



# Public Inquiry Into Foreign Interference in Federal Electoral Processes and Democratic Institutions

## Rules of Standing and Funding

(revised November 16, 2023 – minor revisions with respect to wording and format)

By Order in Council 2023-0882, adopted on September 7, 2023, the Government of Canada established this Commission of Inquiry (the “Commission” or the “Inquiry”) on September 7, 2023, to examine any interference by China, Russia and any foreign actors and assess any repercussions on the integrity of the 43rd and 44th general elections, both nationally and at the constituency level; the flow of information about such interference to and from senior decision-makers, including elected officials during the election periods leading up to these general elections; the supports in place for members of any diaspora who might be especially vulnerable; and the capacity of relevant federal departments, agencies, institutional structures and governance processes to detect, deter and counter foreign interference. The Commission is also tasked with conducting public hearings to identify the challenges, limitations and potential adverse impacts associated with the disclosure of classified national security information and intelligence to the public to foster public awareness and understanding; and with making recommendations for better protecting federal democratic processes from foreign interference.

One of the Commission’s most important initial tasks is to identify individuals and groups who may assist the Commission by participating in the various stages of its work. The extent of such participation can cover a wide spectrum – from a limited role involving a particular aspect of the Commission’s mandate to broader participation in most or all of the Commission’s overall work.

Applicants who are granted standing – that is, an opportunity to participate directly in the Commission’s proceedings – benefit from, at the Commissioner’s discretion, certain participatory rights. These may include, for example, the right to receive prior notice of documents which are to be introduced into evidence, advance notice of the expected testimony of an anticipated witness, the right to question witnesses on matters relevant to the basis upon which standing was granted, the opportunity to propose witnesses, or the ability to make submissions to the Commission. Different types of standing and rights of participation may be granted depending on the nature of an Applicant’s substantial and direct interest, all in the context of the Commission’s tight timeframe for completing its work as well as the constraints under which it must operate for reasons of national security.

The Rules outlined below provide a process for Applicants to seek standing. It is important to understand that not everyone who would like to participate in the Commission’s work will be a suitable candidate for a grant of standing. Standing or participatory rights are granted to Applicants with “a substantial and direct interest in the subject matter” of the Inquiry or to those with unique experience or expertise that is likely to provide the Commission with an advantage in completing its work that it could not otherwise obtain. Thus, although witnesses evidently play an important role in a Commission’s fact-finding work, being a witness does not itself constitute a “substantial and direct interest” in the subject-matter of the Inquiry. Similarly, individuals and groups who have a genuine concern about the subject matter of the Inquiry or have an expertise in an area that will be considered by the Commission may not have a substantial and direct interest. They

may play a role in the Inquiry in other ways, such as contributing to its research and policy work, or participating in its public input process.

The factors that may be considered in determining whether an Applicant meets the criteria set out in the Rules and, thus, should be granted standing include: 1) the mandate of the Commission; 2) the aspect of the Inquiry for which standing is sought; 3) the type of interest the Applicant has; 4) the connection of the particular Applicant to the Commission's mandate; 5) whether the Applicant has a continued interest and involvement in the subject matter of the Inquiry; 6) whether the Applicant may be significantly affected by the Commission's findings and recommendations; 7) whether the Applicant is uniquely situated to offer information that will assist the Commission with its work; 8) the extent to which the Applicant's participation may duplicate the contribution of others; 9) whether the Applicant is willing to share a single grant of standing with other Applicants with whom the Applicant has a common interest; and 10) the need to complete the Commission's work according to the prescribed deadlines.

It is important to note that it is not necessary to be granted standing in order to be involved in the Commission's public activities and information-gathering. Standing is not necessary for members of the public who wish to observe any public hearings or public activities of the Commission. Members of the public and interested individuals may also follow the Commission's website, which will contain updated information on the Commission's work. This may include the Commission's Rules of Practice and Procedure, its decisions and rulings, proceeding schedules, news releases, policy papers, and publicly disclosable evidence.

With respect to funding, the Commissioner may make recommendations to the Clerk of the Privy Council regarding funding for a Participant, where, in the view of the Commissioner, the person would not otherwise be able to meaningfully participate in the Commission. Funding recommendations will correlate with the Commissioner's determination of the appropriate degree of participation for each Applicant for funding.

Under the Order in Council, the Commissioner can only recommend funding for Participants. It is up to the Clerk of the Privy Council to approve or deny all funding in accordance with approved Treasury Board guidelines respecting the remuneration and reimbursements and the assessment of accounts. Funding is disbursed based on these guidelines and may not cover all costs of participation.

## **Rules**

### **General**

1. These Rules on standing and funding apply to the Public Inquiry into Foreign Interference (the "Commission" or "Inquiry"), established pursuant to the Government of Canada's Terms of Reference.
2. Subject to the *Inquiries Act*, RSC 1985, c I-11 (the "Act") and the Terms of Reference, these Rules are issued by The Honourable Marie-Josée Hogue (the "Commissioner"), in the exercise of her discretion, to facilitate the efficient disposition of the issues of

standing and funding.

3. The Commissioner may amend, vary or depart from any rule or may dispense with compliance with these Rules as deemed necessary to ensure the Inquiry is thorough, fair, timely, transparent and completed on time.
4. These Rules provide a framework for participation in the work of the Commission, including the process by which it establishes facts and develops policies within its mandate.
5. All interested persons and their counsel shall be expected to adhere to the Commission's Rules of Practice and Procedure, which will be published, and may raise any issue of non-compliance with the Commissioner.
6. The Commissioner may deal with a breach of these Rules as she deems appropriate.
7. In these Rules,
  - a. "Applicant(s)" refers to individuals, organizations, governments, agencies, institutions, associations or any other entity applying for an opportunity to participate in the Commission's process;
  - b. "electronic format" refers to pdf format.

### **Standing**

8. Commission Counsel will assist the Commissioner to ensure the orderly conduct of the Inquiry and have standing at the Inquiry. Commission Counsel have the primary responsibility of representing the public interest throughout the Inquiry, including the responsibility of ensuring that all matters that bear upon the public interest are brought to the Commissioner's attention. Commission Counsel do not represent any particular interest or point of view. Their role will be neither adversarial nor partisan.
9. Applicants may seek standing at the Inquiry by submitting an application for standing form with any supporting materials, in electronic format, with the Commission on or before November 22, 2023, or at the discretion of the Commission, on any other date.
10. Application forms can be found on the Commission's website at [www.ForeignInterferenceCommission.ca](http://www.ForeignInterferenceCommission.ca).
11. Completed application forms for standing must include the following information:
  - a. The Applicant's name, address, telephone number, and email address;
  - b. The name(s) of the legal representative(s), if any, representing the Applicant, together with the legal representative(s)'s address, telephone number, and email address;

- c. The substantial and direct nature of the Applicant's interest in the subject matter of the Inquiry, the reasons for which the Applicant seeks standing, and how the Applicant's participation would provide the necessary contributions to the Inquiry, having specific regard to the Terms of Reference and the factors discussed in Rule 14 and the preamble above; and
  - d. A discussion of whether the Applicant is seeking full standing or standing on one or more specific issues outlined in the Terms of Reference.
- 12. The Commissioner will make decisions about participation in the Commission's proceedings based on the completed application forms and supporting documentation. Should oral submissions be required for any Applicant, which will be determined by the Commissioner, the Commissioner will communicate an appropriate time and format to hear them.
- 13. The documentation supporting the application for standing shall be limited to 10 pages.
- 14. The Commissioner will exercise her discretion in determining whether standing should be granted, considering section 11 of the *Act*, the Terms of Reference, and the need for a transparent, fair, impartial, thorough, proportional, and timely proceeding. The Commissioner will consider, among other things, the following criteria:
  - a. The existence of a substantial and direct interest on the part of the Applicant in the subject matter of the Inquiry;
  - b. The extent to which an Applicant's participation would provide necessary contributions to the conduct of the Inquiry; and
  - c. The extent to which an Applicant's participation would contribute to the openness and fairness of the Inquiry.
- 15. The Commissioner may determine the manner and scope of the participation of Applicants who are granted standing, as well as defining their rights and responsibilities.
- 16. The Commissioner may direct that a number of Applicants share their participation rights with those with whom they have a common interest and that they be required to exercise their participation rights jointly.
- 17. The Commissioner may, in her discretion, designate more than one category of standing with varying degrees of participatory rights.
- 18. From time to time, the Commissioner may, at her discretion, modify, rescind or grant standing.
- 19. Any material or information filed in support of an Applicant's standing application may be made available to the public on the Commission's website or cited in a publicly available document, including in a decision on standing, except where this raises

national security concerns or other legitimate confidentiality concerns, in which case certain material or information may not be made public.

20. Any updated information with respect to standing may be made available on the Commission's website at [www.ForeignInterferenceCommission.ca](http://www.ForeignInterferenceCommission.ca).

## **Funding**

21. Further to and in accordance with paragraph (a)(ii)(D), of the Government of Canada's Terms of Reference, the Commissioner may make recommendations to the Clerk of the Privy Council regarding funding for a Participant, where in the Commissioner's view, the Participant would not otherwise be able to participate in the Inquiry without such funding.
22. Applicants may seek funding by submitting an application form with any supporting materials, in electronic format, to the Commission on or before November 24, 2023, or at the discretion of the Commission, on any other date set by the Commissioner. Applicants will be expected to seek funding at the same time as they seek standing, and materials in support of funding may be combined with materials in support of standing. The Commissioner will make decisions about recommendations for funding based on the completed application form and the supporting documentation.
23. The documentation supporting an application for funding shall be limited to 5 pages (in addition to the information provided to the support the application for standing).
24. Application forms can be found on the Commission's website at [www.ForeignInterferenceCommission.ca](http://www.ForeignInterferenceCommission.ca).
25. Completed application forms for funding must include the following information:
  - a. The Applicant's name, address, telephone number, and email address;
  - b. The name(s) of the legal representative(s), if any, representing the person, together with the lawyer(s)'s address, telephone number, and email address;
  - c. The evidence that demonstrates that an Applicant does not have adequate financial resources to represent its interest in the Inquiry; and
  - d. How the Applicant intends to make use of the funds and how it will account for the funds.
26. Should oral submissions be required for any Applicant seeking funding, which will be determined by the Commissioner, the Commissioner will communicate an appropriate time and format.
27. Funding will be recommended at the Commissioner's discretion in accordance with the Government of Canada Terms of Reference at paragraph (a)(ii)(D). The Commissioner will also consider, among other things, the following factors in determining whether to

recommend funding:

- a. the question of the Applicant's demonstrated inability to be a Participant in the Inquiry if funding is not obtained;
  - b. The unique perspective or special experience or expertise that will not be presented to the Inquiry if the Applicant does not obtain funding;
  - c. the question of the Applicant's established record of concern for and demonstrated commitment to the interest the Applicant seeks to represent; and
  - d. The way in which the Applicant has proposed to use the funds and account for them.
28. Where the Commissioner's funding recommendation is accepted, funding shall be in accordance with Treasury Board guidelines respecting rates of remuneration and reimbursement and the assessment of accounts.
29. Any material or information filed in support of an Applicant's application for funding may be available to the public on the Commission's website or be cited in a publicly available document, including in a decision on funding, except where this raises national security concerns, or other legitimate confidentiality concerns, in which case certain material or information may not be made public.
30. Any updated information with respect to funding may be made available on the Commission's website at [www.ForeignInterferenceCommission.ca](http://www.ForeignInterferenceCommission.ca).