



Government Relations

Doing Business In Canada

In Canada's modern business environment, it has become increasingly important to have meaningful relationships with key decision makers at all levels of government to carry out significant business goals. This is especially true for industries that are heavily regulated such as healthcare, technology, telecommunications, transportation and financial services. Given the significant impact government relations have on business, every enterprise operating in Canada should consider a government relations strategy.

Government Policy in Canada

Both the federal and provincial governments play a key role in Canada's economic landscape. In Canada, legislative power is divided between the federal and provincial legislative assemblies. The political party with the most members elected to either the federal or provincial assemblies forms the government. The governing party usually holds a majority of seats; as it is highly unusual for members of the governing party to vote against a government-supported initiative, the relative influence of individual elected members of the legislature is greatly reduced. Individuals looking to influence or help shape government policy need to gain support from a wide range of political decision makers. As a parliamentary democracy, strong relationships with provincial and federal cabinet ministers can benefit Canadian businesses as those individuals wield significant influence over public policy decisions that affect their industries.

Codes of Conduct

Interaction between the private sector and government officials is highly regulated and has come under increased scrutiny in recent years. The conduct of public servants, office holders and others in Canada is subject to codes of conduct established by various federal, provincial and (in some cases) municipal governments. Codes of conduct for public officials generally regulate the kinds of activities that a public official may engage in and the hospitality (if any) that he or she may accept. Codes of conduct also regulate the conduct of individuals, groups and companies who interact with public officials.

Government Solicitation of the Private Sector

All levels of government in Canada frequently solicit opinions from, and consult with, the private sector about legislative and other policy proposals. Federal, provincial and municipal governments also make purchases from the private sector, typically through requests for proposals ("RFPs"). In addition, these governments also develop and manage public-private partnerships ("P3s") for the provision of public services and the development of public infrastructure in various sectors such as energy, healthcare and transportation.

P3s are private business ventures that are funded and operated through partnerships between one level of government and one or more private sector companies. The private company provides public services or projects on behalf of the government, assuming significant financial, technical and operational risks associated with the business venture.



Private Sector Solicitation of Government

Lobbying

Individuals, groups and companies are legally entitled to communicate with elected or appointed government officials. Lobbying is defined as communicating with public office holders, for payment, concerning legislative items and/or the awarding of certain financial benefits. Strategic lobbying can influence the outcome of public policy or legislative initiatives and reforms.

Federal Lobbyist Registration Requirements

Persons who communicate with public office holders for certain purposes are — with some exceptions — subject to public registration requirements and disclosure of the parties' activities and proposed actions under federal lobbyist registration legislation. Federal public office holders include virtually any elected or appointed employee of the federal government (i.e., Members of Parliament, Senators, ministers, parliamentary staff, and members of the Royal Canadian Mounted Police and the Canadian Armed Forces).

The *Lobbying Act* (“**the Act**”) identifies such purposes as including decisions about outsourcing; awarding contracts or grants; arranging meetings with public office holders; introducing, passing or amending legislation; and making or amending regulations. The Act is intended to ensure transparency and accountability in the lobbying of federal public office holders so that Canadians may have confidence in the integrity of the government decision-making process. The legislation recognizes the importance of free and open access to government and the legitimacy of the lobbying of public office holders.

Individuals such as lawyers, accountants and other professional advisers who are hired (paid) to lobby on behalf of their clients (known as “consultant lobbyists”) must register under the Act. Employees of corporations or organizations who spend 20 percent or more of their time lobbying for their employer (known as “in-house lobbyists”) and any senior corporate officers who are engaged in any form of lobbying also must register. Initial registration includes submission of the name of the lobbyist, his or her firm and the client (and its subsidiaries and parent corporation, if applicable) to an electronic registry system.

Registrants must also file an information return reflecting any change in their lobbying activity or the termination or completion of such activity. Additionally, both consultant and in-house lobbyists must file monthly information returns setting out the names of designated public office holders and the date and details of any communication with them.

The Commissioner of Lobbying, an independent agent who reports directly to Parliament, administers the Act. He or she maintains the online Registry of Lobbyists, develops and implements educational programs and ensures compliance with both the Act and The Lobbyists' Code of Conduct. The federal code requires lobbyists to conduct themselves with integrity and honesty, be open and frank about their lobbying activities and observe the highest professional and ethical standards.

Exclusions

Generally speaking, only those individuals who are paid to communicate with government officials must register as lobbyists federally and throughout the provinces. Volunteer lobbyists are not required to register under most statutes since they are not paid for their services. Members of other levels of government, members of an aboriginal government or band council and diplomatic officials are exempt from the registration requirements. Requests for information, the interpretation of a Canadian law, or a verbal or written submission to a parliamentary committee likewise do not require registration.

Penalties

Any contravention of the Act (or regulations thereto) may result in a fine. Failure to comply with the registration requirements or knowingly filing false or misleading information may result in a substantial fine or imprisonment.

Provincial and Municipal Lobbyist Registration Requirements

Lobbyist registration legislation is also in force in the majority of provinces in Canada. Many municipalities across the country have implemented Lobbyist By-Laws like in the cities of Toronto and Ottawa.

The Ontario *Lobbyists Registration Act* requires paid lobbyists to register only if they try to communicate with a public office holder in an “attempt to influence”



government policy, legislation or regulation, or the procurement of a financial benefit. Consultant lobbyists in the province also must register if they try to influence the awarding of a contract or try to arrange a meeting with a public office holder.

Donations to Political Parties

While citizens and permanent residents of Canada may make donations to federal political parties or federal candidates (within specified monetary limits), corporations and trade unions may not do so. Donations to political parties in the provinces vary from being totally unrestricted to being highly restricted. Ontario, for example has a very strict regime which allows contributions only from individuals.



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