Winnipeg
Audit Department
Service de vérification

Report on the Creation of a Lobbyist Registry

December 2014

Leaders in building public trust in civic government

Table of Contents

MANDATE OF THE CITY AUDITOR 2
BACKGROUND 2
OBJECTIVES 2
BACKGROUND 3
Key Elements to Implement 6
Jurisdictional Comparison 22
Appendices 23

MANDATE OF THE CITY AUDITOR

- The City Auditor is a statutory officer appointed by City Council under *The City of Winnipeg Charter*. The City Auditor reports to Council through the Audit Committee (the Executive Policy Committee) and is independent of the City's Public Service.
- The City Auditor conducts examinations of the operations of the City and its affiliated bodies to assist Council in its governance role of ensuring the Public Service's accountability for the quality of stewardship over public funds and for the achievement of value for money in City operations.
- Once an audit report has been communicated to Council, it becomes a public document.

BACKGROUND

- Consideration of the Lobbyist Registry was first introduced in a Council Motion on March 26, 2014 and ultimately referred to the Governance Committee of Council; who on May 15, 2014 requested the Audit Department "to devise a Lobbyist Registry, based upon best practices from Cities like Toronto and Ottawa as well as the Provincial Governments."

OBJECTIVES

- Provide an overview of how lobbyist registries work in other jurisdictions.
- Compare implementations in other jurisdictions to determine leading practices and those best suited to the City of Winnipeg.
- Recommend how the lobbyist registry should be implemented for the City of Winnipeg.

BACKGROUND

We reviewed the lobbyist registries of the Federal Government, Province of Manitoba and the cities of Ottawa and Toronto by examining publicly available information and conducting telephone interviews. A summary of information on operations of the various registries is included on page 21. All have some basic common elements and the following section provides a general overview of the functions of a lobbyist registry.

It is important to note that this report is based on research conducted on Lobbyist Registries in other jurisdictions. As such, it provides a basis for understanding what a lobbyist registry is, how they are set-up and function on an on-going basis. If approved to proceed, further analysis would be required to define a full implementation plan to successfully launch a Lobbyist Registry in the City of Winnipeg.

What is lobbying?

Lobbying is the act of attempting to influence decisions made by Governmental Decision Makers. Governmental Decision Makers can include, but are not limited to, a member of City Council, senior City Staff, or an individual on a City Board.

Lobbying can be done in relation to a broad range of areas. Lobbying in a municipal environment can potentially be used to influence areas that include, but are not limited to the following:

- Development, introduction, passage, defeat, amendment or repeal of a by-law, bill or resolution on any matter;
- Development, approval, amendment or termination of a policy, program, directive or guideline;
- Procurement of goods, services or construction and awarding a contract;
- Approving, approving with conditions, or denying an application for a service, grant, planning approval, permit or other license or permission;
- Awarding any financial contribution, grant or other financial benefit by or on behalf of the City;
- Transferring from the City any interest in or asset of any business, enterprise or institution;
- Determining the model and method of delivering a service; and
- Arranging a meeting between a public office holder and any other person.

See Appendix 1 for the definition of lobbying used in other jurisdictions.

Who are lobbyists?

When one initially considers the concept of lobbying, there is the potential to include the interactions between a Citizen and their elected officials. However, the jurisdictions we reviewed do not consider these individuals as a lobbyist as the intent of a lobbyist registry is not to focus on all citizen interaction with governmental decision makers. Ultimately, the registry should identify when an individual representing a financial or business interest, or the financial interest of a not-for-profit, communicates with a governmental decision makers to try to influence a decision on governmental matters that are outside of standard processes. These individuals are who other jurisdictions consider to be Lobbyists.

Examples of advocacy communications that other lobbyist registries do not consider to lobbying would include:

- A local union contacting Members of Council to support an extension of the smoke-free by-law for parks and patios;
- A community group urging the development of an Equity and Inclusion Lens to encourage diversity within City processes;
- A Neighbourhood Watch group demanding action from the Ward Councillor's office regarding individuals who are partying in parks late at night and damaging public and private property; and
- A local community association supporting the construction of a pedestrian bridge in the community.

The following are examples that other lobbyist registries would consider as lobbying activities:

- A consultant who works for a government relations company and is hired by a client to communicate with that other lobbyist registries to explore business opportunities with the City
- The CEO of a high-tech company contacts the Chief Information Officer to promote a new client support system;
- A developer approaches a Ward Councillor regarding a planning application s/he has submitted to the City in their Ward; and,
- A local union representative meets with Members of Council to discuss an upcoming collective agreement negotiation.

Types of Lobbyists

The lobbyist registries in other jurisdictions identify different types of lobbyists.

- Consultant lobbyist: An individual who, for payment, undertakes to lobby on behalf of a client.
- In-house lobbyist: an employee, partners or owner, who in that role is lobbying for the organization they represent.

What is a Lobbyist Registry?

The Lobbyist Registry is an online tool that provides accountability and transparency to lobbying activities by giving the public access to information about who is communicating with governmental decision makers.

All jurisdictions have a similar organization to their registry. All are internet based databases. There are two sections: one is a portal to record lobbying activities through an online form and the other is a searchable database that the public can access.

What is the role of a Lobbyist Registrar?

The role of the Lobbyist Registrar in all jurisdictions has similar responsibilities:

- **Administration of the Registry**: Ensuring that registry is appropriately administered by their internal or external staff and that it is functioning as intended.

- **Enforcement of the Registry**: Reviewing registered lobbying activity to ensure it is in compliance and investigating complaints. Determining when an offence has occurred and determining the fine or penalty.
- **Education and Guidance**: Educating the public, lobbyists and governmental decision makers in regards to the Lobbyist registry. Advising on lobbying matters and recommending improvements and amendments.
- **Reporting**: Providing the elected body reports on the activity of the registry and potential improvements, typically on an annual basis.

Who has a Lobbyist Registry?

There are Lobbyists Registries in place in all three levels of government across Canada. In addition to the Federal government, most provincial and two municipal governments have registries. Provincially they can be found in Alberta, British Columbia, Manitoba, Newfoundland, Nova Scotia, Ontario and Quebec. Municipally, there are registries in Ottawa and Toronto.

Why have a Lobbyist Registry?

Lobbying governmental decision makers is a common and legitimate activity. However, as the act of lobbying is not done in an open public forum it lacks transparency and accountability. Registering lobbying activities allows both governmental decision makers and the public to know who is attempting to influence municipal government. A publicly available registry, which is updated in a timely manner, and is easy to use and understand, ensures greater transparency of lobbying activities.

Risks and Limitations

It should be understood that there are risks for ensuring compliance with the registry. The Lobbyist Registry is based on self-reporting by the lobbyist. If a lobbyist and a governmental decision maker did not want to report a meeting, it would be difficult to detect or prove it occurred. This is because the only way to verify a lobbying activity, other than it being witnessed by a third party, would be to confirm the meeting with the governmental decision maker. This limitation should be taken into account when considering the usefulness of the registry.

Costs

There are costs associated with the implementation and operation of a lobbyist registry. To implement, the registry database and promotional materials would have to be developed. To operate, there would be the ongoing cost of administration and that of the Registrar.

Legislation

All jurisdictions required specific legislation for the implementation of their Lobbyist Registries. The two municipal lobbyist registries in Canada are located within Ontario. The Ontario *Municipal Act, 2001* has specific provisions that “authorize the municipality to establish and maintain a registry in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby governmental decision makers.” These provisions do not exist within *The City of Winnipeg Charter, 2002*.

Key Elements to Implement

The Lobbyist Registries in other jurisdictions all function similarly but have differences on key elements that affect how they operate. These key elements require decisions to be made by Council on how the registry will ultimately function. The decisions are noted below with context and our recommendation.

Legislation

Decision

Does The City of Winnipeg Charter Act need to be amended?

Context

We have worked with the Public service to determine whether the City of Winnipeg has the legal capacity to create a lobbyist registry with the following key features:

- Requirement of anyone engaging in lobbying to report their lobbying activities
- Punishment by way of fines or a ban on anyone not adhering to the Lobbyist Registry
- Enforcement through monitoring of reported lobbying and investigating allegations of improper or a lack of reporting

After conducting a review of *The City of Winnipeg Charter* and other relevant legislation, the Public Service has concluded that there are no provisions that would allow the City to create a lobbyist registry with the features set out above.

In order to proceed and establish a lobbyist registry, amendments to *The City of Winnipeg Charter* will be required. The lobbyist registry cannot be implemented in any effective manner until these amendments take place, as investigative and enforcement activities cannot be performed. Obtaining these amendments must be the first step in the implementation of a lobbyist registry.

The City could potentially create a lobbyist registry without amendments to the Charter. However, the registry would have to be voluntary, the Registrar would not have any investigative powers so any reports of non-compliance could not be investigated, registry requirements would not be enforceable and penalties could not be levied. As this is contrary to the motion passed by the Governance Committee of Council and would provide little value; it is recommended that legislative amendments be obtained before the registry is implemented.

Recommendation 1

The Public Service should prepare a report for the consideration of Council outlining the required amendments to *The City of Winnipeg Charter* to create an enforceable lobbyist registry that allows for investigative and enforcement activities. This would then enable City Council to forward the necessary amendments to the Provincial Government.

Lobbyist Criteria

Decision

What is the Definition of a Lobbyist?

Context

A Lobbyist Registry needs to have criteria in order to define which individuals are considered Lobbyist, who must adhere to the rules of the registry, and those who are not considered Lobbyists. Other jurisdictions employ criteria to define who is a lobbyist. Typically the following is considered:

- If an individual communicates in an established process or an open civic forum, they would not be considered a lobbyist as these are already standard transparent processes. For example, someone who speaks before a Council meeting or is applying for a building permit.
- Only if an individual communicates with a governmental decision maker to seek direct or indirect financial benefit would they be considered as a lobbyist. For example, communicating with a Councillor to pass a motion to recognize October as “Pizza Month” would not make them a lobbyist as there is no financial benefit direct or indirect.
- If you are not paid for communicating with a governmental decision maker, you do not represent a business or financial interest, or if you are part of a not-for-profit organization with no paid staff; you would not be considered a lobbyist.
- Individuals acting in their official capacity as a government or public sector official are not considered lobbyists. For example, an MLA meeting with a Councillor regarding an issue would not be considered a lobbyist.

A decision tree is used by a number of jurisdictions to help determine who is considered a lobbyist. In Appendix 2 is the decision tree used by The City of Ottawa. It is a good example of who is considered a lobbyist in a municipal environment.

The Federal Government and Manitoba employ criteria based on the amount of time an individual lobbies to determine if you are considered a lobbyist. It relates to how much time of an individual is dedicated to lobbying. For example, if over 100 hours (Manitoba) or 20% of you time is dedicated to lobbying annually (Federal) you would be considered a lobbyist. Anything less and you would not be considered lobbyist and would not have to register. This is done to have the registry focus on significant lobbyist activity and not organizations that may infrequently communicate with public office holders.

Other jurisdictions (Ottawa and Toronto) do not have any criteria for the time spent lobbying by in-house lobbyists. This has two advantages. It simplifies the process as a complicated determination of an employee’s duties related to lobbying does not have to be performed. Secondly, enforcing the criteria would be very challenging as it is difficult to verify how much time an external individual spends lobbying.

Recommendation 2

For the purposes of the City’s Lobbyist registry, we recommend that the definition of a lobbyist be an individual who is paid by an organization to communicate to a governmental decision maker outside an established process for the financial benefit of that organization. There should be no criteria based on the amount of time an individual lobbies. There should be exceptions for Individuals acting in their official capacity as a government or public sector official.

Additional Lobbyist Considerations

Decision

Should there be different categories of lobbyists?

Context

Based on our research there are two categories of lobbyists: consultant and in-house.

In-House Lobbyists:
In-house Lobbyists lobby for the organization they are employed for.

Consultant Lobbyists:
Consultant lobbyists are a third party that lobbies on behalf of a client. Consultant lobbyist require additional disclosure as they have to disclose what firm they are working for and the clients they represent.

Recommendation 3

There should be two categories of lobbyists in-house and consultant.

Code of Conduct

Decision

Should there be a Code of Conduct in place for lobbyists?

Context

Codes of conduct are common in many professions and occupations. Codes of conduct provide guidance to individuals on responsible and ethical professional practices. They define rules of behaviour based on core principles and ethical standards for members of the profession or occupation. They increase peer pressure on individuals to comply with certain generally accepted standards. They also enhance the reputations of individuals by publicizing the principles for which they stand, and provide a means of evaluating the ethics of individuals who practice in the field. Additionally, it provides a basis for which the Lobbyist Registrar can hold lobbyists accountable.

The codes of conduct we reviewed contain these categories:
Principles: General terms describing the how lobbyist should conduct themselves. These typically include integrity, honesty, openness and professionalism.
Transparency: Rules stating that their act of lobbying be transparent to the governmental decision maker they are communicating with and to the public. This includes identifying who they represent, the purpose of their lobbying, providing accurate information and to disclose their obligations under any applicable legislation.
Confidentiality: Rules stating that they will not disclose confidential information of their client or use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client.
Conflict of Interest: Lobbyists cannot place governmental decision maker in a conflict of interest by any action that would constitute an improper influence on a governmental decision maker. This would include a prohibition of gifts for governmental decision maker from lobbyists. For consultant lobbyists who many represent multiple clients, they cannot represent conflicting or competing interests without the informed consent of those whose interests are involved. Additionally, they must disclose to whom they are lobbying any potential or apparent conflict of interest.

To verify that the lobbyists have read and complied with the code of conduct, they will have to electronically sign off on it each time they register a lobbyist transaction.

See Appendix 4 for the code of conduct of other jurisdictions. Only Manitoba does not have a code of conduct for lobbyists. All other jurisdictions have very similar code of conducts with no significant differences. In order to provide guidance to lobbyists on the type of ethical behavior that is desired and to provide a basis to hold them accountable to, a code of conduct similar to those in place in other jurisdictions should be adopted.

Updates to the employee and Councillor code of conducts may also be required relative to the Lobbyist Registry. These are addressed later in the report.

Recommendation 4

The Registrar should develop a code of conduct for lobbyists for approval by Council.

Lobbyist Registration

Decision

How should lobbying be registered? And by Who?

Context

There are two categories of lobbying activity that need to be considered for registration:

- **Project or Undertaking**: This is an overall project consisting of multiple lobbying interactions for one goal or relating to one subject matter. For example, a company trying to get economic incentives to expand a factory.
- **Interaction**: A single communication (e-mail, phone, in-person, etc.) with a Governmental Decision Maker for the purposes of lobbying.

Depending on the jurisdiction one or both of these will be recorded in the registry. Larger jurisdictions with a greater presence of lobbyist will typically require both, such as Toronto and the Federal Government. Small jurisdictions typically only register one or do not differentiate, such as Ottawa (interactions) or Manitoba (project/undertaking).

For all jurisdictions it is the responsibility of the lobbyist to register their activity, not the governmental decision maker. This is done for simplicity as the lobbyist is in possession of the details and information of the lobbying activity not the governmental decision maker. For example, the lobbyist knows who they represent and the subject matter; this may not be clear to the governmental decision maker. Additionally, other jurisdictions feel the onus should be on the individuals performing the lobbying not those who are subject to the unsolicited lobbying efforts.

As Winnipeg is a smaller jurisdiction an approach of recording only one category would be most efficient. The interaction category will provide the public with the most valuable information and is more practical for municipal jurisdictions.

Most lobbying is performed by either consultant lobbyists or in-house lobbyists. The significant difference is that for a consultant lobbyist they register and record their lobbying activities themselves. For an in-house lobbyist it is the most senior officer of the organization who is compensated for performing their duties must register and record their organization's lobbying activities. The senior officer is used as they can ensure that all lobbying across their organization is captured, makes them aware of the lobbying activities of their organization and makes them responsible for the reporting. Ottawa is the exception where it is the individual performing the lobbying is responsible for reporting lobbying activity. This is done for simplicity. In order to keep the registry as simple as possible, it would be best to make the individuals who perform the lobbying register and not the most senior officer.

Recommendation 5

Interactions with governmental decision makers should be registered by the Lobbyist.

Registration Fees

Decision

Should fees be charged to lobbyists for registration?

Context

It may make sense to have the lobbyist bear the costs for the activities they perform. There are additional costs of implementing and maintaining the registry. As well the time of staff and other individuals are taken up by the lobbyists themselves. However, no jurisdiction charges lobbyists fees to register. Fees may be an additional deterrent from complying with the registry. As the registry is self-reporting, a cost factor could be a significant motivation for lobbyists not to report.

Also, it may seem unreasonable to charge groups to interact with governmental decision makers. Additionally, some organizations may not have the financial resources to afford to lobby, such as some not-for-profits. This could then create a two tier system where only certain organizations may be required to or can afford to lobby governmental decision makers.

Additionally, there may be little net benefit as the cost to implement and monitor a payment system would likely be greater than the registration fees. It would also add complications to the development of the registry which would also create additional costs to implement.

Recommendation 6

To promote compliance and increase simplicity, fees for registration should not be charged.

Lobbyist Activity Information

Decision

What Lobbyist Activity Information should be registered?

Context

From the perspective of the Citizens they want to know who is lobbying, for what purpose and to what public office holder. This information provides the needed transparency to the act of lobbying. The following information is included in registries from other jurisdictions and would meet those requirements:
Organization information: The name and contact information of the organization on whose behalf the lobbying is being performed.
Lobbyist information: The name and contact information of the individual performing the lobbying and in the case of consultant lobbyists their lobbying firm information.
Lobbying activity information: Subject matter, intended outcome, details of the individuals lobbied, form of communication, date of communication and affected ward.

Other information recorded about organizations found in some jurisdictions but not all include if the organization has received government grants, list of their officers and list of their directors.

Some jurisdictions also require disclosures if the lobbyist held a senior public office or has any affiliation with boards in the government being lobbied. This is relevant information as these individuals may have a greater ability to influence decisions. Its inclusion would provide increased transparency to the process.

Recommendation 7

The Organization, Lobbyist and Lobbying information should be recorded in the registry. The provision of other information such as a list of the organization's officers and directors should be further evaluated.
Additionally, there is a benefit to disclosing if the lobbyist held a senior public office or has any affiliation with City boards and this would require the development of additional guidance to define "senior public office".

Cooling off Period

Decision

Should there be a cooling off period for Lobbyists?

Context

Some jurisdictions impose a cooling off period for lobbyists. A cooling off period is a restriction on lobbying by former governmental decision makers for a period of time after they have left their position. This is to prevent them from unfairly using their connections and insider knowledge for the benefit of private entities. The Federal Government has the longest period of 5 years and Toronto requires a 1 year period. Ottawa only requires the disclosure of being a former governmental decision makers and Manitoba has no restrictions.

The Federal Government uses a 5 year cooling off period as that is the maximum time between elections. This offers sufficient time for there to be a change in the public service and elected officials. A one year cooling off period, such as Toronto, may be insufficient for there to be any meaningful change.

Recommendation 8

There should be disclosure by former governmental decision makers and consideration given to a cooling off period for governmental decision makers of at least one year.

Filing Deadline

Decision

What should be the deadline to register a lobbying activity?

Context

Most jurisdictions only require a lobbyist to register once they have engaged in lobbying activity. A reason for this is that some individuals do not realize that they are lobbying until informed by a governmental decision maker. Toronto is the only exception to this. Lobbyists in Toronto must register and be approved at least 3 days before performing any lobbying activities.

In most jurisdictions there is a short time limit after the lobbying has occurred for the registration of lobbying activities to be registered, ranging from 3 to 15 days. The Federal Government has a slightly different system where each month a monthly communication report listing all lobbying activities must be reported and has to be filed within 15 days of the month end. The only exception to this time frame is for the Province of Manitoba, in-house lobbyists have two months to report their activity (compared to 10 days for consultant lobbyists).

Recommendation 9

A 10 day limit to register interactions is recommended. This balances the need for public access to the information with a reasonable time period for a lobbyist to register interactions.

Registry Administration

Decision

How should the registry be administered?

Context

Most registries are administered by dedicated Lobbyist Registry staff. Registries in the Federal Government, Toronto and Manitoba are separate offices with their own dedicated staff.

However, Ottawa the jurisdiction with the smallest amount of lobbying has their registry administered by the City Clerk and Solicitor Department, and overseen by the Registrar. The City Clerks Department has experience in similar areas of registering parties external to the City such as election registration. Embedding the Registrar within the existing organizational structure has the benefit of reducing costs by using existing resources and expertise.

Within the Council Motion it was resolved that the registry be administered through the City Auditor. This arrangement has the potential concern that if Council requested an audit of the Lobbyist Registry it would need to be performed by an external agency. This is due to the fact that the City Auditor would not be independent of the Registry.

Recommendation 10

In order to reduce costs; the Registrar should be created leveraging the existing resources of City Clerks to minimize overall costs, similar to Ottawa. The Registrar should report directly to Council.

Enforcement and Penalties

Decision

How should the lobbyist registry be enforced and what penalties should there be?

Context

Registrars are given enforcement powers through their legislation. The Federal Government has the most extensive enforcement. Five percent of all submitted lobbying activity is verified on a monthly basis by confirming the details with governmental decision makers. They have the ability to investigate any lobbyists if they feel reasonable grounds exist. They have the ability to summon, compel testimony and compel persons to produce any documents. In cases in which the Commissioner has reasonable grounds to believe an offence has been committed under the Lobbying Act, the matter is referred to the RCMP. If the Lobbyist is found guilty of an offence under the act, the maximum fine is $200,000 or up to 2 years in prison.

Ottawa is at the other end of the spectrum for enforcement. The Registrar has the power to investigate complaints and to impose sanctions if lobbying activity has not been disclosed or if an individual has contravened the Lobbyist Code of Conduct. However, they do not have the ability to compel evidence. Should the Registrar impose a sanction, it will be in the form of a temporary ban on communication; a one month ban for the first offence, three for the second and at the discretion of the Registrar for the third.

Registrars in Toronto and Manitoba have similar powers to investigate and enforce lobbyist legislation. Their maximum fines are $100,000 for Toronto and $25,000 for Manitoba. Some form of fines should be in place to provide an incentive to comply with the registry.

We recommend that the Lobbyist Registrar have the ability to investigate complaints and to impose sanctions and fines. There should also be a maximum fine of $25,000 similar to Manitoba at the discretion of the Registrar to determine the amount dependent on the offence.

There should be a process to review and verify the submitted lobbying activity; however it should be left to the discretion of the Registrar rather than a prescribed amount like the Federal Government to be more flexible.

Recommendation 11

To enforce compliance with the Registry there should be powers to investigate and a process to verify submissions on a basis determined by the Registrar. Additionally, fines of a maximum $25,000 should be imposed for violations. Amendments to *The City of Winnipeg Charter* will be required to grant the City of Winnipeg powers of investigation, and the ability to levy and enforce fines or other penalties for this purpose. The specifics of the investigative powers and fine amounts should be included in the implementation plan report that is recommended to be prepared by the Public Service for the consideration of Council.

Lobbyist Registrar

Decision

What competencies should the Registrar possess? Can the Registrar be employed on a part-time basis?

Context

The position of Lobbyist Registrar is typically full time. Given the enforcement role the Registrar typically has a legal background. The Federal Lobbyist Registrar does not have a legal background but does have legal counsel on staff.

In Ottawa, as they have the least amount of lobbying, the Registrar is only a part time position. In addition to the other duties as Integrity Commissioner, the Registrar works approximately 540 hours annually with no staff. The Ottawa Registrar is a retired Clerk from the Federal Civil Service with no legal background. Depending on the enforcement responsibilities of the Registrar a part-time commitment may be sufficient.

Recommendation 12

If the Registrar has an enforcement role then candidates with an investigative and legal background would be preferred.

Role of Governmental Decision Makers

Decision

What role does the governmental decision maker play in the process?

Context

Lobbyist registries place the responsibility for registering and reporting on the lobbyist. Legislation typically does not include the role governmental decision makers have in the registry process and references the code of conduct already in place for how to act correctly.

Governmental decision makers should play an important role to ensure the registry is adhered to and is operating correctly. If governmental decision makers become aware of violations of the Lobbyist Registry, they should stop communicating with the lobbyists at once or, at a minimum, remind the lobbyists of their obligations under the By-law. These obligations would include registering their activity and adhering to the lobbyist code of conduct. If governmental decision makers believe the violations are deliberate, they should report them to the Lobbyist Registrar. It is recommended the Code of Conduct for staff and Council have a section added to it to governing their conduct respecting lobbying. This will make it clear the responsibilities that governmental decision makers have. See appendix 10 for the addition to the code of conduct that Ottawa made in reference to lobbying.

Recommendation 13

The Code of Conduct for staff and Council should have a section added to it, similar to Appendix 10, to govern their conduct respecting lobbying to make clear their role and responsibilities in the process. A Code of Conduct for individuals serving on City Boards should also be developed.

Council Oversight

Decision

How should Council oversee the Lobbyist Registry and Registrar?

Context

Municipally, in both Ottawa and Toronto, the Registrar reports directly to Council. Federally, the Lobbyist Commissioner reports directly to both Houses. In Manitoba, the Lobbyist Registrar does not report regularly to the Legislative Assembly and is appointed by the Lieutenant Governor.

With the exception of Manitoba, all jurisdictions require an annual report be made to the appropriate elected body. The report typically includes a summary of the activities over the year, key performance indicators, summary of costs and the results of any investigations. Within the reports the Registrar can also propose any changes they feel are warranted to the registry. This annual report process informs Council of the registries activities and provides an opportunity to ask questions or request additional information.

Recommendation 14

The Lobbyists Registrar should provide an annual report to Council to ensure appropriate oversight.

Combine Registrar With other Roles

Decision

Should the role of Lobbyist Registrar be combined with other roles?

Context

The Lobbyist Registrar in Ottawa also serves as Integrity Commissioner. The Integrity Commissioner is responsible for oversight of the Code of Conduct for Members of Council and the Gifts Registry including providing advice to Members of Council, issuing interpretations and reports, investigating complaints and, where necessary, recommending sanctions. The position is also delegated the role of the Lobbyist Registrar and Meetings Investigator. Given all those roles, the Integrity Commissioner bills the City less than 600 hours a year.

The City of Winnipeg has considered establishing an Integrity Commissioner. At present, the City does not have an Integrity Commissioner and there would be additional costs incurred to establish one. The analysis of costs to establish an Integrity Commissioner is outside the scope of this review.

If the City does pursue the establishment of an Integrity Commissioner, then the City could potentially reduce overall total costs by combining the Integrity Commissioner and Lobbyist Registrar into one office.

Recommendation 15

Consider the combination of Lobbyist Registrar with the establishment of an Integrity Commissioner in order to create efficiencies and reduce total overall costs.

Implementation Plan

Decision

How should Council proceed with the implementation of a Lobbyist Registry?

Context

The implementation of a Lobbyist Registrar in the City of Winnipeg would require the development of a thorough implementation plan. This report has provided background and recommendations on a number of key decision points towards the creation of a Registry.

Several municipal departments including the Office of the Chief Administrative Officer, City Clerks, Legal Services and Corporate Support Services may need to be involved to varying degrees to develop the necessary infrastructure for the registry.

If the decision is made to proceed then additional effort would be required to create many of the recommended documents that will provide the necessary guidance to both governmental decisions makers, lobbyists and the general public.

Recommendation 16

The Public Service should be directed to prepare a report for the consideration of Council detailing a comprehensive implementation plan for a Lobbyist Registry in the City of Winnipeg.

Jurisdictional Comparison

Jurisdictions	Period	# of Employees	Budget	Registered Lobbyists	Lobbying Files	Lobbying Activities	Inquiries	Substantiated Inquiries
City of Ottawa	Year ending September 30, 2013	1 part time Registrar	$ 151,041	748	786	1,958	0	0
City of Toronto	2013	8.3	$ 1,065,400	1,279	1,870	4,705	26	16
Province of Manitoba	2013	2					0	0
Federal Government of Canada	Year ending March 31, 2014	28	$ 4,000,000	8,500	12,186 (communication reports)		21	9

Appendices

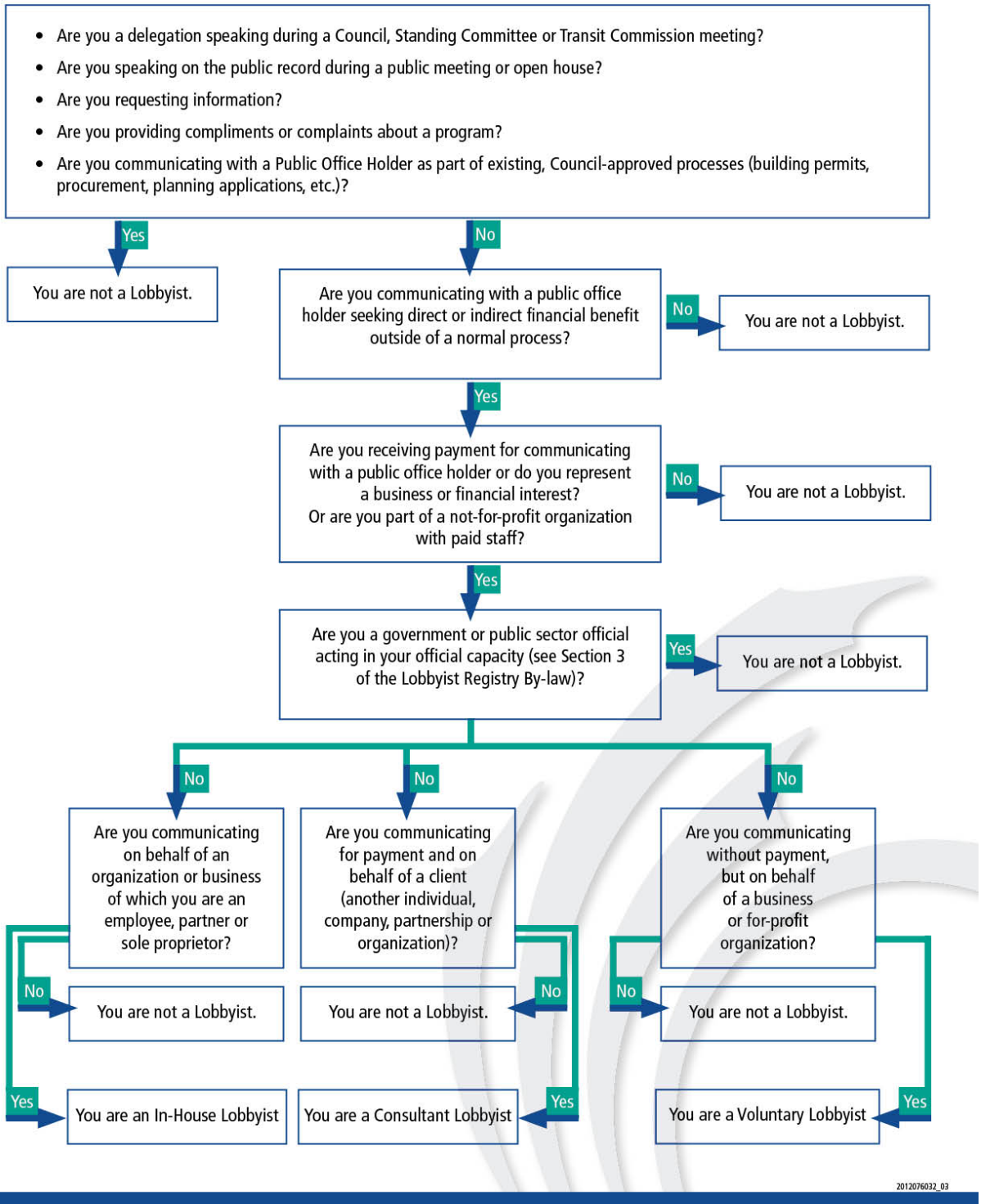
For information, we have included the details of other lobbyist registries in the jurisdictions we have reviewed.

Appendix 1 – Definition of Lobbying	23
Appendix 2 – Ottawa Lobbyist Decision Tree	25
Appendix 3 - Consideration for becoming an in-house lobbyist	26
Appendix 4 – Code of Conduct	27
Appendix 5 – Lobbyist Registration	31
Appendix 6 – Lobbyist Information Recorded	33
Appendix 7 – Filling Deadlines	36
Appendix 8 - Enforcement and Penalties	37
Appendix 9 – Registrar Responsibilities and Background	39
Appendix 10 – Ottawa's Code of Conduct Respecting Lobbying	41
Appendix 11 – Summary of Recommendations	42

Appendix 1 – Definition of Lobbying
City of Ottawa Lobbying occurs when an individual representing a financial or business interest, or the financial interest of a not-for-profit with paid staff, communicates with a Member of Council or City staff to try to influence a decision on governmental matters that are outside of standard processes.
City of Toronto LOBBY - To communicate with a public office holder on any of the following subject matters: A. Development, introduction, passage, defeat, amendment or repeal of a by-law, bill or resolution on any matter, by Council, a local board (restricted definition), the Board of Health, or a committee, another body or individual under delegated authority. B. Without limiting Subsection A, the following: (1) Development, approval, amendment or termination of a policy, program, directive or guideline. (2) Procurement of goods, services or construction and awarding a contract. (3) Approving, approving with conditions, or denying an application for a service, grant, planning approval, permit or other license or permission. (4) Awarding any financial contribution, grant or other financial benefit by or on behalf of the City, a local board (restricted definition) or the Board of Health. (5) Transferring from the City, a local board (restricted definition) or the Board of Health any interest in or asset of any business, enterprise or institution. (6) Determining the model and method of delivering a service. C. The matters noted in Subsections A and B with necessary modifications, if considered by a local board (restricted definition), the Board of Health or another body or individual under delegated authority. D. In relation to a consultant lobbyist referred to in Article II or an individual as referred to in § 140-28B, to arrange a meeting between a public office holder and any other person.
Province of Manitoba Lobbying is a legitimate activity in a free and democratic society. The Act defines “lobby” to mean in relation to a consultant lobbyist or an in-house lobbyist, to communicate with a public official in an attempt to influence: the development of a legislative proposal by the government of Manitoba or by a member of the Legislative Assembly (MLA); the introduction of a bill or resolution in the Legislative Assembly or the amendment, passage or defeat of any bill or resolution that is before the Legislative Assembly; the making or amendment of a regulation as defined in The Regulations Act; the development, amendment or termination of a program or policy of the Government of Manitoba or a government agency; the awarding of a grant, contribution or other financial benefit by or on behalf of the Crown; and In relation only to a consultant lobbyist, “lobbying" also includes: arranging a meeting between a public official and any other individual; or communicating with a public official in an attempt to influence the awarding of any contract by or on behalf of the Crown.
Federal Government of Canada Lobbying is communicating, with public office holders, for payment with regard to: the making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs; the awarding of federal grants, contributions or other financial benefits; and the awarding of a federal government

contract (for consultant lobbyists only).
In the case of consultant lobbyists, the Lobbying Act also defines lobbying as arranging a meeting between a public office holder and any other person.

Appendix 2 – Ottawa Lobbyist Decision Tree



Appendix 3 - Consideration for becoming an in-house lobbyist
City of Ottawa In-house lobbyist: an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization,
City of Toronto An individual who is employed by an individual, corporation, organization or other person, or a partnership, a part of whose duties as an employee is to lobby on behalf of the employer or, if the employer is a corporation, on behalf of any subsidiary of the employer or any corporation of which the employer is a subsidiary.
Province of Manitoba A person is an in-house lobbyist of an organization if his or her lobbying activity, alone or in combination with the lobbying activity of other employees would amount to a "significant part of his or her duties", if performed by one employee. This is defined in the Regulations under the Act to be 100 hours or more per year and includes preparation time directly related to and necessary for the lobbying activity. Time spent conducting background research in order to decide if the organization should or should not lobby need not be counted. Once the decision to lobby has been made, preparation time should be tracked and counted.
Federal Government of Canada For in-house lobbyists (corporations), the Act requires that the most senior paid officer of the corporation (the registrant) file a return when one or more employees communicate with federal public office holders on behalf of the employer, and those duties constitute a significant part of the duties of one employee or would constitute a significant part of the duties of one employee if they were performed by only one employee. The threshold after which lobbying represents a significant part of one's duties has been established at 20% or more of overall duties.

Appendix 4 – Code of Conduct

City of Ottawa

Lobbyists are expected to comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in this Code of Conduct when lobbying public office holders.

1. HONESTY

Lobbyists shall conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

2. OPENNESS

Lobbyists shall, at all times, be open and frank about their lobbying activities, while respecting confidentiality.

3. DISCLOSURE OF IDENTITY AND PURPOSE

(1) Lobbyists communicating with a public office holder shall disclose the identity of the individual or organization on whose behalf they are acting, as well as the reasons for the communication.

(2) Lobbyists shall register the subject matter of all communication with public office holders that constitutes lobbying under the Lobbyist Registry By-law.

4. INFORMATION AND CONFIDENTIALITY

(1) Lobbyists shall inform their client, employer or organization of the obligations under the Lobbyist Registry By-law and their obligation to adhere to the Lobbyists' Code of Conduct.

(2) Lobbyists shall provide information that is accurate and factual to public office holders.

(3) Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.

(4) Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.

(5) Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

5. COMPETING INTERESTS

(1) Lobbyists shall not represent conflicting or competing interests without the written consent of those whose interests are involved.

(2) Lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

(3) Lobbyists shall not lobby public office holders on a subject matter for which they also provide advice to the City.

6. IMPROPER INFLUENCE

(1) Lobbyists shall avoid both the deed and the appearance of impropriety.

(2) Lobbyists shall not knowingly place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.

City of Toronto

§ 140-38. Standard of behaviour.

A. Lobbyists shall comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in this article when lobbying public office holders.

B. Lobbyists shall observe and comply with the highest ethical and professional standards.

C. The Code of Conduct in this article sets out minimum standards of behaviour for lobbyists in their dealings with the City government, including local boards and public office holders.

§ 140-39. Honesty.

Lobbyists shall conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

140-40. Disclosure of identity and purpose.
A. Lobbyists communicating with a public office holder shall disclose the identity of the individual, corporation, organization or other person, or the partnership, on whose behalf they are acting, as well as the reasons for the communication.
B. Lobbyists communicating with a public office holder on a duly registered and disclosed subject matter shall not use that opportunity to communicate on another subject matter, unless first having registered as required and disclosing the identity and purpose.
§ 140-41. Compliance with policies restricting communication.
A. Lobbyists shall not communicate in relation to a procurement process except as permitted by applicable procurement policies and procurement documents.
B. Lobbyists shall not communicate in relation to an application for approval and the associated review process, except as permitted by applicable policies and procedures.
C. In the event of a conflict or inconsistency between Subsection A and any other provision of this chapter, Subsection A prevails. [Added 2013-10-11 by By-law No. 1334-2013]

§ 140-42. Prohibited activities.
A. Lobbyists shall not undertake to lobby in a form or manner that includes offering, providing or bestowing entertainment, gifts, meals, trips or favours of any kind.
B. Lobbyists shall not request public office holders to endorse or recommend their services.
C. Lobbyists shall not conduct lobbying activities at a charitable event, community or civic event, or similar public gathering.

§ 140-43. Information; confidentiality.
A. Lobbyists shall inform their client, employer or organization of the obligations under this chapter.
B. Lobbyists shall provide information that is accurate and factual to public office holders.
C. Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
D. Lobbyists shall be open and frank about their lobbying activities, while respecting confidentiality.
E. Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.
F. Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

§ 140-44. Competing interests.
A. Lobbyists shall not represent conflicting or competing interests without the written consent of those whose interests are involved.
B. Lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

§ 140-45. Improper influence.
A. Lobbyists shall avoid both the deed and the appearance of impropriety.
B. Lobbyists shall not place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.
C. Lobbyists shall not propose or undertake any action that would bestow an improper benefit or constitute an improper influence on a public office holder.

Province of Manitoba

None

Federal Government of Canada

Preamble

The Lobbyists' Code of Conduct is founded on four concepts stated in the Lobbying Act:
Free and open access to government is an important matter of public interest;
Lobbying public office holders is a legitimate activity;
It is desirable that public office holders and the public be able to know who is engaged in lobbying activities; and,
A system for the registration of paid lobbyists should not impede free and open access to government.
The Lobbyists' Code of Conduct is an important initiative for promoting public trust in the integrity of government decision-making. The trust that Canadians place in public office holders to make decisions in the public interest is vital to a free and democratic society.
To this end, public office holders, when they deal with the public and with lobbyists, are required to honour the standards set out for them in their own codes of conduct. For their part, lobbyists communicating with public office holders must also abide by standards of conduct, which are set out below.
Together, these codes play an important role in safeguarding the public interest in the integrity of government decision-making.

Principles

Integrity and Honesty
Lobbyists should conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.
Openness
Lobbyists should, at all times, be open and frank about their lobbying activities, while respecting confidentiality.
Professionalism
Lobbyists should observe the highest professional and ethical standards. In particular, lobbyists should conform fully with not only the letter but the spirit of the Lobbyists' Code of Conduct as well as all the relevant laws, including the Lobbying Act and its regulations.

Rules

Transparency
1. Identity and purpose
Lobbyists shall, when making a representation to a public office holder, disclose the identity of the person or organization on whose behalf the representation is made, as well as the reasons for the approach.
2. Accurate information
Lobbyists shall provide information that is accurate and factual to public office holders. Moreover, lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
3. Disclosure of obligations
Lobbyists shall indicate to their client, employer or organization their obligations under the Lobbying Act, and their obligation to adhere to the Lobbyists' Code of Conduct.
Confidentiality
4. Confidential information
Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.
5. Insider information
Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.
Conflict of interest
6. Competing interests

Lobbyists shall not represent conflicting or competing interests without the informed consent of those whose interests are involved.

7. Disclosure

Consultant lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest, and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.

8. Improper influence

Lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder

Appendix 5 – Lobbyist Registration
City of Ottawa Lobbying occurs when an individual representing a financial or business interest, or the financial interest of a not-for-profit with paid staff, communicates with a Member of Council or City staff to try to influence a decision on governmental matters that are outside of standard processes. You do not have to register before lobbying. Lobbying must be registered with the Lobbyist Registry within 15 business days of the activity taking place.
City of Toronto As a lobbyist, you must register yourself and the subject matter you intend to discuss before communicating with a public office holder about the subject matter. You must register before even contacting a public office holder for the purpose of arranging a meeting between a public office holder and a third party. Your registration has to be approved by the Lobbyist Registrar before you can lobby to ensure proper documentation is obtained.
Province of Manitoba For consultant lobbyists: If you have entered into an undertaking to lobby on behalf of a client, you are a consultant lobbyist and must register/file a return within 10 days of entering into that undertaking. Section 1(1) and Section 4(1). For organizations with one or more in-house lobbyists: Section 1(2) of the Act says that an individual is an in-house lobbyist only if the individual's duty to lobby constitutes a significant part of his or her activities as an employee, or partner, or sole proprietor of the organization. The senior officer of the organization must register/file a return and list all of the employees involved in lobbying within two months after the date which the organization has an in-house lobbyist (or lobbyists), and within two months after the end of each six month period after filing the previous return. Sections 5(1)(a) and (b) The Act puts the responsibility to file on each consultant lobbyist and on Senior officers of organizations with in-house lobbyists.
Federal Government of Canada The return shall set out the following information with respect to the undertaking: (a) the name and business address of the individual and, if applicable, the name and business address of the firm where the individual is engaged in business; (b) the name and business address of the client and the name and business address of any person or organization that, to the knowledge of the individual, controls or directs the activities of the client and has a direct interest in the outcome of the individual's activities on behalf of the client; (c) where the client is a corporation, the name and business address of each subsidiary of the corporation that, to the knowledge of the individual, has a direct interest in the outcome of the individual's activities on behalf of the client; (d) where the client is a corporation that is a subsidiary of any other corporation, the name and business address of that other corporation; (e) where the client is a coalition, the name and business address of each corporation or organization that is a member of the coalition; (e.1) the client is funded in whole or in part by a government or government agency, the name of the government or agency, as the case may be, and the amount of funding received; (f) particulars to identify the subject-matter in respect of which the individual undertakes to communicate with a public

office holder or to arrange a meeting, and any other information respecting the subject-matter that is prescribed;
(g) the fact that the undertaking does not provide for any payment that is in whole or in part contingent on the outcome of any matter described in subparagraphs (1)(a)(i) to (vi) or on the individual's success in arranging a meeting referred to in paragraph (1)(b);
(h) particulars to identify any relevant legislative proposal, Bill, resolution, regulation, policy, program, grant, contribution, financial benefit or contract;
(h.1) if the individual is a former public office holder, a description of the offices held, which of those offices, if any, qualified the individual as a designated public office holder and the date on which the individual last ceased to hold such a designated public office;

Appendix 6 – Lobbyist Information Recorded
City of Ottawa All lobbyists shall file a return regarding a specific lobbying communication within fifteen (15) business days of the communication occurring. Consultant lobbyists shall identify in the return the client for which the lobbying has been undertaken. Lobbyists shall disclose if they have held a senior public office holder position at the City and the date the individual ceased to hold the position. Lobbyists shall disclose if they hold a position on a local board of the City. Lobbyists shall adhere to the Code of Conduct during the conduct of lobbying activities with public office holders.
City of Toronto Each time a lobbyist engages in lobbying activity, the lobbyist must update their approved subject matter registration to include the name or position title of the public office holder lobbied, the date the communication(s) occurred and the method(s) of communication used. Lobbyists must report their lobbying activity within three (3) business days after communication has occurred.
Province of Manitoba Each return must include (as appropriate): Your name and address and whether you are a consultant lobbyist or the designated filer for an organization; Section 6(1)1 A declaration that no lobbyist named in the return is in violation of the contracting prohibition. Sections 10(1) and 10(2) specify that a person must not lobby while holding a contract for providing paid advice on the same subject; and must not enter into a contract for providing paid advice if he or she acts as a consultant lobbyist or in-house lobbyist on the same subject matter; and Certification that the information contained in the return is true to the best of the filer's knowledge and belief. Section 7 If you are a consultant lobbyist: the name and business address of the firm, if any, where you are engaged in business; Section 6(1)2(a) the name and business address of the client and of each person or organization that, to your knowledge, controls or directs the client's activities and has a direct interest in the outcome of your activities on the client's behalf; Section 6(1)2(b) the date on which you entered into the undertaking with the client Section 6(1)2(c) and the date the undertaking is scheduled to end; and the name of any government or government agency that funds or partly funds the client, and the amount of the funding. Section 6(1)2(g) Particulars to identify the subject matter about which you have undertaken to lobby Section 6(1)4(a) and (b) Particulars to identify any relevant legislative proposal, bill, resolution, regulation, program, policy, contract or financial benefit. Section 6(1)5 A statement as to whether you have lobbied or expect to lobby a member of the Legislative Assembly in his or her capacity as a member, or a person on the staff of a member of the Legislative Assembly. Section 6(1)6 The name of any department of the government of Manitoba or any government agency in which a public official is employed or serves whom you have lobbied or expect to lobby during the relevant period, and the name of the public

official or officials. Section 6(1)7
If you are an in-house lobbyist:
the name and business address of the organization; Section 6(1)3(a)
a brief description of the organization's business or activities; Section 6(1)3(b)
a general description of the membership of the organization, the name of each of its officers; and if the organization is a corporation, the name of each of its directors; Section 6(1)3(c)
if the organization is a corporation, the name and business address of each corporation controlled by it that, to the knowledge of the senior officer, has a direct interest in the outcome of the lobbying on the organization's behalf; Section 6(1)3(d)
if the organization is a corporation, the name and business address of each other corporation that controls it; Section 6(1)3(e)
the name of each in-house lobbyist in the organization; Section 6(1)3(f)
the name of any government or government agency that funds or partly funds the organization and the amount of the funding; Section 6(1)3(g)
particulars to identify the subject matter about which that each lobbyist named in the return has undertaken to lobby during the relevant period; Section 6(1)4(b)
particulars to identify any relevant legislative proposal, bill, resolution, regulation, program, policy, contract or financial benefit; Section 6(1)5
a statement as to whether that each in-house lobbyist named in the return has lobbied or expects to lobby a member of the Legislative Assembly in his or her capacity as a member, or a person on the staff of a member of the Legislative Assembly; Section 6(1)6
the name of any department of the government of Manitoba or any government agency in which a public official is employed or serves whom any in-house lobbyist named in the return has lobbied or expects to lobby during the relevant period, and the name of the public official or officials. Section 6(1)7

Federal Government of Canada

The return shall set out the following information with respect to the undertaking:
(a) the name and business address of the individual and, if applicable, the name and business address of the firm where the individual is engaged in business;
(b) the name and business address of the client and the name and business address of any person or organization that, to the knowledge of the individual, controls or directs the activities of the client and has a direct interest in the outcome of the individual's activities on behalf of the client;
(c) where the client is a corporation, the name and business address of each subsidiary of the corporation that, to the knowledge of the individual, has a direct interest in the outcome of the individual's activities on behalf of the client;
(d) where the client is a corporation that is a subsidiary of any other corporation, the name and business address of that other corporation;
(e) where the client is a coalition, the name and business address of each corporation or organization that is a member of the coalition;
(e.1) the client is funded in whole or in part by a government or government agency, the name of the government or agency, as the case may be, and the amount of funding received;
(f) particulars to identify the subject-matter in respect of which the individual undertakes to communicate with a public office holder or to arrange a meeting, and any other information respecting the subject-matter that is prescribed;
(g) the fact that the undertaking does not provide for any payment that is in whole or in part contingent on the

outcome of any matter described in subparagraphs (1)(a)(i) to (vi) or on the individual's success in arranging a meeting referred to in paragraph (1)(b);

(h) particulars to identify any relevant legislative proposal, Bill, resolution, regulation, policy, program, grant, contribution, financial benefit or contract;

(h.1) if the individual is a former public office holder, a description of the offices held, which of those offices, if any, qualified the individual as a designated public office holder and the date on which the individual last ceased to hold such a designated public office;

Appendix 7 – Filling Deadlines
City of Ottawa - 15 Business days
City of Toronto - 3 business days
Province of Manitoba - 10 days for Consultant Lobbyists and 2 months for In – House Lobbyists
Federal Government of Canada • Consultant Lobbyists must register within 10 days of after entering into an undertaking. • In-house lobbyists must register within two months after the day on which the requirement to file a return arises. • In addition, the Act stipulates that monthly communication reports must be filed not later than 15 days after the end of the month following the date of the communication.

Appendix 8 - Enforcement and Penalties
City of Ottawa REFUSAL TO ACCEPT OR SUSPEND REGISTRATION OR RETURN 9.The Integrity Commissioner may impose a temporary ban on communication in accordance with the following scheme if the Integrity Commissioner finds that the requirements of this by-law have not been met: First breach: the lobbyist is banned from communicating with public office holders for one month; Second breach: the lobbyist is banned from communicating with public office holders for three months; and Third breach: The Integrity Commissioner to determine an appropriate sanction. If the Integrity Commissioner decides to impose a temporary ban on communication, the Integrity Commissioner shall inform the individual of the suspension and the reason for the suspension in the manner that the Integrity Commissioner determines. If the Integrity Commissioner imposes a temporary ban on communication, the Integrity Commissioner shall notify all Senior Public Office Holders and notice of the temporary ban shall be posted on the City's website. REMOVAL FROM REGISTRY 10.The Integrity Commissioner may remove a registration or return from the Lobbyist Registry if the individual who filed the registration or return if the Integrity Commissioner finds that the lobbyist has not complied with the requirements of this by-law. When a registration or return is removed from the Lobbyist Registry, the individual who filed it shall be deemed, for the purposes of his or her existing and future obligations under this by-law, not to have filed the registration or return. Sanctions could be applied along the following incremental scale: For a first breach, the Lobbyist is banned from communicating with public office holders for one month For a second breach, the Lobbyist is banned from communicating with public office holders for three months In the event of a third breach, the Integrity Commissioner has the discretion to determine an appropriate sanction
City of Toronto 140-47. Penalty. Every person convicted of an offence under this chapter is liable on a first conviction to a fine of not more than $25,000 and on each subsequent conviction to a fine of not more than $100,000.
Province of Manitoba What are the offence provisions in the Lobbyists Act? A person who contravenes the Act is guilty of an offence. Section 18(1) A person who lobbies without a return being filed as required by this Act is guilty of an offence. Sections 4(1) and 5(1) A person who provides false or misleading information in a return filed or other document submitted to the Registrar under this Act is guilty of an offence. Section 18(2) A person is not guilty of an offence if the person did not know at the time that the information was provided that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading. Section 18(3) What are the fines under the Lobbyists Act? A person who commits an offence under Sections 18(1) or 18(2) of the Act is liable to a fine of not more than $25,000. Section 18(4)

Federal Government of Canada

Contravention

14. (1) Every individual who fails to file a return as required under subsection 5(1) or (3) or 7(1) or (4), or knowingly makes any false or misleading statement in any return or other document submitted to the Commissioner under this Act or in any response provided relative to information sent under subsection 9.1(1), whether in electronic or other form, is guilty of an offence and liable

(a) on summary conviction, to a fine not exceeding $50,000 or to imprisonment for a term not exceeding six months, or to both; and

(b) on proceedings by way of indictment, to a fine not exceeding $200,000 or to imprisonment for a term not exceeding two years, or to both.

Other contraventions

(2) Every individual who contravenes any provision of this Act — other than subsections 5(1) and (3), 7(1) and (4) and 10.3(1) — or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding $50,000.

Appendix 9 – Registrar Responsibilities and Background		
Jurisdiction	Responsibilities	Registrar education and background
City of Ottawa	The Integrity Commissioner is responsible for: a. overseeing the administration of the lobbyist registration system; b. providing advice, opinions and interpretations pertaining to the administration, application and enforcement of this by-law; c. conducting, in private, investigations or inquiries to determine whether contraventions of this by-law have occurred, as permitted under section 223.12 of the *Municipal Act, 2001*; d. suspending or revoking a registration; e. the enforcement of this by-law; f. advising Council on lobbying matters and recommending improvements and amendments to this by-law; g. providing an annual report to Council and any periodic reports and information as the Registrar considers appropriate; and h. performing other duties as may be assigned by Council.	Position is held by a retired Federal Civil Servant. The position, in addition to the other duties as Integrity Commissioner, requires approximately 540 hours annually.
City of Toronto	The Registrar is responsible for: -Maintaining a lobbyist registration system and determining the form of returns and the manner of filing returns. -Providing advice, opinions and interpretations pertaining to the administration, application and enforcement of this chapter. -Reviewing submitted returns for acceptance. -Verifying returns and conducting reviews to ensure compliance with this chapter. - Conducting, in private, investigations or inquiries to determine whether contraventions of this chapter have occurred. - Suspending or revoking a registration. - The enforcement of this chapter - Advising Council on lobbying matters and recommending improvements and amendments to this chapter.	Full time position held by a lawyer.
Province of Manitoba	-shall establish and maintain a registry of lobbyists in which a record of all returns and other documents filed with the registrar under this Act are kept; Section 12(1) -may verify the information contained in any return or other	Former deputy justice minister and lawyer.

	document filed under this Act; Section 13 may refuse to accept a return or other document that does not comply with the requirements of the Act or Regulations or that contains information not required to be provided or disclosed; Section 14(1) -may remove a return from the registry if the person who filed it does not comply with their duty to provide clarifying information or fails to give the registrar any requested information relating to the return within the period specified by the Act. Section 15(1) -ensures public accessibility to the lobbyists registry; Section 12(3) and -may issue interpretation bulletins and advisory opinions with respect to the enforcement, interpretation, or application of the Act, or the regulations but such are not binding on the Registrar; Section 17.	
Federal Government	As an independent Agent of Parliament, Commissioner of Lobbying is responsible for administering and enforcing the Act. The Commissioner's mandate is to maintain a registry of lobbyists to increase the transparency of lobbying activities, foster greater awareness of the Act through education and outreach, and enforce compliance with the Act and the Lobbyists' Code of Conduct.	Full time position held by civil servant with MPA. (No legal background but has legal counsel on staff)

Appendix 10 – Ottawa's Code of Conduct Respecting Lobbying

CONDUCT RESPECTING LOBBYING

Members of Council, as public office holders, are routinely approached by various individuals attempting to influence decisions before Council or under the delegated authority of the Ward Councillor. While lobbying is an acceptable practice, disclosure of lobbying activities enhances the transparency and integrity of City business.

In accordance with the City's Lobbyist Registry, Members of Council shall review the Lobbyist Registry monthly to confirm that instances where they have been lobbied on a particular matter, including the specific matter and date, have been registered. Where lobbying activity has not been disclosed, the Member shall first remind the lobbyist of the requirement to disclose and, should the activity remain undisclosed, advise the Integrity Commissioner of the failure to disclose.

Further, Members of Council should ensure that individuals who are lobbying them are aware of their requirement to register as required under the requirements of the Lobbyist Registry. Members of Council shall not knowingly communicate with a lobbyist who is acting in violation of the requirements of the Registry. If a Member of Council is or at any time becomes aware that a person is in violation of the rules related to lobbying, the member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by the Registry and report the communication to the City Clerk and to the Integrity Commissioner.

APPENDIX 11 – Summary of Recommendations

Focus Area	Rec. #	Recommendation
Legislation	1	The Public Service should prepare a report for the consideration of Council outlining the required amendments to *The City of Winnipeg Charter* to create an enforceable lobbyist registry that allows for investigative and enforcement activities. This would then enable City Council to forward the necessary amendments to the Provincial Government.
Lobbyist Criteria	2	For the purposes of the City's Lobbyist registry, we recommend that the definition of a lobbyist be an individual who is paid by an organization to communicate to a governmental decision maker outside an established process for the financial benefit of that organization. There should be no criteria based on the amount of time an individual lobbies. There should be exceptions for Individuals acting in their official capacity as a government or public sector official.
Additional Lobbyist Considerations	3	There should be two categories of lobbyists in-house and consultant.
Code of Conduct	4	The Registrar should develop a code of conduct for lobbyists for approval by Council.
Lobbyist Registration	5	Interactions with governmental decision makers should be registered by the Lobbyist.
Registration Fees	6	To promote compliance and increase simplicity, fees for registration should not be charged.
Lobbyist Activity Information	7	The Organization, Lobbyist and Lobbying information should be recorded in the registry. The provision of other information such as a list of the organization's officers and directors should be further evaluated. Additionally, there is a benefit to disclosing if the lobbyist held a senior public office or has any affiliation with City boards and this would require the development of additional guidance to define "senior public office".
Cooling off Period	8	There should be disclosure by former governmental decision makers and consideration given to a cooling off period for governmental decision makers of at least one year.
Filing Deadline	9	A 10 day limit to register interactions is recommended. This balances the need for public access to the information with a reasonable time period for a lobbyist to register interactions.
Registry Administration	10	In order to reduce costs; the Registrar should be created leveraging the existing resources of City Clerks to minimize overall costs, similar to Ottawa. The Registrar should report directly to Council.
Enforcement and Penalties	11	To enforce compliance with the Registry there should be powers to investigate and a process to verify submissions on a basis determined by the Registrar. Additionally, fines of a maximum $25,000 should be imposed for violations. Amendments to *The City of Winnipeg Charter* will be required to grant the City of Winnipeg powers of investigation, and the ability to levy and enforce fines or other penalties for this purpose. The specifics of the investigative powers and fine amounts should be included in the implementation plan report that is recommended to be prepared by the Public Service for the consideration of Council.

Focus Area	Rec. #	Recommendation
Lobbyist Registrar	12	If the Registrar has an enforcement role then candidates with an investigative and legal background would be preferred.
Role of Public Office Holders	13	The Code of Conduct for staff and Council should have a section added to it, similar to Appendix 10, to govern their conduct respecting lobbying to make clear their role and responsibilities in the process. A Code of Conduct for individuals serving on City Boards should also be developed.
Council Oversight	14	The Lobbyists Registrar should provide an annual report to Council to ensure appropriate oversight.
Combine Registrar With other Roles	15	Consider the combination of Lobbyist Registrar with the establishment of an Integrity Commissioner in order to create efficiencies and reduce total overall costs.
Implementation Plan	16	The Public Service should be directed to prepare a report for the consideration of Council detailing a comprehensive implementation plan for a Lobbyist Registry in the City of Winnipeg.