

Annual Report of the Lobbyist Registrar for the Year 2014

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ANNUAL REPORT OF THE LOBBYIST REGISTRAR FOR THE YEAR 2014

MESSAGE FROM THE LOBBYIST REGISTRAR

The City should treat lobbying as a potentially helpful practice that should be carefully controlled.¹

Addressing concerns related to lobbying practices and undue influence in the decision making process is a key lever for restoring trust in government.²

This is my 7th annual report to Toronto City Council on my activities and the discharge of my duties as Lobbyist Registrar for the year 2014, in compliance with Chapter 3 of the Toronto Municipal Code, § 3-7A.

This report also informs City Council, who appointed me and to whom I am accountable, that I intend to retire at the end of 2015.

2014 was a transition year between terms of Council and also an election year. As such, it had special challenges for the Office of the Lobbyist Registrar (OLR). The former Integrity Commissioner and I issued a revised Joint Interpretation Bulletin, [Lobbying and Municipal Elections at the City of Toronto](#) (Joint Interpretation Bulletin – Integrity Commissioner and Lobbyist Registrar). I issued a new Interpretation Bulletin, [Lobbying during Transition Period from Election Day to beginning of New Term of Council](#).

2014 was also a year of significant strengthening of the City's Lobbying By-law and policy changes that will make the by-law more effective. When Council adopted the new [Public Service By-law](#), it also adopted [amendments to the Lobbying By-law](#)³ that will require City staff involved in a purchasing process to report breaches of the Lobbying By-law to my office, effective December 31, 2015⁴. As well, revisions to the City's Conflict of Interest Policy require City staff to be familiar with the Lobbying By-law and deal appropriately with lobbyists. A new policy for staff of members of Council contains similar obligations.⁵

¹ The Honourable Madam Justice Denise E. Bellamy, Commissioner, *Toronto Computer Leasing Inquiry, Toronto External Contracts Inquiry*, Recommendation 97, vol. 4, p. 94.

² OECD (2014), *Lobbyists, Governments and Public Trust, Volume 3: Implementing OECD Principles for Transparency and Integrity in Lobbying*, OECD Publishing at page 4.

³ [EX42.3 Strengthening Public Service Governance – A Public Service By-law for Toronto](#)

⁴ By-law No. 1008-2014, enacted August 28, 2014, adds a new section entitled "§ 140-9.1. Duty to report for employees involved in a purchasing process."

⁵ [Human Resources Management and Ethical Framework for Members' Staff](#)

Although Council held no meetings from September to December 2014, lobbyists continued to register and report their lobbying activities through the OLR's public, online registry. In 2014, 515 new lobbyists registered, up from 450 in 2013; and lobbyist updates increased to 1,511 from 1,018 in 2013. There were 4,546 reports of lobbying activity compared with 4,705 in 2013, while registration of new subject matters decreased to 820 from 936 in 2013. OLR Registry staff actively reviewed and monitored registrations to ensure their accuracy and compliance with the Lobbying By-law.

My office provided information, advice and interpretation to enable lobbyists, public office holders and the public to understand and comply with the Lobbying By-law. OLR staff conducted seven training sessions attended by 60 lobbyists and members of the public, published a newsletter, issued new and revised interpretation bulletins and launched a new "Twitter" account [[@TO_LobbyistReg](#)]. I conducted information sessions on the Lobbying By-law for City employees, members of Council and their staff, and Business Improvement Area Boards.

OLR inquiries and investigations staff conducted 32 assessments, opened 26 new inquiries to determine whether the Lobbying By-law had been breached and completed 15 inquiries. I submitted seven reports to Council on inquiries into allegations of breaches of the Lobbying By-law.⁶ Almost all of these reports dealt with allegations of lobbying contrary to procurement policies and procedures. Findings in these reports included breaches of Lobbying By-law's registration and reporting requirements and breaches of the Lobbyists' Code of Conduct, such as lobbying during "live" procurements; lobbying by a former senior public office holder during the twelve-month post-employment "cooling off" period; undertaking to lobby by providing a gift or favour; and placing a public office holder in a conflict of interest. Two prosecutions were initiated under the *Provincial Offences Act*.⁷

We use a spectrum of strategies to ensure and enforce compliance with the Lobbying By-law, ranging from advice and training to inquiries, prosecutions under the *Provincial Offences Act* and reports to Council. However, the administrative sanctions available to enforce the Lobbying By-law are limited. As noted by the OECD in its recent report, *Lobbyists, Governments and Public Trust, Volume 3*⁸, promoting compliance and enforcement is proving to be a particular challenge in all jurisdictions. Our own

(see report to Council on August 25, 26, 27 and 28, 2014: [Human Resources Management and Ethical Framework for Members' Staff, EX44.2](#))

⁶ [Report on an Inquiry into Lobbying about Tender Call Nos. 67-2013 and 152-2013, CC55.8](#)

[Report on an Inquiry into Lobbying about Tender Call No. 209-2013, CC55.9](#)

[Report on an Inquiry into Lobbying by a Former Senior Public Office Holder, CC54.4](#)

[Report on an Inquiry into Lobbying about Request for Proposal No. 9118-13-5066, CC52.1](#)

[Report on an Inquiry into Communications about Request for Proposal No. 0513-13-7010, CC52.2](#)

[Report to Council on the Provision of Gifts by a Consultant Lobbyist Firm](#) (Appendix A to the [Annual Report of the Lobbyist Registrar for the Year 2013, CC50.2](#))

[Report on an Inquiry into a Fundraising Event, CC48.8](#)

⁷ One of these prosecutions was later withdrawn; the other is in progress.

⁸ See footnote 2 above at page 3.

jurisdiction is no exception. It is for this reason that I recommended to Council that the administrative sanctions available to my office to enforce the Lobbying By-law be reviewed. In 2014, Council adopted these recommendations when it received my [2013 Annual Report, CC50.2](#). I will continue to work with the City Manager and City Solicitor on the implementation of these Council resolutions in 2015. Part of this work will include submissions on the review of *COTA*.

The former Integrity Commissioner and I took an important step in 2014 by developing and implementing a [Memorandum of Understanding](#) with respect to Co-operation and Collaboration in Education and Enforcement. The Memorandum of Understanding recognizes that the Lobbyist Registrar and Integrity Commissioner both have advice, interpretation and inquiry roles under *COTA* and Chapter 3; that our jurisdictions and mandates are complementary and part of the same integrity and accountability framework; that our roles are sometimes concurrent or overlapping; and that there are interests and benefits to the City of Toronto which would result from the co-operation in advice, interpretation and inquiries by the officers including fairness, efficiency, effectiveness and public confidence.

The City of Toronto's Lobbying By-law and registration system are models for other jurisdictions. As the first municipal lobbyist registry in Canada, and now one of two municipal lobbyist registries in Ontario, the OLR's role includes providing information about Toronto's Lobbying By-law and registry to other jurisdictions. In 2014, I was consulted by provincial, municipal and federal jurisdictions, including the Charbonneau Commission, regarding the City's lobbyist registry and Lobbying By-law.

As noted by the OECD, there is a direct correlation between public trust in politicians and transparency in government policy-making.⁹ Ensuring transparent, ethical lobbying is part of a strong integrity framework and helps to increase public trust in government. The City of Toronto has a strong integrity framework in its four accountability offices. In order to meet the challenges that surely lie ahead, it is essential that this framework remains strong. The accountability provisions in *COTA* are essential to the effectiveness of the City's accountability framework and to maintaining the public trust in the integrity of City government decision-making. I will work with the City Manager, City Solicitor and my fellow accountability officers to ensure that the provisions in *COTA* enable the City's accountability offices to conduct their work effectively, with the necessary independence and accountability to Council; and to ensure a smooth transition when I leave office.

In January of this year, I informed the City Manager of my intent to retire at the end of 2015. It has been an honour and privilege to serve the public as the City's Lobbyist Registrar and to implement Canada's first municipal Lobbying By-law and registry. I am very grateful for everyone's support in this effort. I wish to thank in particular OLR staff, who maintain the lobbyist registration system and ensure compliance with the Lobbying By-law; the City Clerk's Council and Support Services, who provide financial, information technology and administrative services to the OLR; Legal Services, who

⁹ See footnote 2, above, Figure 1.3.

have drafted important amendments to the Lobbying By-law and conduct prosecutions on the OLR's behalf; my fellow accountability officers, who support and work together with me on common issues; the City Manager and his staff, who have worked with the accountability officers to establish the City's accountability framework; and City staff, members of Council and their staff, members and staff of City Boards and Agencies, lobbyists and members of the public, who have supported compliance with the Lobbying By-law and registry system. The City's public office holders, lobbyists and the public help us provide transparency and ensure integrity in lobbying. My thanks to all of you.

MANDATE AND HISTORY OF THE OFFICE OF THE LOBBYIST REGISTRAR (OLR)

The mandate of the Office of the Lobbyist Registrar is to promote the transparency and integrity of City government by maintaining an online registry that is available to the public, and by regulating the conduct of lobbyists at the City.

Toronto's Lobbying By-law established the first municipal lobbyist registration system in Canada.¹⁰ Its roots lie in the recommendations of Madam Justice Denise Bellamy in her Report on the Toronto Computer Leasing Inquiry. The *City of Toronto Act, 2006* ("COTA") requires the City to establish and maintain a lobbyist registry that is available to the public, and authorizes Council to appoint a Lobbyist Registrar. In 2007, the City adopted Chapter 140 of the City of Toronto Municipal Code (the Lobbying By-law) and appointed its first Lobbyist Registrar. The lobbyist registry was launched in February 2008.

The duties of the Lobbyist Registrar are set out in COTA and the Toronto Municipal Code, Chapter 3 (Accountability Officers) and Chapter 140 (Lobbying). COTA requires the City to establish and maintain a public lobbyist registry and permits the City to appoint a registrar; requires the registrar to perform her duties in an independent manner; gives the registrar powers of inquiry under the *Public Inquiries Act, 2009*; requires that secrecy of an inquiry be preserved; and provides that the registrar may make a public report on an inquiry to Council and when doing so, may disclose such information as is necessary for the purposes of the report.

Chapter 3 of the Toronto Municipal Code provides the framework for the relationship of the City's accountability officers, including the Lobbyist Registrar, to City Council and the City administration. The accountability officers report directly to Council, are independent of the City administration and, subject to the provisions of Chapter 3, are fully responsible for the conduct and accountability of their offices. The Lobbyist

¹⁰ In Quebec and Newfoundland and Labrador, municipal lobbyist registration is administered by the province. The City of Ottawa established a lobbyist registry in 2012. The City of Surrey, British Columbia, adopted a Lobbyist Registration Policy in 2008. The cities of Hamilton and Brampton are in the process of establishing lobbyist registries.

Registrar is required to report annually to Council on the activities of her office and discharge of her duties, report to Council on investigations and inquiries conducted by her and submit the Capital and Operating Budget for her office directly to Budget Committee for consideration and recommendation to Council. The Office of the Lobbyist Registrar is included in the annual attest audit of the City and undergoes an annual compliance audit, both of which are conducted by an external auditor appointed by and reporting to Council.

Under the Toronto Municipal Code, Chapter 140 (the Lobbying By-law) and *COTA*, the Lobbyist Registrar is responsible for maintaining the lobbyist registry; providing advice, opinions and interpretations pertaining to the administration, application and enforcement of the Lobbying By-law; reviewing and verifying returns for acceptance and for compliance with the Lobbying By-law; conducting, in private, investigations and inquiries to determine whether the Lobbying By-law has been breached, as permitted under *COTA*; suspending or revoking a registration; enforcement of the Lobbying By-law; advising Council on lobbying matters and recommending improvements and amendments to the Lobbying By-law; and performing other duties as assigned by Council.

OLR STAFF

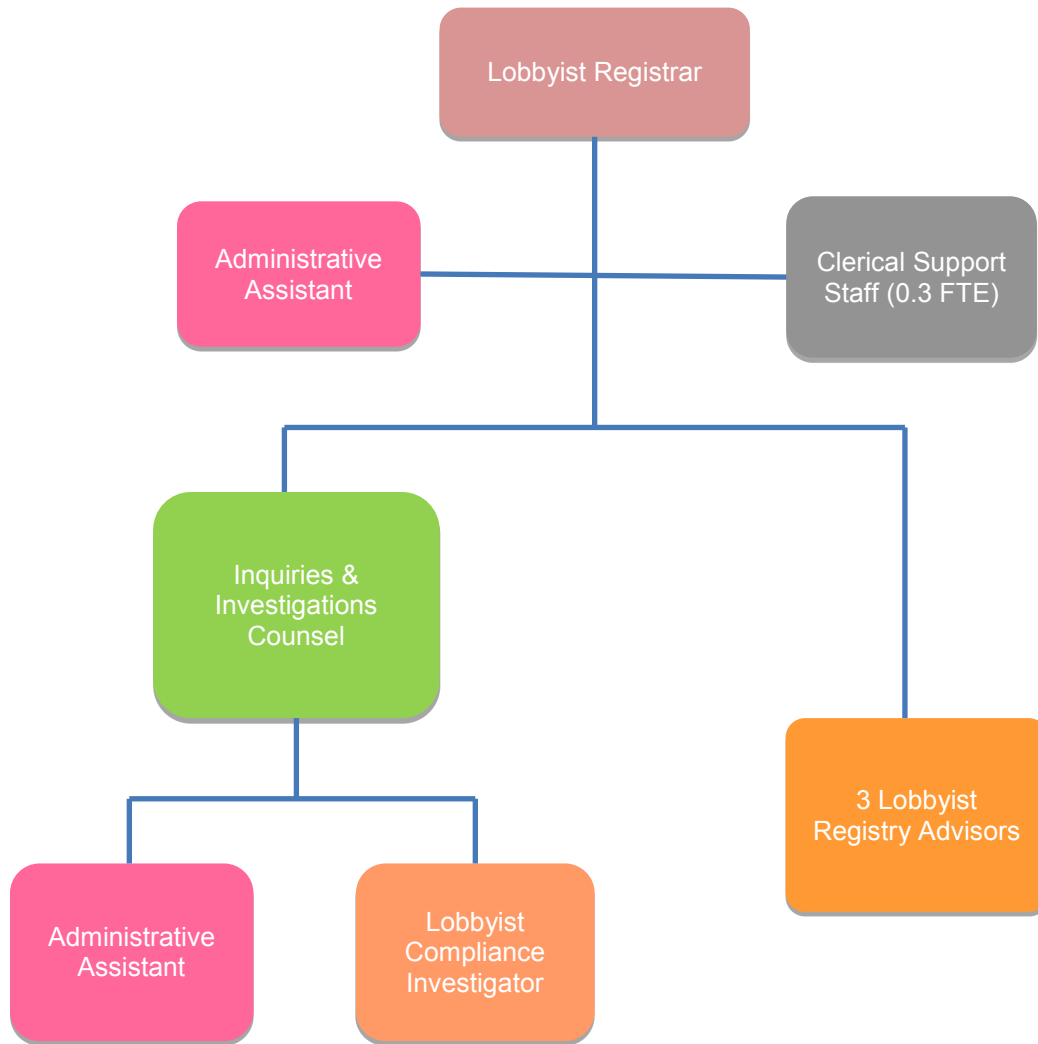
The staff of the Office of the Lobbyist Registrar is a team of eight with two units corresponding to our legislated mandates to maintain the registry and to conduct inquiries, investigations and enforcement activities.

Our total staff complement is 8.3 full-time employees. This number has not changed since 2010. In addition to the Lobbyist Registrar, the OLR is staffed by three Lobbyist Registry Advisors, Inquiries and Investigations Counsel, a Lobbyist Compliance Investigator, and two Administrative Assistants. A part-time clerical position is allocated for summer students or periods of increased administrative needs.

Lobbyist Registry Advisors provide advice and interpretation; maintain the lobbyist registry; review, verify and approve registrations and updates; monitor compliance with registration and reporting requirements; develop and deliver information, training, and outreach programs and materials; and participate in the OLR's website projects.

Inquiries and Investigations Counsel provides advice on compliance issues; conducts assessments, inquiries and investigations on behalf of the Lobbyist Registrar; and develops policies and procedures to support OLR assessment, inquiry and investigation processes. The Lobbyist Compliance Investigator assists Inquiries and Investigations Counsel in these functions.

Two Administrative Assistants provide administrative support and assistance to the Registrar, Lobbyist Registry Advisors, and inquiries and investigations staff.



REGISTRY SERVICES

The following table summarizes registration activities and telephone inquiries in the years 2010 through 2014:

**TABLE 1
REGISTRATIONS, WEBSITE VISITS and TELEPHONE INQUIRIES**

	2010	2011	2012	2013	2014
Lobbyist Registrations					
New Lobbyists	229	331	444	450	515
Lobbyist Updates	306	514	677	1,018	1,511
Closed Lobbyist Registrations	32	168	199	347	591
Subject Matter Registrations					
New Subject Matters	458	886	879	936	820
Subject Matter Updates (reports of lobbying activity)	1,072	2,626	3,920	4,705	4,546
Closed Subject Matters	346	600	762	574	871
Active Registrations at December 31, 2014					
Active Lobbyists	1,047	1,137	1,278	1,279	1,028
Active Subject Matters	1,424	1,653	1,726	1,870	1,556
Website Visits	13,466	16,988	18,999	18,039	14,686
Telephone Inquiries	1,257	1,630	2,038	2,410	2,623

**TABLE 2
REGISTERED SUBJECT MATTERS**

The ten most frequently registered subject matters as of December 31, 2014 are listed in Table 2:

Subject Matter Category	Number of Active Registrations
Planning and Development Applications	788
Technology	121
Economic Development	99
Transportation – Roads/Bridges	81
Transit/TTC	70
Procurement	67
By-law/Regulation	62
Signs	57
Environment	52
Licences/Licensing	48

Online Registration System and Website

In 2014, there were 14,686 visits to the OLR website. This compares with 18,039 visits in 2013. The OLR launched its Twitter account in 2014.

The OLR maintains and administers a searchable online registry on our website that is available to the public at all times. The registry meets the requirements of s. 165 of COTA, that the City maintain a registry of persons who lobby public office holders, and that this registry be available for public inspection. The registry is accessible through our public website at www.toronto.ca/lobbying. Data from the registry is also available in machine-readable format on the [City's Open Data](http://www.toronto.ca/open) website at www.toronto.ca/open.

Lobbyists register online through an internal operating system that is administered by OLR staff. OLR Registry Advisors review all registrations and updates to ensure that they meet the requirements of the Lobbying By-law. Once the registration or update has been reviewed and approved by a Registry Advisor, the information is posted in the public online lobbyist registry. In most cases, review, approval and posting on the public registry occurs within two days of a registration or update being submitted.

Registry staff continuously review and monitor registrations to ensure that they are accurate and comply with the Lobbying By-law. For example, Registry Advisors monitor registrations to ensure that they do not relate to an active procurement, in which case lobbying is not permitted.

OLR staff keep the website up-to-date. We work continuously to make the OLR website as accessible and informative as possible. In addition to the lobbyist registry, our website provides a wealth of information to the public, public office holders and lobbyists, including:

- the Lobbying By-law;
- an online registration tutorial;
- an online newsletter, The Registry Insider;
- FAQs;
- interpretation bulletins;
- reports on inquiries;
- annual reports;
- expense reports;
- links to the sites of other accountability officers; and
- how to contact our office for information and advice.

The OLR launched a Twitter account [[@TO_LobbyistReg](#)] in 2014. We post newsletters, new and revised interpretation bulletins and other news of note on our Twitter account.

Advice and Interpretation

In 2014, the OLR answered 2,623 telephone inquiries, providing information and advice on and interpretation of the Lobbying By-law. This compares with 2,410 telephone inquiries answered in 2013.

The OLR provided advice, information and interpretation of the Lobbying By-law in person, by telephone, by mail and by email. We provided information about the requirements for registration, the Lobbyists' Code of Conduct and assistance with searches of the registry to public office holders, lobbyists and the public; and advice and interpretation of the Lobbying By-law on such subjects as whether organizations or individuals must register, whether certain types of communications must be reported, whether lobbying would place a public office holder in a conflict of interest and whether an invitation to an event may be offered by a lobbyist.

Interpretation Bulletins

Interpretation Bulletins, as well as Reports and other important documents, may be found on our website at <http://www.toronto.ca/lobbying>.

OLR interpretation bulletins provide information and advice about the requirements of the Lobbying By-law and how these requirements apply in particular situations. In 2014, the OLR published the following two new or revised interpretation bulletins:

- [Lobbying and Municipal Elections at the City of Toronto](#) (Joint Interpretation Bulletin – Integrity Commissioner and Lobbyist Registrar) (revised)
- [Lobbying during Transition Period from Election Day to beginning of New Term of Council](#) (new)

Education and Outreach

The Registry Insider, our online newsletter, is an important way in which the OLR provides information to the public, lobbyists and public office holders. Our office issued one volume of the Registry Insider in 2014.

The OLR provided seven in-house training sessions on the Lobbying By-law and registration system for lobbyists and members of the public in 2014. A total of 60 persons attended these sessions.

I conducted outreach sessions and provided information about the Lobbying By-law to members of Council and their staff, new City executive employees and Business Improvement Area (BIA) Boards.

I worked with the City's Human Resources Division to develop training programs in ethics and the Lobbying By-law for City staff.

We provided information on the Lobbying By-law to the following organizations:

- City of Hamilton
- City of Ottawa
- The Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry (the Charbonneau Commission)
- Commissioner of Lobbying of Canada
- Ontario Integrity Commissioner
- Seneca College
- Simon Fraser University

We presented information about the Lobbying By-law to conferences sponsored by the following organizations:

- Conference of Governmental Ethics Laws (COGEL)
- Lobbyist Registrars and Commissioners Network (LRCN)
- EthicScan
- The Commons Institute

The lobbyist registry is a key part of the City's Open Government initiative. The registry provides transparency in lobbying. Data from the registry is made available on the City's Open Data website. Transparency is essential to the public's trust in the integrity of City government decision-making. OLR staff attended the City's Open Government Conference and attended the annual conference of Transparency International to learn about best practices in other jurisdictions to achieve transparency and reduce corruption.

The Lobbyist Registrars and Commissioners Network (LRCN), a Canadian network of lobbyist registrars and commissioners for the federal government, provinces and cities of Ottawa and Toronto, serves as an important forum to share knowledge and best practices. My staff and I have played an active role in the LRCN, attending and making presentations to the mid-year LRCN meetings in February 2014 and annual conference in September 2014. I participated in discussions with LRCN colleagues by email and telephone in other jurisdictions throughout the year. OLR staff and I will be attending meetings of the LRCN in February and September 2015.

The OLR is a member of the Council on Governmental Ethics Laws (COGEL), an international ethics organization that is an important source of information about lobbying and registration systems in the United States, Canada and elsewhere. I served on the COGEL Awards Committee in 2014.

The Office of the Lobbyist Registrar is part of a network of public regulators and accountability officers in Ontario and throughout Canada. In order to learn about and share best practices, OLR staff participate from time to time in the professional development programs of the Society of Ontario Adjudicators and Regulators (SOAR) and its educational partner, Osgoode Professional Development (OPD). My staff and I attended SOAR's annual conference in November 2014. As a member of the conference committee, I worked to develop and present two new workshops for regulators at the conference: *Duties of a Regulator: Regulating in the Public Interest*; and *Making Regulatory Processes More Accessible and Transparent*. I also served as a facilitator for SOAR/OPD decision-writing workshops. I have continued as co-chair for the November 2015 SOAR conference. The theme of this conference will concern determining and acting in the public interest. This is a topic of that is especially relevant to our office.

ASSESSMENTS AND INQUIRIES

In 2014, 32 assessments were conducted, 26 new inquiries were opened and 15 inquiries were completed.

Under COTA and the Lobbying By-law, the Lobbyist Registrar is responsible for conducting, in private, inquiries¹¹ to determine whether contraventions of the Lobbying By-law have occurred. When the OLR receives information or allegations of contravention of the Lobbying By-law, OLR inquiries and investigations staff assess whether the criteria for an inquiry are met; and whether the matter can be resolved more quickly at the assessment stage. If there is sufficient evidence to indicate a potential contravention of the by-law, and it is not appropriate to resolve the matter less formally (for example, by permitting a late registration), the Registrar may authorize an inquiry to be conducted. OLR inquiries and investigations staff conduct the inquiry in the strictest confidence, in accordance with the requirements of COTA. OLR [Compliance Inquiry Procedures](#) are found at www.toronto.ca/lobbying.

TABLE 3
SOURCES of NEW ASSESSMENTS and INQUIRIES – 2014

An assessment or inquiry may be commenced as a result of a request of Council, a member of Council or their staff, an accountability officer, a member of the public, or a lobbyist. Assessments and inquiries may also be initiated by the Registrar based upon information in the registry or received through other sources.

Table 3 shows the source of request for the new assessments and inquiries in 2014:

Source of Request	New Assessments	New Inquiries
Council	0	0
Member of Council or their staff	1	1
City staff	20	20
OLR	8	3
Other Accountability Offices	1	1
Member of the Public	1	0
Lobbyist	1	1

¹¹ The term “inquiries” includes “investigations”.

**TABLE 4
ASSESSMENTS and INQUIRIES – 2010-2014**

Table 4 shows assessments and inquiries from 2010 through 2014:

	2010	2011	2012	2013	2014
Assessments (new)	N/A	N/A	30	24	32
(completed)	N/A	N/A	30	24	32
Inquiries (new)	10	46	18	17	26
(completed)	10	21	18	26	15

**TABLE 5
OUTCOMES of ASSESSMENTS**

Table 5 shows the outcomes of the 32 assessments completed in 2014:

Outcomes of Completed Assessments	Completed Assessments
Inquiry Files Opened	26 ¹²
Advice Given	1
Late Registration or Update Permitted	1
No Further Action Taken	4

¹² In one instance, multiple assessments were combined into one inquiry file.

TABLE 6
OUTCOMES of COMPLETED INQUIRIES

Table 6 shows the outcomes for the 15 inquiries completed in 2014:

Outcomes of Completed Inquiries	Completed Inquiries
Allegations Substantiated	9
Allegations not Substantiated	6
Advice Given	10
Lobbying By-law Training Recommended/ Attended	11
Apology Provided	7
Commitment to Comply	7
Late Registration or Update Permitted	6
Report to Council	7
Suspension, Revocation or Removal of Registration	2
<i>Provincial Offences Act</i> Charge Laid	1
Referral to Division	3
No Further Action Taken	2

Table 6 shows the spectrum of strategies that the OLR uses to ensure and enforce compliance with the Lobbying By-law, and to prevent and deter future breaches. Multiple strategies may be used in an individual case, for example: giving advice, permission to register late, apology, commitment to comply, training and report to Council.

Administrative sanctions are limited under the Lobbying By-law to suspending, revoking or removing a registration where the registration has been found not to comply with the Lobbying By-law.

TABLE 7
CONTRAVENTIONS of the LOBBYING BY-LAW

Table 7 shows the sections of the Lobbying By-law found to be contravened among the 9 substantiated inquiries in 2014:

Sections of the Lobbying By-law	No. of Contraventions
§ 140-9A. Restriction on former senior public office holders. (Restriction on former senior public office holders)	1
§ 140-10. Registration requirement. (Unregistered lobbying)	8
§ 140-14C. Duty to file return; transitional. (Duty to file return within three business days after lobbying)	1
§ 140-15. Contents of return.	1
§ 140-17. Changes to information in return or contact information.	2
§ 140-18. Additional information.	1
§ 140-41A. Compliance with policies restricting communication. (Lobbying in relation to a procurement process)	7
§ 140-42A. Prohibited activities. (Lobbyists shall not lobby by providing gifts, meals, trips or favours of any kind)	2
§ 140-45. Improper influence. Lobbyists shall: <ul style="list-style-type: none"> • avoid the deed and appearance of impropriety, • not place a public office holders in a conflict of interest or in breach of the public office holders' codes of conduct, • not propose or bestow an improper benefit or improperly influence a public office holder 	2

TABLE 8
REPORTS to Council AND PROSECUTIONS – 2010-2014

Table 8 shows reports to Council on inquiries and prosecutions under the *Provincial Offences Act* commenced in the years 2010-2014:

	2010	2011	2012	2013	2014
Reports to Council	0	1	5	6	7
Prosecutions (new)	0	0	1	0	2
(completed)	1	0	0	1	1

Reports to Council on Inquiries in 2014

Under *COTA* and Chapter 3, the Registrar may report to Council on an inquiry into whether the Lobbying By-law has been contravened. The Registrar's reports on inquiries to Council are public. The Registrar may disclose such information as is necessary for the purposes of the report. In 2014, I submitted the following seven reports to Council on inquiries:

- [Report on an Inquiry into Lobbying about Tender Call Nos. 67-2013 and 152-2013, CC55.8](#)
- [Report on an Inquiry into Lobbying about Tender Call No. 209-2013, CC55.9](#)
- [Report on an Inquiry into Lobbying by a Former Senior Public Office Holder, CC54.4](#)
- [Report on an Inquiry into Lobbying about Request for Proposal No. 9118-13-5066, CC52.1](#)
- [Report on an Inquiry into Communications about Request for Proposal No. 0513-13-7010, CC52.2](#)
- [Report on Provision of Gifts by a Consultant Lobbyist Firm, Appendix A – Annual Report of the Lobbyist Registrar for the Year 2013, CC50.2](#)
- [Report on an Inquiry into a Fundraising Event, CC48.8](#)

The majority of these reports concerned allegations of lobbying in breach of the City's procurement processes. The findings in these reports included unreported and unregistered lobbying; lobbying in breach of the City's procurement processes (§ 140-41A); that a community service agency was exempt from the Lobbying By-law's provisions respecting procurements; that lobbyists undertook to lobby by providing gifts

or favours (§ 140-42A); that lobbyists had placed a public office holder in a conflict of interest (§ 140-45B); and that a former senior public office holder had lobbied within twelve months of leaving employment (§ 140-9).

WORKING TOGETHER WITH THE ACCOUNTABILITY OFFICERS AND CITY STAFF

I have worked with my fellow accountability officers and City staff to implement the accountability framework established in Chapter 3 of the Toronto Municipal Code. I have worked in consultation with my accountability colleagues on issues such as the review of *COTA* and Bill 8, Schedule 9.¹³

COTA, while requiring me to preserve the secrecy of my inquiries, enables the sharing of information by my office in furtherance of my legislated mandate. The Integrity Commissioner and I developed and entered into a Memorandum of Understanding (MOU) with respect to Co-operation and Collaboration in Education and Enforcement. Our mandates are complementary and our roles in providing advice and conducting inquiries are sometimes concurrent or overlapping. There are interests and benefits to the City that result from the co-operation of our offices in providing advice and interpretation and in the conduct of inquiries. The MOU enables us to achieve our mandates and to use our respective resources efficiently and effectively, while respecting the independence of our offices and preserving secrecy as required by *COTA*.

In 2014, I consulted with the City Clerk, City Solicitor, City Manager and Director of Purchasing and Materials Management on a variety of issues including lobbying and procurements; amendments to the Lobbying By-law, Bill 8 and training in ethics and the Lobbying By-law for City Staff.

OLR BUDGET

In accordance with Chapter 3 of the Toronto Municipal Code, the Lobbyist Registrar submits the OLR operating and capital budget requests directly to Budget Committee for consideration and recommendation to Council. In 2014, the Office of the Lobbyist Registrar's Council-approved Operating Budget was \$1,087.4 thousand net.

¹³ Schedule 9, when it comes into effect, will extend the jurisdiction of the Ontario Ombudsman to municipalities, which may include the City's accountability officers.

FINANCIAL INFORMATION

[OLR business, travel and PCard expenses](http://www.toronto.ca/lobbying) are posted on the OLR website at: www.toronto.ca/lobbying.

Each year, the Office of the Lobbyist Registrar undergoes an external compliance audit and is part of the City's annual attest audit. These audits are required under Chapter 3 of the Toronto Municipal Code to be conducted annually by independent auditors and are reported directly to Council. [The external compliance audit report for the year 2013 was adopted by Council on June 10, 11, 12 and 13, 2014](#). The independent auditor found the Office of the Lobbyist Registrar to be compliant with the City's financial policies, procedures and delegated authorities in the year 2013. The compliance audit for the year 2014 has commenced and is not yet available.

RECOMMENDATIONS AND ADVICE ON LOBBYING MATTERS AND AMENDMENTS TO THE LOBBYING BY-LAW

My mandate under the Lobbying By-law includes reporting to and advising Council on the by-law and lobbying matters.

Council adopted the following recommendations when it received my Annual Report for 2013, CC50.2:

1. City Council request the City Manager, in consultation with the City Solicitor and the Lobbyist Registrar, to report back to City Council on clarifying and strengthening the Lobbying By-law to explicitly require that consultant lobbyists disclose their ultimate client.
2. City Council request the City Manager, in consultation with the City Solicitor and the Lobbyist Registrar, to report back to City Council on amendments to the Lobbying By-law to permit the Lobbyist Registrar to impose conditions for registration, continued registration or renewal of a registration as permitted by s. 166 of the *City of Toronto Act, 2006*.
3. City Council request the City Manager, in consultation with the City Solicitor and the Lobbyist Registrar, to report back to City Council on requesting legislative amendments to enable the Lobbyist Registrar to impose administrative sanctions, including administrative monetary penalties and prohibiting a lobbyist who has been found in breach of the by-law from lobbying.
4. City Council direct that administrative sanctions be included in the next opportunity for review of the *City of Toronto Act, 2006*.

Administrative Sanctions

The Lobbyist Registrar's duties include enforcement of the Lobbying By-law. The administrative sanctions that the Lobbyist Registrar may use to enforce the Lobbying By-law are limited to the refusal to accept, suspension, revocation or removal of a registration return, where the return fails to comply with the Lobbying By-law or where the lobbyist fails to provide required or requested information.

In addition, the Registrar may report to Council on her inquiry into the matter, or launch a prosecution under the *Provincial Offences Act*.

I have recommended that the administrative enforcement mechanisms available under Toronto's Lobbying By-law be reviewed in the context of current best practices and the experience we have gained since the Lobbying By-law was adopted in 2007 as part of the upcoming COTA review. Council requested a report from the City Manager, in consultation with the City Solicitor and Lobbyist Registrar, on issues related to administrative sanctions on receipt of my 2013 Annual Report.

Section 166 of COTA authorizes the City to include in the Lobbying By-law conditions for registration, continued registration and renewal of registration. The Lobbying By-law does not include such provisions. These provisions should be added to the Lobbying By-law.

Madam Justice Bellamy recommended that there should be provisions to prohibit lobbying for specified periods of time where a lobbyist breaches the registration requirements. This recommendation should be implemented.

The OECD's notes in its 2014 report, *Lobbyists, Governments and Public Trust, Volume 3*¹⁴ at page 89: "Most countries apply disciplinary or administrative sanctions such as suspending practitioners from lobbying for a certain time." Some lobbyist registries and commissions in Canada have the authority to impose a temporary ban on communication or to temporarily prohibit registration upon a finding of breach by the Registrar or Commissioner or after conviction for an offence for breach of lobbying legislation.¹⁵ In my view, a temporary ban on lobbying is a potentially effective enforcement mechanism. There would be no associated implementation costs.

Lobbyist registries and commissions in Alberta and British Columbia have the power to impose administrative monetary penalties (AMPs) where a lobbyist has been found in

¹⁴ See footnote 2, above.

¹⁵ [Canada, Lobbying Act, s. 14.01](#)

Alberta, *Lobbyists Act* (supra), s. 19

British Columbia, *Lobbyists Registration Act* (supra), s. 10(5), 10(6), 10(7)

[City of Ottawa, By-Law No. 2012-309](#), s. 9(1)

[Quebec, Lobbying Transparency and Ethics Act](#), s. 53

[Newfoundland and Labrador, Lobbyist Registration Act, S.N.L. 2004, Chapter. L-24.1, s. 28](#)

See also Bill 179 (supra, footnote 9), Schedule 7, s. 17.9

breach of the lobbying legislation. Administrative monetary penalties are an alternative to prosecution.¹⁶ The Commissioner of Lobbying of Canada and the Ontario Lobbyists Registrar have recommended that the power to impose administrative monetary penalties be added to their legislation.¹⁷ Substantial fines may be levied by the courts when convicting a person for an offence under the *Provincial Offences Act* for breach of the Lobbying By law; however prosecution, which is subject to a six-month time limit, is often not available.

CHALLENGES AND GOALS FOR 2015

1. Achieving our Mandate in a Fair, Accessible, Timely and Effective Manner

The Office of the Lobbyist Registrar's legislated mandate is to provide a publicly available lobbyist registry and regulate the conduct of lobbyists. We shall do so in a fair, accessible, timely and effective manner. We shall ensure that our registry system and processes are in compliance with *AODA (Accessibility for Ontarians with Disabilities Act)*.

2. Maintaining an Online Lobbyist Registry that is Available and Accessible to the Public

The lobbyist registration system is rapidly becoming obsolete and does not meet technology best practices and legislated accessibility requirements. In order to meet these requirements, in 2015 we prepared and submitted to Budget Committee and Council a Capital Plan that includes State of Good Repair (SOGR) of the online lobbyist registration system, which meets best practices and accessibility requirements. This Capital Budget has been approved by Council. The OLR, with assistance from the City Clerk's staff shall implement the lobbyist registry SOGR project in 2015 and 2016.

3. Providing Information, Advice and Interpretation to the Public, Public Office Holders and Lobbyists

It is the mandate of the OLR to provide advice, information and interpretation of the Lobbying By-law.

¹⁶ [Alberta, *Lobbyists Act*, S.A. 2007 Chapter L-20.5](#), s. 18

[British Columbia, *Lobbyists Registration Act*, \[SBC2001\] Chapter 42](#), s. 7.2

¹⁷ [Office of the Commissioner of Lobbying of Canada, "Administering the *Lobbying Act*"](#), Recommendation 7
Ontario, Office of the Integrity Commissioner, "Recommendations for amendments to the *Lobbyists Registration Act*, 1998", Recommendation 1

We shall ensure that the OLR's website is maintained and available to the public. We will provide continuous improvement of the information available on the [OLR website \[http://www.toronto.ca/lobbying/\]](http://www.toronto.ca/lobbying/).

We shall provide interpretation of the Lobbying By-law, information and advice to lobbyists, public office holders and the public through training, interpretation bulletins, FAQs, newsletters and outreach.

4. Ensuring Compliance with the Lobbying By-law

The mandate of the OLR promotes the integrity of City decision-making by ensuring that lobbyists comply with the Lobbying By-law.

We shall promote compliance through outreach, information, advice and training.

We shall conduct inquiries, prosecutions under the *Provincial Offences Act* and report to Council on inquiries where appropriate. We will continue to develop and improve our compliance inquiry and enforcement procedures in accordance with best practices in Canada and internationally.

I shall continue to work in consultation with City staff and through submissions on the *COTA* review to ensure that the OLR has appropriate administrative enforcement mechanisms available to ensure compliance with the Lobbying By-law.

5. Implementation of Council Resolutions

I shall work with the City Manager and City Solicitor to implement the resolutions adopted by Council when it received my Annual Report for the Year 2013, CC50.2.

6. COTA Review

I intend to make submissions on behalf of the OLR as part of the City's submission on its review of the *City of Toronto Act, 2006*. Included in my submissions will be recommendations on effective administrative sanctions to enforce and ensure compliance with of the Lobbying By-law; and measures to ensure the independence of my office and its accountability to City Council.

7. Working Together with the Statutory Accountability Officers and City Staff

I shall continue to work together with the accountability officers and City staff on issues of mutual interest and concern, including the *COTA* review. I shall continue to work with City staff to ensure that the Lobbying By-law is observed and reflected in the City's policies and procedures, and that robust training in the Lobbying By-law

is developed and delivered to City staff, members of Council and their staff and City boards and agencies.

8. Advising and Reporting to Council

I shall advise and report to Council on lobbying matters, including the Lobbying By-law, the lobbyist registry system and regulation of lobbyists, as requested by Council.

Respectfully Submitted,

Linda L. Gehrke
Lobbyist Registrar
City of Toronto