

# GOVERNMENT RELATIONS

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In Canada, legislative power is divided between Parliament (the federal legislature) and provincial legislative assemblies. Each of these branches of government is based on the British parliamentary model, where the political party with the most members elected to Parliament or to the provincial legislative assembly forms the government. See [Canada](#).

For the most part, the governing party that forms the federal or provincial government holds a majority of the seats in the federal or provincial legislature and governs through a Cabinet of appointed “ministers.” This usually reduces the relative influence of individual elected members of the legislature, as it is rare that members of the governing party vote against a government-supported initiative. However, at the federal level there were a series of “minority governments,” between 2004 and 2011, where the governing party held more seats than any other party in Parliament, but did not hold a majority of the seats. As a result, the relative influence of Members of Parliament increased during that time. Coalition governments between two or more parties have not yet occurred in Canada.

Given the significant role of the federal and provincial governments in the Canadian economy, every enterprise operating in Canada should consider a government relations strategy. Companies may also engage with government through industry associations. This may be a necessity for companies active in industries that are heavily regulated (such as telecommunications, pharmaceuticals, transportation and energy); that can be greatly affected by government policy (such as manufacturing and agriculture); or that sell to the government (such as defence and IT companies).

Government relations work, which includes lobbying, is generally focused on outreach to government employees, the ministers who form the executive council (i.e., Cabinet) in each province and federally, and members of the legislature who are part of the governing party. Depending on the concern, enterprises may also choose to lobby members of opposition parties in order to have matters raised in the legislature or at a committee of the legislature. This can be particularly important when a minority government is in power.

Government relations work is needed when an enterprise seeks to initiate, support or oppose legislation initiatives, or seeks a change in regulation or





policy. A number of government ministries and regional/political interests may be involved with any given initiative or change, and the enterprise will seek out meetings with all the responsible senior government employees and ministers. For example, enterprises involved in inter-provincial trucking work within a regulatory environment that includes provincial and federal ministries of transportation, industry and commerce, and labour. Likewise, private development of hydro-electric power projects usually requires contact with provincial ministries of energy, lands and environment, as well as the federal ministries of fisheries and oceans, and environment. It also may be necessary to engage the senior elected member of the governing political party who is “politically responsible” for a given region, as any given initiative or change can affect regions differently.

Two areas of notable interest for government relations are relationships with Aboriginal Peoples and the Canadian system of environmental assessment (EA), which is required for major projects approvals.

In the case of the group of Aboriginal Peoples known as First Nations (the other two groups are the Métis and the Inuit), the First Nations themselves will likely need to be consulted when major projects are planned, as they may retain some claim to Aboriginal title or hold traditional Aboriginal rights to the land. These rights vary across Canada, depending on historical and legal developments. Where First Nations interests are involved, both the federal and provincial governments will also have to be advised and consulted. See [Aboriginal Law](#).

In the area of EA, Canada requires comprehensive environmental assessments when projects involving land use reach a certain threshold of invested capital or when certain types of projects are involved. If the project is under federal jurisdiction (such as inter-provincial pipelines), the federal EA system will be invoked. If the project is strictly within a single province and federal jurisdiction is not involved, generally only the provincial EA process will be invoked. In some cases, both federal and provincial EA processes are invoked. There are dramatic differences in the complexities and timelines of the EA processes imposed by the various provinces and the federal government. As such, most enterprises considering investments above the applicable EA threshold in any Canadian jurisdiction should develop an early and positive relationship with the appropriate levels of government so their eventual EA application does not come as a surprise or become controversial. See [Environmental Regulation](#).





Investors in Canada should be aware that, compared to the United States, Canada's federal and provincial governments are much more active in the delivery of certain services such as health care, utilities, infrastructure and broadcasting. Investors should seek advice on the attitudes of government toward investments in these and other fields before proceeding, as coordination and co-operative relationships with government will lead to much more effective and efficient decision-making.

Lobbying is legal in all Canadian jurisdictions, but is also subject to strict reporting and registration laws. Scrutiny of lobbying activities has been a particularly sensitive political issue in Canada over the past few years. Enterprises need to be mindful of the high standards expected of those engaged in lobbying efforts.

Codes of conduct for public officials generally regulate the public officials and not those interacting with them. Such codes of conduct govern what activities a public official may engage in, as well as the hospitality he or she may accept, if any. An enterprise should, for example, avoid inadvertently placing public officials in a conflict-of-interest position that could impede that official from being involved with a given issue and also bring negative attention to the enterprise's government relations effort.

The regulation of those in the private sector who interact with public officials in Canada is generally governed by lobbying legislation. Such legislation provides that businesses and their employees may need to register their government relations activities with a central registry. This central registry is available to the public (usually through the Internet). Federal and provincial lobbyist legislative schemes distinguish between in-house lobbyists (both for businesses and for organizations) and external consultant lobbyists and impose a "significant duties" test on in-house lobbyists.

The registration of lobbyists has come under increasing scrutiny in almost every jurisdiction in Canada. The Parliament of Canada and most provincial legislatures, including British Columbia, Alberta, Ontario, Québec, Manitoba, Nova Scotia and Newfoundland and Labrador, have enacted lobbyist legislation. On November 6, 2013, the provincial legislature of New Brunswick introduced lobbying legislation, but these laws are not yet in force. On December 16, 2013, the provincial legislature of Saskatchewan introduced lobbyist legislation, which would require persons who are



paid to lobby elected officials to register their lobbying activities with a proposed government registry. On July 1, 2016, Ontario's new lobbying rules took effect, lowering the time threshold for lobbyist registration; requiring the highest ranking paid officer of an enterprise to sign off on lobbyist registrations; and prohibiting consultant lobbyists from receiving results-based payments, among other changes.

Some cities, such as Toronto and Ottawa, also have bylaws requiring individuals that lobby municipal politicians and government employees to register. Lobbying activities in other cities, such as St. John's, in the Province of Newfoundland and Labrador, and Montréal and Québec City, in the Province of Québec, are regulated by provincial lobbying legislation.

The types of communication that may require registration vary from jurisdiction to jurisdiction. Broadly speaking, they include: communications with public officials (which includes not only politicians, but also many government employees) with respect to the development of legislative proposals; the introduction, passage, defeat or amendment of legislation; the making or amending of any legislation; the development or amendment of any policy or program; the awarding of any grant, contribution or other financial benefit; and, in some cases, the awarding of contracts and the arrangement of meetings with public officials.

A well-planned government relations strategy can lead to a productive and professional relationship with responsible decision-makers in government. Both industry and public officials benefit from such relationships because they ensure that all the facts relevant to a government decision are expressed, understood and taken into account. Governments in Canada will generally do their best to be responsive, transparent and effective in addressing the needs of enterprises. However, when engaging public officials, it is essential for an enterprise to know and follow the rules.

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