



O.R.L.
office of the
registrar
of lobbyists
BRITISH COLUMBIA

GUIDANCE DOCUMENT

GUIDANCE FOR LOBBYISTS DURING AN ELECTION

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PURPOSE OF THIS GUIDANCE DOCUMENT

Notice

This document is for information purposes only and does not constitute a decision or finding by the Registrar of Lobbyists for British Columbia or their delegates. This guidance does not affect the powers, duties or functions of the Registrar of Lobbyists, or their delegates, regarding any investigation or other matter under the *Lobbyists Transparency Act*, respecting which the Registrar and their delegates will keep an open mind. Responsibility for compliance with the *Lobbyists Transparency Act* remains with each client, lobbyist, and public office holder.

This guidance document explains the *Lobbyists Transparency Act* (LTA) requirements for lobbyists during an election.

The *Lobbyists Transparency Act* (LTA) requires designated filers¹ to submit lobbying activities to the publicly accessible Lobbyists Registry, which is maintained by the Registrar of Lobbyists. Lobbying under the LTA happens when there is a communication, with a public office holder or senior public office holder, in an attempt to influence any of the items listed in the definition of “lobby” including legislation, Bills, regulations, programs and policies, contracts, grants or financial benefits, decisions to transfer assets, and decisions to transfer the provision of goods and services to the private sector.²

Public office holders and senior public office holders include Members of the Legislative Assembly (MLAs) and their staff, among others.³ During an election, MLAs cease to be Members of the Legislative Assembly from the moment the Legislative Assembly is dissolved by the Lieutenant Governor, which typically coincides with the issuance of the election writ. This raises questions for lobbyists and designated filers about reporting requirements and this guidance addresses those questions.

¹ “Designated filer” means a consultant lobbyist, or in the case of an organization that has an in-house lobbyist, the most senior paid officer or, if there is no senior paid officer, the most senior in-house lobbyist.

² See the Appendix for a full definition of lobbying.

³ For example, public office holders as defined in the LTA also includes: an officer or employee of the government of British Columbia; a person who is appointed to any office or body by or with the approval of the Lieutenant Governor in Council, other than a person appointed on the recommendation of the Legislative Assembly; a person who is appointed to any office or body by or with the approval of a minister of the government of British Columbia; and an officer, director or employee of any government corporation as defined in *the Financial Administration Act*. See the Appendix for a full definition of public office holder and senior public office holder.

LOBBYING

Do I need to register lobbying activities during an election?

Yes. The LTA requires lobbying information to be registered in the Lobbyists Registry when public office holders and senior public office holders are being lobbied. There are many public office holders and senior public office holders in addition to MLAs. You must indicate lobbying of those public office holders in your Registration Return and lobbying of other senior public office holders in your Monthly Returns.

Do I need to report lobbying of a candidate in the Lobbyists Registry?

No. An unelected candidate is not a public office holder nor a senior public office holder and lobbying them is not required to be registered. However, if elected, a candidate becomes a senior public office holder. Designated Filers must submit information to the Lobbyists Registry about lobbying communications with the MLA that happen from the date the candidate is elected.

Do I need to report lobbying of an incumbent candidate in the Lobbyists Registry?

It depends. The answer is “no” if the incumbent candidate is an MLA only. The answer is “yes” if the incumbent candidate is otherwise a public office holder or a senior public office holder – for example, they are a Minister or the Premier. After the Legislative Assembly is dissolved, MLAs cease to be public office holders. Ministers and Premiers, on the other hand, remain public office holders during the election period. Please see the definitions for public office holders and senior public office holders in the LTA. These definitions can also be found in the Appendix.

Do I need to report lobbying of Ministers and the Premier during an election period?

Yes. Ministers and the Premier remain members of the Executive Council during an election and any lobbying communications with them should be reported as they are senior public officeholders under the LTA.

Do I need to report lobbying communications with public office holders who are on leave from their position to work on the election?

Yes. If the communication is a lobbying communication – i.e., a communication with intent to influence any of the matters set out in the definition of lobby – with an individual who is a public office holder or a senior public office holder, and the individual is on leave from their position, then the lobbying communications should be reported in the Lobbyists Registry.

Can I engage with a candidate about a matter I am lobbying about?

Yes. Whether that communication is required to be reported in the Lobbyists Registry depends on whether the candidate is also a public office holder or senior public office holder, for example, a Minister or the Premier. If the candidate is also a public office holder or a senior public office holder, and the communication is a lobbying communication, then you are required to submit it to the Lobbyists Registry.

If the candidate is not a public office holder or a senior public office holder and is elected on election day, then the lobbying communications that occur after they are elected, i.e., once they are an MLA, would need to be submitted to the Lobbyists Registry.

VOLUNTEERING

The *Election Act* defines a "volunteer" as a person who "receives no compensation, *directly or indirectly*, in relation to the services or the time spent providing the services" (emphasis added).

I am a lobbyist. Can I volunteer for a candidate, their political party or constituency association during an election?

Yes. The *Lobbyists Transparency Act* does not prohibit volunteering for a candidate or party. However, note that the *Election Act* distinguishes between volunteering and the provision of property or services, and the latter is considered a political contribution. If you provide property or services to a candidate at no cost, that is a political contribution. If that candidate is elected and you subsequently lobby them as an MLA or member of the Executive Council, you would need to declare your political contribution in the Lobbyists Registry. Contact Elections BC for further clarification on volunteering versus providing services at 1-800-661-8683 or electionsbc@elections.bc.ca.

What responsibilities do lobbyists have if they volunteer during an election?

During an election, designated filers are required to continue to submit any lobbying communications as required by the LTA to the Lobbyists Registry. While MLAs cease to be MLAs, designated filers continue to be required to register lobbying of other public office holders and senior public office holders.

Communications with a candidate who is a public office holder or a senior public office holder only need to be submitted to the Lobbyists Registry if the communication is lobbying. If a lobbyist is communicating with a candidate or another campaign volunteer who is also a public office holder or senior public office holder about campaign matters that are not lobbying matters, then those communications do not need to be submitted to the Lobbyists Registry.

If my union or company pays for people to work for a candidate, constituency association, or political party as a “volunteer” during an election campaign, then is that a political contribution that needs to be declared under the LTA?

Amendments to the BC [Election Act](#) came into force on November 30, 2017 that prohibit corporations and unions from contributing to provincial elections. You can contact Elections BC for further clarification at 1-800-661-8683 or electionsbc@elections.bc.ca.

POLITICAL AND SPONSORSHIP CONTRIBUTIONS

Political and Sponsorship Contributions

Under the LTA, designated filers are required to indicate whether an in-house lobbyist named in the monthly return or, in the case of consultant lobbyists, their client has made a political or sponsorship contribution since the date the writ was issued for the last provincial election.

The *Election Act* sets out the rules individuals must follow when making a political or sponsorship contribution. Elections BC oversees and enforces these rules. Contact Elections BC for further clarification on these rules at 1-800-661-8683 or electoral.finance@elections.bc.ca.

What is a political contribution?

A political contribution is any money, property or service provided without compensation by way of donation, advance, discount or otherwise to any of the following:

- A political party;
- A constituency association;
- A candidate, in relation to that individual’s candidacy;
- A leadership contestant, in relation to that individual’s seeking of the leadership; and
- A nomination contestant, in relation to that individual’s seeking of the nomination.

When provided to an organization or individual listed above, political contributions can also include:

- Property or services provided at less than market value, or purchased above market value;
- Membership fees for a political party or constituency association, fees to attend conferences and conventions of a party, including annual general meetings or leadership conventions; and

- Fundraising function tickets purchased for more than \$50, or where more than one ticket is purchased.⁴

What is a third-party sponsorship contribution?

A third-party sponsorship contribution is any money, property or service provided without compensation where the contributor has provided confirmation and consent for the third party to use the contribution to sponsor election advertising.

Where contributor confirmation and consent has been provided, it also includes:

- property or services provided to a third-party at less than market value;
- property or services purchased from a third-party sponsor above market value; and
- fundraising function tickets purchased.⁵

Are designated filers required to report in the Lobbyists Registry whether an in-house lobbyist or, in the case of consultant lobbyists, their client has made either a political contribution (to a candidate, their political party, or their constituency association) or a sponsorship contribution (to a third party that sponsors election advertising)⁶?

Yes, if the candidate is elected and then lobbied once elected.

Section 4.2(2)(f) requires designated filers to report political and sponsorship contributions made by any in-house lobbyist named in the Monthly Return or, in the case of consultant lobbyists, their client. As candidates are not MLAs, the LTA requirements do not apply to contributions made during the election period. However, if the candidate is elected and the lobbyist that made the contributions lobbies that MLA, then at that point the filer is required to declare in the Lobbyists Registry that a political contribution or sponsorship contribution was made.

Similarly, if a consultant lobbyist working on behalf of a client who made a political contribution or sponsorship contribution goes on to lobby the elected candidate, the consultant lobbyist must declare the contribution in the Lobbyists Registry.

Do designated filers have to declare in the Lobbyists Registry whether an in-house lobbyist or, in the case of consultant lobbyists, their client has made either a political contribution (to an *incumbent* candidate, their political party, or their constituency association) or sponsorship contribution (to a third party that sponsors election advertising)?

Yes, if the candidate is elected and then lobbied once elected.

⁴ Elections BC, *Making a Political Contribution*. <https://elections.bc.ca/candidates-parties/making-a-political-contribution/>

⁵ Elections BC, *Making a Sponsorship Contribution*. <https://elections.bc.ca/candidates-parties/making-a-sponsorship-contribution/>

⁶ For more information on the LTA requirements for these types of contributions, see our guidance document *Reporting political, sponsorship, and recall contributions* <https://www.lobbyistsregistrar.bc.ca/handlers/DocumentHandler.ashx?DocumentID=367>

Section 4.2(2)(f) requires designated filers to report political contributions if the candidate is a member of the Legislative Assembly. As the Legislative Assembly is dissolved when the election is called, incumbent candidates are not MLAs for the duration of the election period, so the LTA requirements do not apply to contributions made to incumbents during the election period. However, if the incumbent candidate is re-elected and the lobbyist who made the contribution lobbies that MLA, at that point the designated filer is required to declare in the Lobbyists Registry that a political contribution or sponsorship contribution was made.

Similarly, if a consultant lobbyist working on behalf of a client who made a political contribution or sponsorship contribution lobbies the re-elected candidate, the consultant lobbyist must declare the contribution in the Lobbyists Registry.

Do designated filers have to report in the Lobbyists Registry whether an in-house lobbyist or, in the case of consultant lobbyists, their client has made either a political contribution (to an incumbent candidate who is a member of the Executive Council, e.g. a Minister or the Premier, their political party, or their constituency association) or a sponsorship contribution (to a third party that sponsors election advertising)?

Yes, if the lobbyist or client made the political contribution or sponsorship contribution since the writ was issued and the in-house or consultant lobbyist has actively lobbied the Minister or Premier, then the designated filer is required to indicate the contribution in the Lobbyists Registry. Ministers and the Premier remain senior public office holders during an election period.

GIFTS

The LTA's gift prohibition and reporting requirements apply to lobbyists who lobby public office holders. Candidates are not public office holders; do gifts promised or given to candidates need to be registered?

Lobbyists should exercise caution when promising or giving gifts to candidates during an election period. Although the LTA's gift prohibition and reporting requirements do not apply to gifts provided to candidates who are not public office holders, candidates become public office holders if elected. If a lobbyist promises or gives a gift to a candidate who then becomes a public office holder and is lobbied by the organization employing the lobbyist (or by the consultant lobbyist), the gift would be subject to the gift prohibition and reporting requirements.

For more information on the LTA's gift prohibition and reporting requirements see [Lobbyists Gifts and Other Benefits](#).

Does a political contribution to a candidate also need to be declared as a gift in the Lobbyists Registry?

No. Political contributions have their own requirements under the LTA (see p. 4) and do not need to be identified as gifts. The designated filer, however, would need to declare the political contribution if the candidate wins the seat and a lobbyist subsequently lobbies them.

APPENDIX – LTA DEFINITIONS OF “LOBBY,” “PUBLIC OFFICE HOLDER,” AND “SENIOR PUBLIC OFFICE HOLDER”

"lobby", subject to section 2(2), means

- (a) to communicate with a public office holder in an attempt to influence
 - (i) the development of any legislative proposal by the government of British Columbia, a Provincial entity or a member of the Legislative Assembly,
 - (ii) the introduction, amendment, passage or defeat of any Bill or resolution in or before the Legislative Assembly,
 - (iii) the development or enactment of any regulation, including the enactment of a regulation for the purposes of amending or repealing a regulation,
 - (iv) the development, establishment, amendment or termination of any program, policy, directive or guideline of the government of British Columbia or a Provincial entity,
 - (v) the awarding, amendment or termination of any contract, grant or financial benefit by or on behalf of the government of British Columbia or a Provincial entity,
 - (vi) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown, a Provincial entity or the public, or
 - (vii) a decision by the Executive Council or a member of the Executive Council to have the private sector instead of the Crown provide goods or services to the government of British Columbia or a Provincial entity,
- (b) to arrange a meeting between a public office holder and any other individual for the purpose of attempting to influence any of the matters referred to in paragraph (a) of this definition;

"public office holder" means

- (a) a member of the Legislative Assembly and any person on the member's staff,
- (b) an officer or employee of the government of British Columbia,

- (c) a person who is appointed to any office or body by or with the approval of the Lieutenant Governor in Council, other than a person appointed on the recommendation of the Legislative Assembly,
- (d) a person who is appointed to any office or body by or with the approval of a minister of the government of British Columbia, and
- (e) an officer, director or employee of any government corporation as defined in the *Financial Administration Act*,

but does not include a judge or a justice of the peace;

"senior public office holder" means an individual who

- (a) is a member of the Executive Council,
- (b) is employed, other than as administrative support staff, in the office of a member of the Executive Council,
- (c) is a member of the Legislative Assembly,
- (d) is employed, other than as administrative support staff, in the office of a member of the Legislative Assembly,
- (e) is a parliamentary secretary,
- (f) occupies a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title,
- (g) occupies the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or
- (h) occupies a prescribed position in a Provincial entity.