

Request for invoices reviewed in the independent external audit of the Integrity Commissioner, Lobbyist Registrar and Ombudsman

Date: July 16, 2018
To: City Council
From: Accountability Officers
Wards: All

SUMMARY

At its June 2018 meeting, City Council requested that the Integrity Commissioner, the Lobbyist Registrar and the Ombudsman "report directly to Council to provide, if possible, recognizing the duty of confidentiality applicable to accountability officers, any invoices reviewed in the course of the external audit of their offices for the year ended December 31, 2017."

This request was made in the context of the transmittal to City Council of the results of the mandatory independent external audits of the offices of the Lobbyist Registrar, Integrity Commissioner and Ombudsman for the year ended December 31, 2017.

Together with the Auditor General, the Integrity Commissioner, Lobbyist Registrar and Ombudsman file this report in response to City Council's request.

The Auditor General has joined with the other officers in responding to City Council's request of the other three Accountability Officers in order to collectively emphasize that the request is inconsistent with and undermines both the Accountability framework established by Chapter 3 of the *Toronto Municipal Code* and the statutory requirements that every Accountability Officer carry out her work in an independent manner and maintain secrecy, set out in Part V of the *City of Toronto Act, 2006*.

RECOMMENDATIONS

The Accountability Officers recommend that:

1. This Report be received for information.

FINANCIAL IMPACT

This report has no financial impact.

DECISION HISTORY

This request was made at the June 26, 27, 28 and 29, 2018 City Council meeting:
<http://app.toronto.ca/tmmis/viewAgendaltemHistory.do?item=2018.CC43.1#>

COMMENTS

The Request

At its June 2018 meeting, City Council requested that the Integrity Commissioner, the Lobbyist Registrar and the Ombudsman "report directly to Council to provide, if possible, recognizing the duty of confidentiality applicable to accountability officers, any invoices reviewed in the course of the external audit of their offices for the year ended December 31, 2017."

The above request was made in the context of the transmittal to City Council of the results of the mandatory independent external audits of the offices of the Lobbyist Registrar, Integrity Commissioner and Ombudsman for the year ended December 31, 2017.

The Request is Inconsistent With, and Undermines, Chapter 3 of the *Toronto Municipal Code - Accountability Officers*

To provide any individual invoices to City Council would be contrary to and would undermine the comprehensive framework established by Chapter 3 of the *Toronto Municipal Code* to establish the Accountability Officers (https://www.toronto.ca/legdocs/municode/1184_003.pdf). It would also contravene the Accountability Officers' statutory duties under the *City of Toronto Act, 2006*.

Chapter 3 is a framework carefully designed to enable the Accountability Officers to carry out their work in an independent manner and to maintain secrecy over the matters that come before them, while also being appropriately accountable to City Council for the administration of the services they provide, for the performance of their legal mandates and for their use of public funds.

It is important to emphasize that the requirements to carry out their work independently and to maintain secrecy over matters that come before them are statutory duties of each Officer set out in Part V of the *City of Toronto Act, 2006*. Both are essential to ensuring public confidence and trust in the work of the Accountability Officers and by extension, in the City of Toronto government.

The present request is inconsistent with, and improperly undermines, the framework. To respond to the request would be a clear contravention of the Officers' duties under

Part V of the *City of Toronto Act, 2006* to carry out their work in an independent manner and to maintain secrecy over the matters that come before them.

Chapter 3 Contains a Variety of Mechanisms to Hold Accountability Officers to Account

Chapter 3 of the *Toronto Municipal Code* requires the Accountability Officers to account for the proper administration of their offices, for the execution of their legal mandates and for their use of public funds. It contains a variety of mechanisms to hold Accountability Officers to account. These mechanisms include direct reporting to the Budget Committee to request budget allocations, requirements for annual reports to City Council, inclusion in the City's annual attest audit, requirements to follow the City's policies regarding procurement and use of public funds (including an annual compliance audit by an independent external auditor) and public posting of expenses.

The independent external compliance audits of the Accountability Officers provide assurance to City Council that there is detailed and rigorous scrutiny to ensure that they conduct their work in accordance with relevant City policies, procedures and delegated authorities, while respecting the Officers' statutory duties to conduct their work independently and to preserve secrecy over matters that come before them.

Chapter 3 of the *Toronto Municipal Code* is a complete code governing the Accountability Officers. Chapter 3 was developed after an exhaustive policy review regarding the appropriate framework to enable the Accountability Officers to carry out their work in an independent manner that maintains secrecy as required by the *City of Toronto Act, 2006*, while maintaining appropriate transparency and accountability to City Council and to the public. (See Item CC52.7: Resubmission - A Policy Framework for Toronto's Accountability Officers, Technical Amendment <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.CC52.7> and Item EX31.1: A Policy Framework for Toronto's Accountability Officers <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX31.1>).

Conclusion

The Lobbyist Registrar, the Integrity Commissioner, and the Ombudsman are precluded from complying with City Council's request by their statutory obligations under the *City of Toronto Act, 2006* and Chapter 3 of the *Toronto Municipal Code*, as they are bound by the duties of independence and secrecy outlined in this legislation.

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SIGNATURE

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ATTACHMENTS
