



Numbered Memo 2024-01

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director¹
RE: Use of Private Funds in Elections
DATE: January 22, 2024

This numbered memo provides guidance about the limitations on the use of private monetary donations and in-kind contributions put in place by Session Law 2023-140 (SB 747). This memo replaces Numbered Memo 2020-21. This memo is primarily concerned with explaining what is legally prohibited and legally permissible for using private funds. County boards should always exercise their best judgment in deciding whether to accept or use any contribution or donation, even if legally permissible.

Prohibited Uses of Private Donations

In general, county boards of elections may not accept or use private monetary donations or in-kind contributions, directly or indirectly, for conducting elections or employing individuals on a temporary basis.² A donation or contribution is “for conducting elections” if it directly facilitates a process integral to carrying out an election, such as candidate filing, the conduct of voting, the determination of election results, or providing official notification to voters of the details of an upcoming or ongoing election.

Examples of private donations or contributions that shall not be accepted include:

- Printing or sending mailers communicating information about specific elections.
- Preparing official forms used at a voting site.
- Donating a remote alert system for curbside voting.
- Paying poll workers or staff, including bonuses, or reimbursing poll worker travel costs.
- Providing a private facility for candidate filing or an election protest hearing.

¹ This memo is issued under the authority delegated by the State Board to the executive director pursuant to G.S. § 163-22(p).

² G.S. § 163-133(18) (S.L. 2023-140, sec. 4).

- Donating a ballot scanner or software application to be used in an official post-election audit.
- Donating funds to hire individuals to conduct an audit or any other election-related investigation.

This list is not exhaustive. To determine whether a potential donation would be prohibited, county boards should consider whether the private donation directly facilitates a process integral to carrying out an election, as explained above. The prohibition on certain private donations does not restrict county boards from receiving *governmental* grants, donations, or contributions.

Permissible Uses of Private Donations

Private monetary donations or in-kind contributions may be accepted in certain circumstances.

The following types of in-kind donations from private entities are specifically allowed:³

- Use of a voting site, if that voting site is used for the purpose of conducting elections.
- Food or beverage provided for precinct officials or other workers at the voting place or county board of elections office, regardless of whether there is an election currently being conducted.
- Pens or personal protective equipment (PPE) to be used in an election. Examples of PPE include masks or other face coverings, gloves, hand sanitizer, cleaning and disinfection supplies, and thermometers.

In addition, a county board may accept a monetary donation or in-kind contribution if the funds will not be used for conducting elections or employing individuals on a temporary basis.⁴

Examples of such donations or contributions:

- Costs for attending professional development conferences that may include events discussing topics pertaining to elections.
- An elections professional organization or service provider providing best-practice guides or presentations to county staff on various elections procedures.
- Assistance designing communication tools that are not directly facilitating a process integral to carrying out an election. For example, a non-profit organization could provide a tutorial to a county board of elections on how to make its website more accessible to disabled individuals.

³ G.S. § 163-133(18)(a)–(c) (S.L. 2023-140, sec. 4).

⁴ G.S. § 163-133(18) (S.L. 2023-140, sec. 4).

- A nonprofit providing a list of names of individuals who have indicated to that nonprofit that they are willing to work as poll workers.
- A civic group allowing county board staff to present at one of their meetings on new election procedures such as photo ID or absentee voting. Although private resources fund these meetings, such general voter awareness events are not conducting an election.
- A director of elections asking county political party chairs and other voting organizations to help spread the word among their members about new voter registration procedures.

Additionally, staff at the State Board and county boards regularly review draft information that outside organizations plan to send to North Carolina voters, to ensure the accuracy of the information—i.e., to avoid voters being misinformed or confused. Conferring with groups such as this, when the ultimate product is a nongovernmental product, is not accepting or using a contribution or donation and is not prohibited.

County boards of elections should contact their county attorney or the State Board if they have questions about whether a particular donation or contribution may be accepted.

Other Considerations

There are several other factors that county boards of elections will need to take into account when considering whether to accept a private monetary donation or in-kind contribution.

Prudence and Good Judgment

Always bear in mind that even if a donation or contribution is legally permissible, it may not be wise to accept it if it will raise legitimate concerns among the board or the public.

County Policies

County boards of elections should follow all policies and regulations specific to their county. A county board may need to seek approval from the county commissioners if it wishes to accept a legally permissible private donation, unless the county has designated another process for approval. County boards should consult with their county manager and budget office to determine the process and have their county attorney review any proposed agreement.

Gifts from Contractors

State law makes it a misdemeanor for certain government officials and employees to accept gifts from contractors. It is also a misdemeanor for the contractor who gives such a gift. Officials or employees who are involved with preparing, awarding, administering, or supervising contracts may not receive anything of value from a contractor. This applies to current contractors as well

as to those who have performed a contract within the past year or who anticipate bidding on a contract in the future.⁵

Advertising items and souvenirs of nominal value may be accepted from contractors and potential contractors. “Nominal value” is not defined in the statute, but is typically thought of as having a value that is “trifling” or “insignificant.”⁶ Any gifts that are accepted must be reported by the person receiving the gift to the agency head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.⁷

Impermissible gifts that are received should be returned to the giver if possible. If it is not possible to return the item, it may be donated to charity. See [G.S. § 133-32](#) for additional information about the gift ban and exceptions.

Vendor Code of Ethics

The State Board of Elections’ [Vendor Code of Ethics](#) prohibits county board members and employees from accepting gifts from elections system vendors, although advertising items and souvenirs of nominal value may be accepted. Restrictions are heightened when a voting system certification is pending. Section III(6) of the Vendor Code of Ethics states that “no employee of the State or county board of elections, shall participate in any sponsored event by the vendor with the pending certification or RFP . . . except for events conducted at meetings of professional, governmental, or non-profit organizations that are open to all persons attending[.]”

Compensation from Unofficial Sources

Elections officials may not accept compensation or a reward for their services from a candidate or any other unofficial source. Specifically, it is a crime “[f]or any chief judge, judge of election, member of a board of elections, assistant, marker, or other election official, directly or indirectly, to seek, receive or accept money or the promise of money, the promise of office, or other reward or compensation from a candidate in any primary or election or from any source other than such compensation as may be provided by law for that person's services.”⁸

⁵ G.S. § 133-32.

⁶ *Nominal*, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/nominal> (last visited Jan. 3, 2024).

⁷ G.S. § 133-32.

⁸ G.S. § 163-275(12).