



Outside Sales Representative Guidelines

for Travel Agency Owners

The Travel Industry Council of Ontario (TICO) is responsible for administering the provincial legislation governing the travel industry in Ontario, the Travel Industry Act, 2002 (Act) and Ontario Regulation 26/05 (Regulation). TICO's mandate is to ensure that anyone selling travel services in Ontario is doing so in accordance with the Act and the Regulation.

TICO has recognized a growing trend of travel counsellors working outside of the registered place of business of a TICO registered travel agency (Host Agency). When a travel counsellor works outside of the registered place of business, TICO considers this person to be working in the capacity of an Outside Sales Representative (OSR).

These guidelines are designed to assist individuals and businesses selling travel services as an OSR in order to better understand the requirements under the Act and the Regulation and to ensure compliance.

DEFINING AN OSR

Although this list is not exhaustive, the following are some titles currently being used in the travel industry to describe an OSR: Outside Sales Agent, Home Based Travel Agent, Independent Travel Agent, Independent Contractor, Sub Travel Agent, Travel Associate, Independent Travel Advisor, Independent Travel Counsellor, Ambassador, Group Leader, Affiliate, Virtual Travel Agent, and Referral Agent.

If the OSR works and sells to customers outside of the registered office location, the agent is an OSR. Please note that it does not matter if the OSR is treated as an employee or as an independently contracted person/business.

HOST AGENCY RESPONSIBILITY

The Act does not register individual travel counsellors. Therefore, an OSR can only sell travel if they work through a TICO Registrant. The Host Agency is responsible for all actions of the OSR. This means that the Host Agency must have policies and procedures in place to ensure that the OSR complies with the Act and Regulations. It is the Host Agency's responsibility to supervise the OSR appropriately.

WRITTEN CONTRACT

Section 12 of the Regulation requires anyone selling travel services in Ontario (including OSRs) to be an employee or have a written contract with a TICO registered Ontario travel agency.

What is required in the contract?

The provisions set forth in the contract are decided by the Host Agency in order to establish the parameters of the business relationship between the Host Agency and the OSR.

Recommendations

The contract should cover compliance with the Act and Regulation. The following should be considered when creating the contract:

Disclosure and invoicing

Section 36 of the Regulation identifies all of the details and disclosure that a travel agent must disclose to a customer before completing a travel sale. This disclosure must take place whether the travel agent is dealing with the customer in person, on the phone or over the internet.

Section 38 of the Regulation sets out all of the requirements that a travel agent must include on the invoice/booking receipt that is issued to a customer after completing the sale.

Guidelines: www.tico.ca/industry-info/disclosure-invoicing-requirements

Marketing and advertising

Sections 31 through 35 of the Regulation explains the advertising requirements that a travel agent must comply with. There are specific details which must be included in certain representations.

Guidelines: www.tico.ca/files/Advertising%20Guidelines%20for%20Ontario-Nov2014.pdf

Collection of Customer Money and Trust Accounting Procedures

One of the purposes of the Act is the protection of customer monies received for the purchase of travel services. As such, there are strict requirements set out in the legislation explaining exactly how money collected from customers is to be handled. The key requirement is that all customer monies must be deposited to the Host Agency's Travel Industry Act Trust Account.

Guidelines: www.tico.ca/files/Trust%20Acctg%20GuidelinesJune2013%281%29.pdf

TICO recommends that the content of these guidelines be considered when developing a contract with the OSR.

WORKING FOR A TRAVEL AGENCY

An OSR is not an independent travel agency and is not independently registered with TICO. While an OSR may work independently, all sales conducted by an OSR must be reported through the Host Agency that is registered with TICO.

Business Name / Trade Name

An OSR can only advertise, market and sell as a business name, brand, or logo that is registered as a trade name of the Host Agency with TICO. If the Host Agency permits the use of an additional business name by the OSR, the Host Agency must register the additional trade name with Service Ontario and complete a Notice of Business Change Form with TICO.

Example: Legal Name: 1234 Ontario Inc Trade Name(s): ABC Travel, XYZ Adventures

Trade Name vs. Web Address (URL)

- If the website is branded with the web address, the registration of the trade name is required.
- If the web address is not branded and is not being used as a business name for marketing and/or selling purposes, then the registration of the business name is not required.
- All websites must be on the Host Agency's registration record with TICO by completing a Notice of Business Change Form.

Running another business?

An OSR may be operating another business while also selling travel services. For example, a Wedding Planner may also sell travel services facilitating destination weddings and honeymoons. If this is the case, there are some additional guidelines which may apply: Special Interest Travel Guidelines and Event Planners Guidelines. Please visit tico.ca/legislation-resources/industry-guidelines to learn more.

JURISDICTION

Out of province OSR working with TICO Registrant

All sales must be sold through an Ontario Host Agency. Although the OSR is located outside of Ontario, the OSR and Host Agency must comply with the Act and Regulation.

In-province OSR working with unregistered out-of-province travel agency

An OSR is not permitted to sell through the out-of-province travel agency. Since the OSR is located in Ontario, all travel sales must go through a TICO registered travel agency.

EDUCATION REQUIREMENTS

All OSRs selling travel services or counselling customers for the purpose of selling travel services must have passed TICO's Travel Counsellor Exam.

MULTIPLE AGENT ENVIRONMENT

Another growing trend in the industry relates to OSRs employing or working with additional OSRs. Regardless of the business model, all OSRs in this business model are required to have a written contract directly with the Host Agency.

OPERATE FROM REGISTERED PREMISES

An OSR must only provide services to customers at the customer's location. This may include the customer's home or a coffee shop, for example. Alternately, an OSR can make arrangements to meet with customers at the Host Agency's registered office location.

Can an OSR work from home?

An OSR may use his or her home to organize and plan activities. However, section 6(1) of the Regulation prohibits an OSR from using his or her home to meet with customers. Customers cannot be invited directly or passively to the OSRs home to conduct travel business.

If the home is being used as an office location (i.e. meeting with customers), it must be registered as a branch office of the Host Agency.

Can an OSR work from a separate commercial location?

If a commercial location is being used to conduct travel business, a branch office must be registered to the Host Agency.

DISCLOSURE TO CUSTOMERS

Section 36 of the Regulation requires that a travel agent disclose certain information to a customer before completing a travel sale. This requirement must be met whether the travel agent is dealing with the customer in person, on the phone or over the internet. An OSR must also comply with this requirement.

INVOICES & RECEIPTS

An OSR, after selling travel services to a customer, is required to promptly provide the customer with an invoice/receipt. Section 38(1) of the Regulation outlines the details that must be set out in the statement, invoice or receipt.

For more a more detailed breakdown on what is required for disclosure and invoicing, please review TICO's Disclosure & Invoicing Guidelines: www.tico.ca/industry-info/disclosure-invoicing-requirements.html.

HANDLING CUSTOMER PAYMENTS

A TICO registered travel agency (Host Agency) is required to comply with the legislation for collecting customer monies, i.e. Trust Accounting. As such, any customer monies received by an Outside Sales Representative (OSR) must be made payable to the Host Agency in order to comply with the legislation.

Cheque payments must be paid to the order of the Host Agency and deposited directly to the Host Agency's Travel Industry Act Trust Account (Trust Account). For merchant accounts (Debit or credit card), all payments must also go directly to the Host Agency's Trust Account.

If an OSR accepts cash on behalf of the travel agency, the money must be promptly deposited directly to the Host Agency's Trust Account. The Regulation requires the customer payment to be deposited into the Trust Account within two banking days after receiving it.

There are also a wide variety of services available in the market for individuals or businesses to accept money from customers, such as:

- Mobile Point of Sale Services (POS) terminals for credit and debit transactions
- Credit card readers that attach to a Smartphone or Tablet allowing mobile payments
- Electronic money transfers that are sent via email
- PayPal
- E-Commerce and Online Payments
- Electronic invoicing facilitating online payments

The key requirement is that any form of payment must be set up to go directly to the Host Agency's Trust Account.

If a business/company credit card is used to purchase travel services from suppliers, the business/company credit card must be in the name of the Host Agency, i.e. Corporate Credit Card. OSRs cannot process transactions with their personal or separate business credit cards.

MARKETING & ADVERTISING

Sections 31 – 35 of the Regulation relate to representations (advertisements). This includes but is not limited to business cards, flyers, newsletters, newspaper advertisements, websites and social media sites. An OSR that puts out an advertisement must comply with every aspect of the legislated advertising requirements. To review TICO's Advertising Guidelines, please visit: www.tico.ca/industry-info/advertising-requirements.

Phone Numbers

Whenever an OSR includes a phone number in a representation, the number must be a mobile number and not a home phone number. If the OSR has a dedicated business line, it must be associated with and approved by the Host Agency. Furthermore, the OSR must always display the Host Agency's main business telephone number in ads/representations.

Social Media

Social Media pages must show the Host Agency's registered business name, business address and TICO registration number. If an OSR includes a contact phone number, the page must also include the Host Agency's main business telephone number.

Websites & Blogs

All websites must comply with the requirements of the Regulation by including the Host Agency's business name, address, phone number and registration number.

If the web address is an independent domain, the URL must be registered as a website of the Host Agency by completing TICO's Notice of Business Change Form.

Print Representations

Business cards, stationary, flyers, leaflets, brochures, newspaper & magazine ads, promotional material

Print Representations must show the Host Agency's registered business name, business address and TICO registration number. If an OSR includes a contact phone number, the print representation must also include the Host Agency's main business telephone number.

There are additional requirements if the representation includes a price or relates to a specific travel service. Please review TICO's Advertising Guidelines for more information.

Limited Space Mediums

Some representations such as billboards, bus boards, vehicle wraps, pens, key chains, luggage tags, trade show booth banners, and signs are a limited space medium. As such, there are certain details that are optional like the TICO registration number. However, the representation must only show a business name that is registered to the Host Agency and if the OSR includes a contact phone number, he or she must also include the Host Agency's main business telephone number.

CHECKS & BALANCES (Internal Controls)

Host Agency Responsibility

The Act does not register individual travel counsellors. Therefore, an OSR can only sell travel if they work through a TICO Registrant. The Host Agency is responsible for the actions of the OSR. This means that the Host Agency must have policies and procedures in place to ensure that the OSR complies with the Act and Regulations. It is the Host Agency's responsibility to supervise the OSR appropriately.

Handling Customer Payments

The Host Agency must have proper procedures in place to ensure that all OSRs handling money are doing so correctly. The Host Agency will be held responsible for the actions of its OSR if the funds are not properly deposited to the Trust Account or are misused. The Host Agency must maintain sufficient controls to ensure that customer payments are processed properly.

It is important to note that an OSR should not be paying the Host Agency for customer bookings from a personal or business account at any time as this would indicate that the OSR has collected and processed the customer payment independently. Customer funds must always be deposited directly into the Host Agency's Travel Industry Act Trust Account.

Using Approved Business Name

Only registered trade names can be used for branding. If an OSR uses an independent name to market and sell, the name used to carry on business must be registered to the Host Agency as a trade name.

It is vital that the Host Agency be aware of all of the business names used by all OSRs and that procedures are in place to ensure the TICO registration record is kept up to date with all of the names being used to carry on business.

Website Control

Many OSRs administer independent websites and social media pages. As a TICO registrant, you are required to maintain controls ensuring that you are aware of all websites your OSR is using and ensuring that the content is in compliance with the Regulation.

Advertising Control

As a registrant, you are required to maintain controls ensuring that any representations/advertisements being made on behalf of your travel agency are in compliance with the legislation.

Educations Standards

All OSRs selling travel services or advising customers of travel services must comply with the Minimum Education Standards. The Host Agency is required to ensure all OSRs write/pass the TICO's Travel Counsellor exam.

Disclosure & Invoice Requirements

When an OSR makes a booking and issues an invoice to a customer, he or she is doing so on behalf of the Host Agency. As such, it is imperative that the Host Agency take measures to ensure that the customer is receiving the required disclosure at the time of booking and an invoice that meets the requirements set forth in the Regulation.

BEST BUSINESS PRACTICES**Training**

One of the most important things a Host Agency can do to promote compliance with the legislation is to educate OSRs. It is vital that the Host Agency and the OSR review all of the requirements that the Host Agency/OSR must comply with. TICO recommends that some form of training program be incorporated so that all parties are familiar of the requirements under the Act and Regulation.

OSR Representing Multiple Agencies

An OSR may wish to work for more than one agency at a time. As such, it may be in the Host Agency's best interest to determine if the OSR is working with more than one agency. The Host Agency may wish to have a relevant policy or provision in the written contract because it may pose a conflict of interest.

Service Area

Sometimes, an OSR may be working in one area of the province but the Host Agency that he or she works through is located in another city. The OSR may wish to target and sell to customers in his or her respective area but this may be challenging because any advertisement made by an OSR requires the Host Agency's business address. To help with this, the OSR may include a description when making representations/advertisements by showing the area(s) he or she is servicing. For example, "*Serving the London area*" to clarify the address/location issue.

Terminating Contract

Sometimes a Host Agency and an OSR decide that they will no longer work together. If this is the case, it is recommended that TICO be notified and any access to reservation systems be revoked. The Host Agency must also ensure that any representations made in connection with the OSR are removed. The Host Agency must also take account of all outstanding bookings and ensure they customers are taken care of.

Policies & Procedures

The Host Agency must take precautions to ensure the OSR is representing himself or herself in accordance with the agency policies and the legislation. There should also be procedures in place to ensure that all advertisements follow the legislated requirements, the correct disclosure is given at the time of booking and that all invoices are being issued promptly with all of the required information.

The Host Agency should have procedures in place to track customer payments and bookings/sales made by the OSR.

The Host Agency registered with TICO is responsible for the actions of its OSRs and adequate supervision must be maintained to ensure compliance with the Act and Regulation. It is imperative that the Host Agency have policies in place to ensure all parties understand their responsibilities.

Centralized Resources

A Host Agency may wish to centralize various business resources and tasks in order to streamline the workflow. Some examples of a centralized workflow include: website templates, marketing material, accounting systems, invoicing systems, back-end support, phone systems, etc. By centralizing resources, the Host Agency has the capability of maintaining a consistent workflow for the customer.

Review & Acknowledge Acceptance of the Guidelines for Outside Sales Representatives

The Outside Sales Representative Guidelines are important for both the OSR and the Host Agency to be familiar with. As such, it is a good idea to acknowledge understanding of the content. TICO recommends that the content in these guidelines be incorporated into the written contract with the OSR.

FAQ

Q. I have several OSRs who have their own websites, do I have to notify TICO?

A. Yes, you must notify TICO of all domains by completing a Notice of Business Change Form

Q. Does my OSR have to show my travel agency's information on the ad?

A. Yes, the representation must show your business name, address and TICO registration number. If the OSR uses a mobile number on the ad, it must also show your agency's business phone number as well.

Q. Can my OSR serve customers in his or her home office?

A. Customers cannot be invited directly or passively to the OSR's home to conduct business relating to travel unless it is properly named as a branch office.

DISCLAIMER

These guidelines have been developed to assist registrants in complying with the requirements and prohibitions found in the Travel Industry Act, 2002 (the "Act") and Ontario Regulation 26/05 (the "Regulation"). The document contains information regarding TICO's interpretation of the legislative and regulatory provisions and suggested best practices. If you have any questions regarding the information in this document, you should contact TICO.

The information provided is for general informational and educational purposes only and is not intended to provide legal advice to any individual or entity. These guidelines are not exhaustive and cannot hope to address the complexities of every travel business in the province. Further, registrants are subject to other federal, provincial and municipal laws that impact their businesses. We urge you to consult with your own legal advisor regarding the specifics of your business and compliance with the Act and Regulation. You should not rely on information in this document as an alternative to legal advice.

The content in these guidelines is current as of the date of publication. While TICO strives to keep the information as timely and accurate as possible, it makes no claims, promises or guarantees about the accuracy, completeness or adequacy of the content. In the event of a conflict, the requirements in the Act and Regulation will prevail.

If you have any questions, please contact TICO's Compliance Department at 1-888-451-TICO (8426) or email tico@tico.ca.