations on the fundraising guidance.

We look forward to continuing to work with the CRA and the Charities Directorate on this issue and welcome additional opportunities to discuss and provide input regarding the fundraising guidance and other issues affecting the charitable sector. AFP is committed to providing its expertise and resources to assist the CRA and the Directorate's efforts.