

Third Party Fundraising

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Introduction

[Interviewer: Lesley Conley, Coordinator of Information Services with Charity Central.]

Today's podcast focuses on answering questions on fundraising costs and issues that may arise when a registered charity hires a third party fundraiser. We have with us today Peter Broder. Peter is Policy Analyst and General Counsel with The Muttart Foundation in Edmonton, Alberta.

Thank you for joining us today Peter, for our third podcast on CRA's fundraising guidance.

What do registered charities have to consider when hiring a professional fundraiser?

Many charities do not have the capacity or expertise to mount fundraising events or campaigns by themselves. So groups, either on their own initiative or in response to a pitch by for-profit fundraising consultant or company, often contract with third parties to do their fundraising. Generally, registered charities are permitted to fundraise using third parties provided the costs are reasonable and the charity exercises adequate control over the fundraising activity. Also, charities must avoid certain impermissible fundraising conduct.

What is impermissible fundraising conduct?

Whether done by the charity itself or through a third-party, fundraising that becomes a main or primary purpose of the charity, fundraising that deceives or misleads about the use of the fundraising proceeds or other aspects of the charity's financing, whether done by the charity itself or through third-party, fundraising that becomes a mean our primary purpose of charity, fundraising that deceives or misleads about the use of the fundraising proceeds or other aspects of the charity's finances, fundraising that is associated with illegal acts or fundraising that results in excessive or disproportionate private benefit to third parties is not permitted.

Are any of the issues you just mentioned, more apt to arise when using a third party fundraiser?

When contracting a third party fundraiser, charities should be particularly alert to issues of disproportionate and excessive private benefit and to the risk of deceptive fundraising representations. Remember, a third party may not have the same stake in maintaining the charity's reputation over the long term as the organization itself does.

What are reasonable or acceptable costs in fundraising?

There is no absolute standard for acceptable or unacceptable costs. The reasonableness of costs is assessed based on the overall circumstances of the charity and the type of fundraising being undertaken. CRA also looks at the efforts made by the charity to ensure its controls costs and that it does not pay more than fair market value when it procures fundraising services or supplies. If a charity pays more than fair market value for fundraising - that is, the price that two informed unrelated parties operating in an open market would set for the transaction, then it will be very hard to show the cost is reasonable. The CRA guidance on fundraising provides further details on what is considered when fundraising costs are assessed.

When a third party fundraiser is used, the charity should be especially careful to ensure that the third party does not enjoy a potential windfall profit if the event or campaign is especially successful. Sometimes in the rush to get fundraising in place, the charity doesn't make sure it gets the best terms it could. Windfall profits divert resources that would otherwise be available for use in charitable programming or for other charitable ends.

What are some of the major concerns in contracting with a third party to do your fundraising?

Some charities view third-party fundraisers as an easy answer to all of their financial worries. In such cases, they may enter into a disadvantageous contract with the fundraiser because they believe that the company could generate resources that they would not have had otherwise. Or they may not research the market to see if they could get a better return on the money they propose to invest in the fundraising. As well, the charity's reputation may be damaged where donors learn that a high proportion of the receipts from the fundraising have gone towards expenses and administration and very little is left to finance program activity. So the charity may achieve some short-term fundraising success at the cost of long-term financial health.

Is it acceptable to pay fundraisers a commission based on results?

There is no absolute prohibition on commission based remuneration. However, where a charity enters into a commission based contract arrangement with a third party, it will be more difficult to show that the compensation received by the third party was reasonable, as the possibility that the third party will or did receive a windfall profit is greater under this type of compensation arrangement. Organizations like Imagine Canada and the Association of Fundraising Professionals suggest commission based fundraising be avoided.

How is the use of volunteers in fundraising activity taken into account in assessing the acceptability of fundraising costs?

Often charities use volunteers to help with events, and sometimes in other aspects of fundraising, such as door-to-door campaigns. If a charity can show that it has made use of volunteers to lower its fundraising costs, and it has reduced the amount of the proceeds from an event or campaign that have to be used for paid staff, CRA will take this into consideration when looking at the acceptability of the fundraising costs.

If an organization that is not a registered charity asks to use a registered charity's registration number for a fundraising event, what should the charity do?

It should refuse. Registered charities may not lend, sell or otherwise transfer their charitable registration number to another entity, either temporarily or permanently. Registered charities found to have done so typically have their registration revoked by the Canada Revenue Agency. Charities must exercise control over their fundraising, and over the use of the funds generated through their fundraising. Funds raised under a group's charitable number must be used to advance its charitable purpose. Misuse of a group's charitable number breaches this principle and is not permitted.

If a charity cannot lend their number, is there a way they can help?

A registered charity can fund charitable work within its mandate by entering into an agreement with the not-for-profit group or a similar entity to undertake programming or provide services on its behalf. However, such arrangements have to be detailed and enforceable, so the registered charity can show it is exercising control over its resources. A written contract, agency agreement or other formal legal arrangement is typically required to satisfy CRA that the charities exercising adequate control over the use of its resources.

Can an organization arrange to collaborate with a registered charity, by using their charitable registration number on a project application to a foundation, where the charity would be the administrator of the project, while the other organization would do the programming?

No. Although it is permissible to use a non-charitable partner to deliver charitable programming, using the charitable number to raise funds, whether for charitable work to be delivered by the charity itself or through another agency can only be done by the registered charity itself. This is true whether the funds are raised from a foundation, or as part of a broader campaign from the general public or some other group of prospective donors. This allows CRA to ensure that charitable dollars are used for charitable ends. In these circumstances, this means that the project application has to be made by the registered charity itself not by the non-charitable partner.

Could the non-charitable partner help in the fundraising?

Any fundraising by the non-charitable partner to support such a project would have to be independent and undertaken on the basis that contributors were not eligible for charitable donation receipts, or considered to be making charitable contributions.

Any final thoughts that you'd like to share with us?

As well as CRA's detailed fundraising guidance, organizations like Imagine Canada and the Association of Fundraising Professionals have standards for best or preferred fundraising practice. But even with all this material available, each charity must still determine the most appropriate fundraising approach for it, given its circumstance and its resources. And it must set policy on how it will fundraise and ensure that the policy is followed. The prudence and good judgment used in making and abiding by those decisions is the charity's best asset not only in satisfying the regulator, but in retaining the support of its donors and other stakeholders over the long term.

A significant number of charities have had their reputations damaged or destroyed by press reports of fundraising abuses. Once that trust is lost it is very difficult to regain. So the time and effort invested in sound decision-making about fundraising is well worth it.

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