



GUIDANCE DOCUMENT

**BUSINESS RELATIONSHIPS:
AFFILIATES AND OTHERS WITH
AN INTEREST IN LOBBYING ACTIVITIES**

SUBSECTIONS 4 (1) (f) through (g.3)

April 22, 2020

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 reporting requirements set out in the *Lobbyists Transparency Act* (LTA) that require lobbyists to declare information about third parties that may be influencing the lobbying activities of a client or organization.

Under the LTA, lobbyists must declare whether their client or organization is a subsidiary or parent of another corporation, and/or whether the activities of their clients or organizations are controlled, directed, or financially supported by third parties (individuals or organizations) that have a direct interest in their lobbying outcomes.

These requirements are not all restricted to corporations. Whether the client or organization that is lobbying is a corporate or non-corporate entity, the activities of the client or organization may also be controlled or directed by other individuals or other organizations that have a direct interest in the outcome of the lobbying activities.

AFFILIATES AND OTHERS WHO HAVE A DIRECT INTEREST GUIDANCE

What must be reported?

The LTA requires that the following information be entered in the Lobbyists Registry:

- If the client or organization that is lobbying is a corporation, the designated filer must list the name and business address of each “affiliate” (as that term is defined in the *Business Corporations Act*) of the corporation that has a direct interest in the outcome of the lobbying activities being reported;
- In particular, if the client or organization is a corporation that is a parent or subsidiary of another corporation, the designated filer of the client or organization that is lobbying must also list the name and business address of the other corporation(s);

- Whether or not the client or organization is a corporation, the designated filer must list the name and business address of any person or organization that “controls or directs the activities of the client or organization” that is lobbying, and has a “direct interest in the outcome of the lobbying activities” that are being reported; and
- The designated filer must list the name and business address of any person or organization (other than a government, government agency or Provincial entity), with a “direct interest in the outcome of the lobbying activity” that contributed at least \$1000 within the preceding 12 months toward the lobbying activity being reported.

The designated filer is required to declare this information in the Registration Return after making reasonable enquiries. Note that the LTA defines the term “designated filer” to include a consultant lobbyist or, in the case of an organization that has in-house lobbyists, the most senior paid officer of the organization who receives payment for performing their functions.

Which of these requirements already existed, prior to the changes introduced by the LTA?

The LTA requires corporations that are lobbying to declare subsidiaries or parent corporations and this was required long before May 4, 2020.

The LTA adopts the definition of “affiliate” found in the [Business Corporations Act](#), which states:

For the purposes of this Act, one corporation is affiliated with another corporation if
(a) one of them is a subsidiary of the other,
(b) both of them are subsidiaries of the same corporation, or
(c) each of them is controlled by the same person.¹

Among other business relationships, a corporation is “affiliated” with another corporation if one of them is a subsidiary of the other, if both of them are subsidiaries of the same corporation, or if each of them is controlled by the same person. **Note: corporations that are lobbying must declare parent corporations, even if it is not apparent that the parent corporations have a direct interest in the outcome of the lobbying activities.**

What has changed under the LTA about reporting third party interests in lobbying activities?

New provisions in the LTA go beyond requiring designated filers to identify subsidiaries and parent corporations. The new requirements are as follows:

¹ Business Corporations Act, [SBC 2002] CHAPTER 57.

- A consultant lobbyist or designated filer for an organization that is lobbying must, after making reasonable enquiries, provide the name and business address of any third party (individual or organization) that to their knowledge “controls or directs the activities of the client or organization” and has a “direct interest in the outcome of the lobbying activities” being reported.
- A consultant lobbyist or designated filer for an organization that is lobbying must, after making reasonable enquiries, provide the name and business address of any third party (individual or organization other than a government, government agency or Provincial entity), with a “direct interest in the outcome of the lobbying activity”, that contributed at least \$1,000 within the preceding 12 months toward the lobbying activity being reported.

What if the designated filer is not sure whether there are affiliates, funding contributors or others with a direct interest in the outcome of the lobbying activities that must be listed in the Lobbyists Registry?

Designated filers must exercise due diligence; the LTA requires that the designated filer make “reasonable enquiries” to acquire that information. If a consultant lobbyist or designated filer for an organization requests this information from their client or organization, in writing, and follows-up appropriately if no response is received, the Registrar will generally consider that the requirement for due diligence has been met.

The Office of the Registrar of Lobbyists has posted a sample questionnaire for this purpose that lobbyists may use to acquire that information.

What constitutes “reasonable enquiries” about whether a third party “controls or directs” the activities of the client or organization?

The Registrar expects at a minimum that, in every case as a matter of due diligence, a consultant lobbyist or designated filer for an organization that is lobbying will be able to demonstrate to the Registrar that they have asked their client or organization about the following matters:

1. The name and business address of the person or organization that is the majority shareholder in the corporation that is lobbying must be declared in the Registration Return. A majority shareholder, by virtue of their financial stake in the company, will have a “direct interest” in the outcome of the lobbying activities and generally has the legal power to control the election of the board of directors.

2. If the corporate constitution or bylaws, or instrument such as a trust or shareholder agreement, give majority voting rights or management power to a different individual or organization, the name and business address of that person or organization must be declared in the Registration Return.
3. If there is a third party that exercises substantial influence over the shareholders who have the right and ability to control the election of the board of directors, whether by contractual conditions or via another basis, that results in the third party having a direct interest in the outcome of the lobbying activities, the name and business address of that person or organization must be declared in the Registration Return.
4. If there is any *other* third party individual or organization that controls or directs, and has a direct interest in the outcome of the lobbying activities, the name and business address of that person or organization must be declared in the Registration Return. For example, a written or unwritten agreement may give a third party the right to determine the activities of the client, whether that agreement arises from conditions attached to funding or whether the agreement imposes a right of control.

What constitutes “reasonable enquiries” about whether a third party contributed at least \$1,000 toward the lobbying activities and has a direct interest in the outcome?

The Registrar expects that the consultant lobbyist or designated filer for an organization that is lobbying will, as a matter of due diligence, enquire with the client or organization for the purpose of identifying any third parties that provided at least \$1,000 in funding and have a direct interest in the outcome of the lobbying activities. Follow-up enquiries, as a matter of due diligence, are reasonably necessary if no response is received. The Office of the Registrar of Lobbyists has posted a sample questionnaire for this purpose, that lobbyists may use to acquire that information.

When must this information be registered?

Lobbyists must include this information in the Registration Return if relevant circumstances exist at the time of registration. If relevant circumstances develop after the initial Registration Return is submitted, lobbyists must update the Registration Return at the time of completing the next Monthly Return.

What if I have other questions about third parties that may have a direct interest in the outcome of the lobbying activities?

If you have questions after reading this guidance document, contact the Office of the Registrar of Lobbyists for BC for assistance at info@bcorl.ca.