



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.



Budget Submission

Fiscal Years

2014/15 - 2016/17

Presented to:

The Select Standing Committee on Finance
and Government Services
Legislative Assembly of British Columbia

December 6, 2013

TABLE OF CONTENTS

OVERVIEW	3
MANDATE OF THE OFFICE OF THE REGISTRAR OF LOBBYISTS	3
OFFICE OF THE REGISTRAR OF LOBBYISTS MAJOR ACCOMPLISHMENTS FOR 2013/14	4
OFFICE OF THE REGISTRAR OF LOBBYISTS PRIORITIES FOR FISCAL 2014/15	5
MANDATE OF THE OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER	7
OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER MAJOR ACCOMPLISHMENTS FOR 2013/14	8
OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER PRIORITIES FOR FISCAL 2014/15	13
BUDGET REQUEST FOR 2014/15	16
STATEMENT OF OPERATIONS (PREVIOUS AND CURRENT FISCAL YEARS)	18
PROPOSED 3-YEAR BUDGET PLAN BY STANDARD OBJECT OF EXPENDITURE	19
PROPOSED 3-YEAR BUDGET PLAN BY BUSINESS AREA	21
FISCAL 2014/15 PROPOSED OPERATING BUDGET BY EXPENDITURE TYPE	22

Overview

This is the budget submission of the Office of the Registrar of Lobbyists (“ORL”) and the Office of the Information and Privacy Commissioner (“OIPC”) for fiscal years 2014/15 through to 2016/17 inclusive. This budget submission supports the attached ORL and OIPC Service Plan for the same three-year period.

In this budget submission, the Registrar of Lobbyists and the Information and Privacy Commissioner requests, for fiscal year 2014/15, a combined operating budget of \$5,598,000 and, for planning purposes, combined operating budgets for fiscal years 2015/16 and 2016/17 of \$5,591,000 and \$5,656,000 respectively. No change in the annual capital budget of \$45,000 is requested for fiscal 2014/15 or for the other two fiscal years.

Mandate of the Office of the Registrar of Lobbyists

The ORL is charged with enforcing the *Lobbyists Registration Act* (“LRA”) and overseeing the B.C. Registry of Lobbyists. The Legislative Assembly passed the LRA in 2001. In 2010, it amended the LRA to enhance lobbying transparency and government accountability. The amendments made registration of lobbyists mandatory; expanded the powers of the Registrar to enforce the LRA; and ushered in a new regime for regulation of lobbying in B.C. Simultaneously, the ORL launched an online Registry of Lobbyists, which was intended to allow B.C. citizens to see who is lobbying which public officials regarding which issues.

The LRA defines “lobbying” narrowly as communicating, for pay, with a public office holder in an attempt to influence a number of possible outcomes. The LRA does not capture communication between private citizens and government officials regarding matters of personal concern. It requires individuals, whose communications with public office holders meet the legal definition of lobbying, to register as lobbyists and provide information to the Registrar about those activities.

The Registrar is responsible for making this information publicly available through the online, searchable Registry managed by the ORL. Public access to information about lobbyists and their activities is critically important to ensure transparency in government decision-making. The Registrar enforces compliance through an interrelated mix of strategies including education, verification of information in registrations, compliance investigations and the levying of administrative penalties of up to \$25,000.

ORL Major Accomplishments for 2013/14

In this section, I would like to highlight the major accomplishments of the ORL since my last appearance before the Committee in November 2012.

1. Law Reform Initiative

The ORL carried out an extensive public consultation in 2012 regarding the current lobbying regulatory regime in B.C. As a result of this consultation, I am recommending five crucial changes to the LRA. I believe that these amendments will result in substantial improvements to the current oversight regime, eliminating significant obstacles to transparency and clarifying the standards for registration.

2. 2nd Annual Conference on Lobbying

The ORL joined a second time with Simon Fraser University's Institute of Governance Studies to present "Growth and Evolution: Second Seminar on Lobbying in B.C." This year's meeting focussed on professional evolution of the lobbying industry in B.C. and enhancing lobby regulation. There was very positive response from attendees to the conference focus on best practices for legally compliant effective lobbying. We are in the planning stages for a third conference.

3. Investigations and Administrative Penalties

ORL staff carried out 103 compliance reviews last fiscal year. Of these 103, six went forward to formal hearings and one resulted in the application of an administrative penalty. Staff resolved 93 through informal means such as education and warnings, and four reviews carried forward to this year. Informal resolutions are significantly more cost-effective, and during the first three years of my mandate as the Registrar, we have aimed to use informal means to resolve possible non-compliance whenever they are appropriate and effective.

4. Improvements to the online Registry of Lobbyists

The ORL made a number of changes to the online Registry to enhance transparency and ease compliance. Some of the changes most significant for the public include:

- Expanded search capabilities, so that searchers can select the criteria for their searches more easily;
- More detailed presentation of registrations for easier viewing, which permits filers and searchers to view all of the details of a registration at once, without having to open any links; and

- Expanded statistical reporting of public office holders, which makes it easier to obtain statistics on how often individual office holders were identified.

These are the most significant upgrades to the Registry since 2010. It makes the process of registration easier for lobbyists. It also facilitates easier analysis of data in the Registry by academics, journalists, and citizens, which contributes to the goal of enhancing transparency around lobbying.

Office of the Registrar of Lobbyists Priorities for fiscal year 2014/15

This office has identified two key priorities for the ORL for fiscal year 2014/15.

1. Enhance the enforcement function under the *Lobbyists Registration Act*.
2. Promote enhancements to the *Lobbyists Registration Act*.

1. Enhance the enforcement function under the *Lobbyists Registration Act*.

Although informal resolutions of possible non-compliance are desirable, and the ORL will continue to use informal measures whenever they are appropriate, three years of experience have demonstrated that it is time to use the Registrar's powers to conduct formal investigations and apply administrative penalties more frequently.

Most of the lobbyists we encounter make every attempt to comply with the law. Some cases of possible non-compliance may still be resolved informally. However, there are instances where informal measures prove to be ineffective. When the amended LRA was new, our initial focus was on education. The law is now three years old, and in that time, we have conducted extensive public education. Lobbyists have had a grace period in which to learn about the requirement to register. We expect that, by now, lobbyists have ample means to know of their obligations regarding registration, especially those lobbyists who are active in the industry in B.C. If some lobbyists are still failing to comply with the law, I believe it is appropriate to proceed to formal hearings, and to issue administrative penalties for findings of non-compliance.

ORL compliance investigations can involve multiple lines of inquiry and consume significant staff time. We are restructuring the ORL to reallocate resources dedicated to ORL investigations. The Deputy Registrar function has been transferred to the OIPC Assistant Commissioner of Investigations and Mediation (with a new title of Deputy

Registrar/Assistant Commissioner), and we will use the money saved to hire an investigator to conduct the increasing number of investigations.

2. Promote enhancements to the *Lobbyists Registration Act*.

Our three years of experience and feedback from lobbyists and other stakeholders have indicated that there are a number of ways to enhance the LRA to better meet its primary objectives. The fundamental purpose of the LRA is to create transparency regarding who is attempting to influence government decision-making. The legislation requires lobbyists to report their professional activities to the public by registering on the publicly-searchable database. However, certain features of the current legislation inadvertently undermine the goal of transparency and create barriers to compliance.

To address these problems, I have identified five proposed amendments to the LRA:

1. Require lobbyists and designated filers to identify public office holders who they have lobbied, instead of those whom they expect to lobby. This would involve lobbyists and designated filers updating their registrations by the 15th of the month following the month during which they undertake any new lobbying activity. The current requirement to register public office holders that they expect to lobby is not an accurate reflection of actual lobbying activity, since expected lobbying frequently does not take place. As a result, the registry gives the impression that lobbying activity is more extensive than it actually is.
2. Remove the requirement for organizations to lobby “at least 100 hours annually” before they are required to register their in-house lobbyists. Give the Registrar of Lobbyists the authority to grant exemptions from the requirement to register in cases where it would be reasonable to excuse small organizations that do little lobbying.
3. Require that former public office holders, as defined by the LRA, refrain for a period of 12 months after they leave office, from lobbying the agency where they worked during the last 12 months of employment as public officials. They should also refrain from lobbying on matters they were involved with during the last 12 months of their employment as public officials.
4. Require designated filers to include in their registrations the name and business address of any person or organization, in addition to their client or employer, that controls, directs or funds the lobbying activities or has a direct interest in the outcome of a lobbyist's activities on behalf of a client or employer.

5. Require a mandatory review of the *Lobbyists Registration Act* every five years. There is currently no mandatory review period.

I believe these changes would result in substantial improvements to the current oversight regime. They would eliminate obstacles to transparency and clarify the standards for registration, making compliance with the legislation more practicable. This would assist the LRA in meeting its prescribed purpose of helping to make lobbying more transparent and government more accessible to the citizens of B.C.

I have tabled a report to the Legislative Assembly and briefed the Minister of Justice and her senior staff on these recommendations and will continue to raise awareness of these issues with the lobbying community.

Mandate of the Office of the Information and Privacy Commissioner

The OIPC is the independent oversight agency responsible for monitoring and enforcing compliance with two statutes, the *Freedom of Information and Protection of Privacy Act* (“FIPPA”) and the *Personal Information Protection Act* (“PIPA”).

Under FIPPA, the OIPC enforces compliance with access and protection of privacy legislation by more than 2,900 public bodies in British Columbia, including ministries, Crown corporations, health authorities, municipalities, self-governing professions, universities and school districts. In discharging its mandate, the OIPC investigates and mediates access appeals and privacy complaints; conducts formal hearings; issues binding orders; comments on the access and privacy implications of proposed legislation, programs, policies and technologies; and educates the public about their access and privacy rights and public bodies about their legal obligations.

The work of the OIPC is critical to ensuring that decisions and actions of public bodies remain open and accountable, and that public bodies properly control and manage the personal information of citizens which they collect in order to deliver public services.

PIPA sets the rules that private sector organizations, including businesses, labour organizations, interest groups and non-profits must follow in the collection, use and disclosure of customer, client and employee personal information. Similar to its duties under FIPPA, it is the OIPC’s responsibility to enforce compliance of PIPA by the estimated 300,000 private sector organizations in British Columbia.

Under PIPA, the OIPC investigates complaints, adjudicates disputes and educates and informs the public about their consumer and employee privacy rights, and organizations about their privacy responsibilities.

OIPC Major Accomplishments for 2013/14

In this section, I would like to highlight the major accomplishments the OIPC was able to produce during 2013/14 with the funding the Committee recommended last year.

1. Advice and Consultations

In the past fiscal year, our Office has seen an increase in the number of privacy impact assessments (“PIAs”) we have reviewed, legislative reviews we have completed, and policy consultations we have undertaken.

Public bodies and organizations submit PIAs to our Office regarding the privacy implications of new or changed programs involving the collection, use or disclosure of personal information. Our Office’s mandate is to review and provide comment on these PIAs, mitigating the need to fix system design and data security gaps after the fact. Another part of our mandate is to review draft legislation for privacy and access implications. We also consult with public bodies and organizations on numerous and varied issues that otherwise have privacy or access implications.

We reviewed and provided comment on 31% more PIAs than during the previous fiscal year. This increase is attributable in part to the 2011 amendments to FIPPA that require public bodies to provide our Office with privacy impact assessments regarding common or integrated programs or activities as well as data sharing and data matching initiatives.

In the last fiscal year, we conducted slightly more legislative reviews than during the previous fiscal year.

The number of policy consultations increased by 34% this fiscal. This is more than double the number of policy consultations from two prior fiscal years. This trend is consistent with our office’s objective to promote proactive compliance with access and privacy laws among public bodies and private organizations.

We have also commenced a new responsibility involving consultations by the Independent Investigations Office (“IIO”). The *Police Act* requires the IIO to consult with the Commissioner prior to disclosing personal information of a victim, witness or police officer in a public report. We received five of these files towards the end of the last fiscal

year and we now regularly receive these, which require us to provide our review and comment on complex situations to the IIO in a very timely manner.

2. Investigations and Decisions Relating to Technology

One of our two main priorities for fiscal 2013/14 involves addressing the privacy challenges posed by rapidly advancing technology. We issued several key investigation reports and decisions on privacy issues involving technology.

The first was a report on the “Use of Automated Licence Plate Technology by the Victoria Police”. The matter at issue was the collection of licence plate numbers of vehicles that passed the police vehicles operating the system. We published the report just before our presentation to the Select Standing Committee last year, but the follow up from the report lasted into this fiscal year. The matter at issue was that, while we found the Victoria Police were authorized to collect, use and disclose licence plate numbers for a law enforcement purpose, plate numbers that did not result in an alert were no longer serving such a purpose. The Victoria Police Department was not authorized to use those numbers for prospective criminal intelligence or to disclose those numbers the Royal Canadian Mounted Police. As a result of the recommendations made in the Report, police throughout BC, including the RCMP are no longer retaining those licence plate numbers that did not result in an alert.

The other significant report involving privacy risks in information technology related to a series of unauthorized disclosures of personal data by the Ministry of Health. One of the disclosures involved personal health data of all British Columbians who had received medical services over the course of two years. Another involved data of 37,000 individuals collected as part of a Statistics Canada survey, in which the participants were assured that their information would not be disclosed beyond the Ministry of Health. The investigation uncovered a series of weaknesses throughout the Ministry, including a lack of leadership, clear policies, adequate training and access controls, as well as a failure to conduct periodic reviews to ensure employees and researchers followed policies, procedures and contractual obligations. Our report made a series of recommendations to address these weaknesses in the Ministry’s privacy management program. Releasing the report in tandem with “*Accountable Privacy Management in BC’s Public Sector*” drew the attention of all public bodies to the need for them to implement an effective privacy management program.

We also issued a series of adjudicative decisions relating to the use of GPS and similar electronic monitoring technology by employers. The use of the technology on company vehicles and smart phones results in the electronic monitoring of the movements of employees. The decisions found that the information collected constituted personal information and that the collection was authorized for limited purposes, such as the location and maintenance of equipment and the ability of the employer to manage work

assignments, on the condition that the employer provided employees with adequate notice. The decisions made it clear that the technology could not be used for routine surveillance of employees or monitoring their movements outside of work hours.

3. Open Government/Open Information

Promoting a more open and transparent government is a topic that my Office has put a great deal of work into this year. Four investigation reports that address this issue are:

No Responsive Records report – In March 2013, I released a report that revealed a growing trend of “no responsive records” replies by the Government of British Columbia in response to general access to information requests. While I did not find one primary explanation for this trend, the investigation revealed a dramatic increase in these responses. The Office of the Premier was the single biggest cause of the increase from fiscal year 2010/11 to 2011/12.

My main recommendation from this report was that government create a legislated duty to document key decisions as a clear indication that it is committed to being accountable to citizens.

Open Government report – In July of this year, I released a report that evaluated BC’s open government initiative and made 18 recommendations to strengthen the initiative and ensure its long-term sustainability. The key recommendations were:

Open Information – Government is only disclosing travel expenses of ministers and deputy ministers on its website. I recommended government also proactively disclose contracts over \$10,000, hospitality expenses, calendars, and audit reports.

Open Data – Government is on the leading edge in open data. I made recommendations to improve the program from an accountability perspective, including increased outreach to promote data literacy.

Modern Information Management Statutory Framework – I recommended that government enact a modern statutory framework for the creation, management and archiving of records.

Sharing of Personal Information as Part of the Draft Multicultural Strategic Outreach Plan report – In this investigation, I did not find evidence of the unauthorized sharing of personal information between government and the BC Liberal Party in relation to government’s multicultural outreach strategy. However, one of the key points to come out of this investigation was the common use of personal email accounts by certain government employees.

The use of personal email accounts for government business can frustrate the purposes of the Act. This practice makes it difficult for government to comply with its FIPPA obligations when it attempts to locate records that are responsive to an access request. I issued a guidance document addressing the use of personal email accounts for government business and recommended further policy and training in this area.

Public Body Disclosure of Information under Section 25 of FIPPA report – I recently released a report examining the effectiveness of s. 25 of FIPPA, which provides for mandatory disclosure by public bodies where they have information about a risk of significant harm to the environment or to the health or safety of the public or where the disclosure of the information is otherwise clearly in the public interest.

My investigation revealed that public bodies do not fully understand their obligations under s. 25(1) and are not always taking appropriate measures to ensure they meet these obligations. The major recommendation in this report is that government should amend FIPPA to give effect to the original intent of s. 25(1)(b), which is to ensure that public bodies disclose information where it is in the public interest.

4. Guidelines and Education

In commemoration of the 20th anniversary of the legislation, we organized a conference: Privacy and Access 20/20: A New Vision for Information Rights. The conference celebrated the past but also looked forward to the future, to consider key access and privacy issues on the horizon, and the reforms necessary to deal with 21st century technology and social norms.

The conference attracted over 400 participants from British Columbia, across North America and beyond. Keynote Speakers and panel session presenters included internationally renowned privacy and information access experts, who shared their expertise on the most critical issues of today: big data, on-line surveillance, securing genetic privacy, gen-Y and social media. Many of the discussions related to the priority that I identified in last year's budget submission of responding to the new privacy challenges posed by rapidly advancing information technology. The conference sessions, along with the preconference workshops, provided public and private sector participants with a greater understanding of common access and privacy issues, as well as practical guidance as to how to deal with them.

The OIPC also issued a series of guidance documents. The most significant was "*Accountable Privacy Management in BC's Public Sector*". The document provides a detailed description of the necessary elements of an effective privacy management program. A privacy management program ensures that privacy is built into all initiatives, programs or services by design. Responsible management of personal

information is critical to build and maintain the trust of citizens, who are increasingly concerned about the effect of new and emerging technologies on personal privacy, especially digital solutions for managing personal information.

The document provides a step-by-step guide to implementing an accountable privacy management program, including securing organizational commitment, implementing program controls, developing an oversight and review plan, and assessing and revising program controls as necessary. It also provides a clear indication of what the OIPC will examine during any future privacy investigation or audit involving public bodies.

The OIPC produced a series of more specific guidance documents. Relating to the theme of privacy challenges presented by advances in technology, we developed, (in collaboration with our federal and Alberta colleagues) “Good Privacy Practices for Developing Mobile Apps”. Its purpose was to draw to the attention of application developers the key privacy considerations relating to the collection, use and security of personal information in mobile devices. The OIPC also teamed up with the Office of the Privacy Commissioner of Canada to provide guidance on what types of personal information may be shared in an emergency in the “Privacy Emergency Kit”.

As our investigation into the multicultural outreach program raised the issue of government employees using their personal email accounts to conduct government business, the OIPC issued guidance on the “Use of Personal Email Accounts for Public Business”, to discourage the practice and clarify that government communications, even using personal email accounts, are subject to FIPPA.

In May, we joined 19 regulators around the world, to participate in the first Global Privacy Enforcement Network (GPEN) privacy sweep of internet sites. This is an example of privacy enforcement authorities working together to promote privacy protection around the world. The BC office reviewed 250 web sites of BC companies, finding too many websites with no privacy policy whatsoever. Others raised concerns with respect to the relevance and readability of privacy policies. In conjunction with this initiative, the OIPC produced guidance on website privacy policies entitled “*Practical Suggestions for Your Organization’s Website’s Privacy Policy*”.

5. Collaboration with other Privacy and Data Protection Authorities

The Office regularly collaborates with our Canadian partners in producing guidance documents and leveraging best practices. The Information and Privacy Commissioners of Canada meet formally once a year. This year I was pleased to host the Commissioners’ meeting in Vancouver, on the borders of our 20th anniversary conference. Combining the events helped to ensure the maximum participation of the Canadian Commissioners at the conference.

A group of investigators from the office attended a workshop with their provincial and federal counterparts in Ottawa in May to share best practices and develop their investigative skills. I also attended a conference of international privacy and data protection commissioners in Warsaw in September, as well as a meeting of the Asia-Pacific Privacy Authorities in San Francisco in December. These forums provide an opportunity to share our expertise with our international partners, and work together on issues that are increasingly global in nature.

6. Commencement of Audit Program

Investigations such as the Ministry of Health breach demonstrate that, while many public bodies have developed policies and procedures to assist them with meeting their access and privacy obligations, few are conducting any kind of follow up, or compliance reviews, to ensure that employees are complying with these policies and procedures.

To address this problem, we are developing an audit and compliance program. We created a new position of Senior Investigator, Audit and Compliance, who is currently developing a formal audit program to be put into practice in fiscal 2014/15. The first step is to develop the audit methodology and implementation plan, including audit tools, and identifying targets for compliance reviews. We expect that the audit program will enable public bodies to identify and address privacy vulnerabilities before breaches, (like that of the Ministry of Health), occur. We will publish reports to provide guidance to other public bodies and organizations so that they too can identify and address their own weaknesses.

OIPC Priorities for fiscal year 2014/15

During the summer of 2013, we developed a new three-year strategic plan covering the period fiscal 2014/15 to 2016/17. Senior management, with the assistance of members of the OIPC External Advisory Board established new goals and objectives for the remaining three years of my mandate. The goals we have adopted are as follows:

1. Uphold privacy rights and monitor protection of personal information and data.
2. Ensure public bodies and private sector organizations understand their responsibilities under the law.
3. Promote and advocate for an open, accountable and transparent public sector.
4. Help individuals to understand the value of information rights and to make informed choices about the exercise of those rights.
5. Enhance the quality and capacity of the OIPC's people, systems, processes and culture.

We will be pursuing each of these goals in the coming year. However, we will be devoting particular attention and resources during fiscal year 2014/15 to the following key objectives that support those goals.

In support of goal 1 and goal 2, in relation to upholding privacy rights, monitoring the protection of personal information and ensuring public bodies and organizations understand their responsibilities under the law, we aim to:

1. Ensure the implementation of robust privacy rules and guidelines for data linking and information sharing activities of public bodies; and
2. Increase the proportion of public and private sector organizations that have effective privacy management programs in place.

In support of goal 3, in relation to promoting an accountable and transparent public sector, we aim to

3. Encourage the adoption of Open Government/Open Information programs and monitor the timelines and quality of public body responses to access requests.

1. Ensure the implementation of robust privacy rules and guidelines for data linking and information sharing activities of public bodies

This is a continuation of the OIPC mandate introduced in 2011 to provide for comprehensive oversight of data-linking initiatives and information sharing involved in common or integrated programs or activities. FIPPA requires that our Office be provided with early notice of a data-linking initiative or a common or integrated program, as well as a privacy impact assessment for each initiative, to ensure that we have adequate oversight of information sharing between public bodies.

In addition, the legislation requires that we be consulted in the development of a regulation that will set-out requirements for the conduct of data-linking initiatives by public bodies. We are currently working in consultation with the Office of the Chief Information Officer (“OCIO”) to develop comprehensive privacy protective requirements at a policy level. During this process we have consulted with stakeholders and colleagues in other jurisdictions regarding data-linking and the potential scope and application of the regulation. We have also conducted research on legislative requirements for data-linking enacted elsewhere. We will be consulted on the wording of the draft regulation before it is submitted to Cabinet for approval. Our office will also work with the OCIO to develop an appendix to government’s privacy impact assessment template that will enable our Office to have meaningful oversight of data-linking initiatives and information sharing in common or integrated programs, while enabling public bodies to efficiently satisfy the requirements in FIPPA.

FIPPA further requires that government establish an information sharing code of practice for data sharing in consultation with my Office.

2. Increase the proportion of public and private sector organizations that have effective privacy management programs in place

The health breach investigation illustrated the urgent need for public bodies and organizations to have effective privacy management programs. After the breach investigation, we released a companion guidance document for public bodies. During the coming year, we will be seeking to promote our accountability document in various forums. We intend to use training sessions, workshops and presentations to highlight, for a variety of audiences, the existence of this guidance and the reasons why it is essential for public bodies and organizations to implement it.

As noted above, we are in the process of developing an audit and compliance program. Our goal is to conduct proactive compliance reviews of public bodies to determine whether they have a privacy management program in place and whether it is effective. We will use the standards that we have incorporated in our guidance documents as the measure to evaluate compliance. We are currently in the process of developing audit methodology and an implementation plan. Our intention is to adopt all appropriate standard auditing principles and practices to ensure our audits and compliance reviews are fair, objective and accurate. We expect that by announcing our intention to conduct audits and compliance reviews based on our guidance documents, public bodies and organizations may see the benefit of conducting reviews on their own operations. This will assist them to identify and rectify any weaknesses or deficiencies in their privacy management programs and their access programs in advance of any audit or review that we might conduct.

3. Encourage the adoption of Open Government/Open Information programs and monitor the timelines and quality of public body responses to access requests

The first step in fulfilling the goal of an open, accountable and transparent public sector is to increase the number of public bodies that have implemented effective open government/open information programs. Our plan includes a systematic follow up of the recommendations that we included in our report on Open Government/Open Information. We also intend to implement a communication and education plan to provide guidance to other public bodies. This will include the development of scalable guidance documents based on the report.

We will provide increased support to information access professionals in public bodies to assist them in implementing open government programs. To this end, we are planning a one-day symposium on open government best practices.

A key element of transparency is providing timely access in response to requests for information. Several years ago, we began evaluating the extent to which public bodies were meeting the legislated timelines. We will assess the underlying cause of failures to meet timelines with the goal of helping public bodies to find solutions.

Another element of transparency is the quality of responses to access requests. This is a measure of whether public bodies are meeting their requirement to respond openly accurately and completely. To assess this measure, we will conduct a targeted audit of the quality of public body responses to access requests.

Budget Request for fiscal year 2014/15

Recognising a continuation of the slow economic recovery and the government's commitment to balancing the provincial budget, the priorities that I outline can be accommodated without further funding for new positions, goods or services. I am requesting the same base funding as my offices received for 2013/14, with increases only to cover mandated increases in certain costs. Covering of these cost increases is requested in order for these offices to be able to provide the public with the **same level of service** as in fiscal 2013/14.

I request:

1. An adjustment to cover government mandated salary increments and adjustments for Schedule A (union-classified) staff in the Office and within Shared Services. The employer has agreed to increase salaries of bargaining unit employees and Schedule A employees in our offices will receive the same salary increases. There are no salary increases for other excluded staff. There has also been an annual adjustment of Shared Services costs for the four Officers of the Legislature. The combined cost increase to the OIPC/ORL is \$33,000.
2. An adjustment to cover the corresponding increase in benefit costs of these salary increases combined with a government-mandated benefit rate increase of 1% for all staff, for a total of \$35,000.
3. An increase of \$2,000 to cover building occupancy costs owing to a raise in the rent and an increase of \$2,000 to cover increased hydro costs.

The total amount of these four increases is \$72,000 for fiscal 2014/15.

With a base budget of \$5,526,000, the increase of \$72,000 represents a rise of 1.3% for a total of \$5,598,000. This request compares favourably with the PLANNED budget for 2014/15 of \$5,718,000 submitted last year at this time.

In the event that my Offices were not to receive these increases, there would be direct consequences for the individuals making complaints and requesting appeals of decisions of public bodies and organizations in response to their requests for access to information. Without the additional funding, the OIPC would have to cut the resources devoted to investigating complaints and conducting appeals. The OIPC currently employs seven investigators, two senior investigators, and three contracted investigators to handle approximately 1,200 investigations per year.

The OIPC would be required to cut one investigator, which will significantly affect service to the public. Seventy files would be added to the backlog of case files, at a time when the number of complaints and appeals is increasing. As a result, members of the public would have to wait an average of three months longer for the completion of their investigations and appeals. This can cause hardship in cases where individuals have a pressing need for access to the information that they have requested.

In summary, I am requesting an increase of \$72,000 cover rises in salary, benefit and utilities costs for a total operating budget request in fiscal 2014/15 of \$5,598,000.

December 6, 2013

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia
and Registrar of Lobbyists

Statement of Operations

Previous and Current Fiscal Years

	Fiscal 2012/13 (previous year)		Fiscal 2013/14 (current year)
	Budget	Actual Expenditure	Budget
Funding			
Voted Appropriation	5,396,000	5,097,825	5,526,000
Total	5,396,000	5,097,825	5,526,000
Operating Budget and Expenditures			
Salaries	2,973,000	2,884,306	3,090,000
Employee Benefits	619,000	580,908	655,000
Travel	67,000	74,259	67,000
Professional Services	750,000	584,634	729,000
Information Systems	97,000	98,719	97,000
Office and Business Expenses	113,000	155,009	113,000
Informational Advertising & Publications	25,000	15,222	25,000
Statutory Advertising and Publications	20,000	6,920	18,000
Utilities, Materials and Supplies	16,000	21,966	16,000
Operating Equipment and Vehicles	12,000	8,638	12,000
Amortization	157,000	138,385	157,000
Building Occupancy	552,000	528,859	552,000
Internal Recoveries	(3,000)	0	(3,000)
Other Recoveries	(1,000)	0	(1,000)
External Recoveries	(1,000)	0	(1,000)
Total	5,396,000	5,097,825	5,526,000
Capital Budget and Expenditures			
Information Systems, Furniture & Equipment	45,000	32,972	45,000
Total	45,000	32,972	45,000

Proposed 3-Year Budget Plan by Standard Object of Expenditure (STOB)

		Fiscal 2013/14 (current) Budget	Fiscal 2014/15 (Proposed) Estimates	Change	Fiscal 2015/16 Planned	Fiscal 2016/17 Planned
STOB	Expense Type					
50	Salaries	2,825,000	2,858,000¹	33,000	2,858,000	2,947,000
51	Supplemental Salaries	6,000	6,000	0	6,000	6,000
52	Employee Benefits	655,000	690,000¹	35,000	690,000	709,000
54	Officer of the Legislature Salary	259,000	263,000²	4,000	263,000	263,000
57	Travel	67,000	67,000	0	67,000	67,000
60	Professional Services	729,000	725,000³	(4,000)	729,000	729,000
63	Information Systems	97,000	97,000⁴	0	97,000	97,000
65	Office and Business Expenses	113,000	113,000⁵	0	113,000	113,000
67	Informational Advertising & Publications	25,000	25,000⁶	0	25,000	25,000
68	Statutory Advertising & Publications	18,000	18,000⁷	0	18,000	18,000
69	Utilities, Materials and Supplies	16,000	18,000⁸	2,000	20,000	22,000
70	Operating Equipment and Vehicles	12,000	12,000	0	12,000	12,000
73	Amortization Expense	157,000	157,000⁹	0	120,000	45,000
75	Building Occupancy	552,000	554,000¹⁰	2,000	578,000	608,000
88	Internal Recoveries	(3,000)	(3,000)	0	(3,000)	(3,000)
89	Other Recoveries	(1,000)	(1,000)	0	(1,000)	(1,000)
90	External Recoveries	(1,000)	(1,000)	0	(1,000)	(1,000)
	Total	5,526,000	5,598,000	72,000	5,591,000	5,656,000

Capital Budget						
	Information Systems, Furniture & Equipment	45,000	45,000 ¹¹	0	45,000	45,000
	Total	45,000	45,000	0	45,000	45,000

NOTES:

1. STOB 50 (Salaries) and STOB 52 (Employee Benefits) - Includes salaries for existing staff positions, the cost of Schedule A salary increases and increments, the Office's portion of Shared Services costs and the scheduled increase in the benefits rate.
2. STOB 54 (Officer of the Legislature Salary)—The salary for the Information and Privacy Commissioner is set, by statute, as equal to the salary of the Chief Judge of the Provincial Court.
3. STOB 60 (Professional Services)—Includes funding for professional service contracts and specialized contracts to conduct information and privacy investigations and audits; contracts to support compliance functions under the Office of the Registrar of Lobbyists; and funding for judicial review proceedings brought against the Office of the Information and Privacy Commissioner. Subject to any new direction from the Select Standing Committee, any dedicated funds for judicial reviews that are not expended during the fiscal year will be returned to the Consolidated Revenue Fund.
4. STOB 63 (Information Systems) – Includes data lines, IDIR accounts, voice services, licensing, data communication and supplies.
5. STOB 65 (Office & Business Expenses)—Includes costs for office stationary and supplies, offsite file storage, postal and courier charges, printing expenses (other than reports), newspaper subscriptions, staff training, photocopier leases, and business meeting expenses.
6. STOB 67 (Informational Advertising & Publications)—Includes the cost of printing public reports other than the annual report to the Legislature.
7. STOB 68 (Statutory Advertising & Publications)—Includes the cost for preparing and printing the Annual Report to the Legislature.
8. STOB 69 (Utilities, Materials & Supplies)—Includes the cost for hydro, recycling, books and supplies.
9. STOB 73 (Amortization) — Is the cost of repaying Capital budget expenditures for information systems hardware and software, tenant improvements and office furniture. Expenditures for information systems are amortized over three years. Expenditures for tenant improvements and office furniture are amortized over five years.

Amortization costs for the tenant improvements on office space will conclude during fiscal year 2015/16; however, the expected reduction in costs will be offset by an increase in base rent (see STOB 75).
10. STOB 75 (Building Occupancy)—This is the Office of the Information and Privacy Commissioner's share of the costs for the consolidated office space for the OIPC and three other independent offices at 947 Fort Street. Operating costs (e.g. building insurance and property taxes) are anticipated to increase in fiscal year 2014/15 and in subsequent years. The rate for base rent will increase during fiscal year 2015/16.
11. CAPITAL BUDGET—This is for the purchase of information systems hardware and software and office furniture, and is consistent with the Capital budget in fiscal year 2013/14. Capital amounts are repaid through amortization in STOB 73.

Proposed 3-Year Budget Plan by Business Area

Business Area	Current Year	Proposed		
	Fiscal 2013/14	Fiscal 2014/15	Fiscal 2015/16	Fiscal 2016/17

Operating Expenditures (Consolidated Revenue Fund) (\$000)

Core Services:

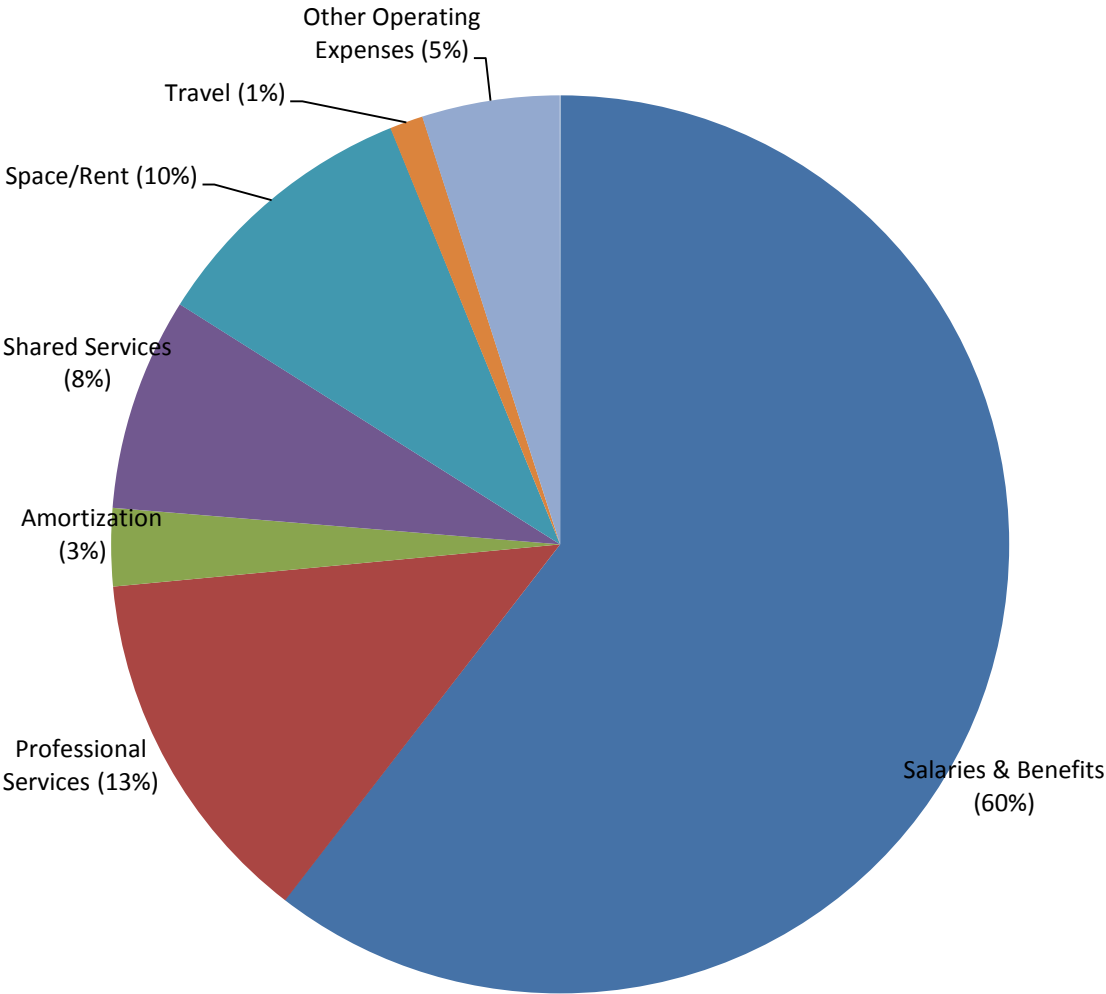
-Public Sector Information & Privacy	3,377	3,412	3,407	3,451
-Private Sector Privacy	1,140	1,157	1,155	1,176
-Lobbyists Registration	600	600	600	600
Total Core Services	5,117	5,169	5,162	5,227
Shared Services	409	429	429	429
Total	5,526	5,598	5,591	5,656

Capital Expenditures (Consolidated Revenue Fund) (\$000)

Info. Systems, furniture &
equipment

	45	45	45	45
Total	45	45	45	45

Fiscal 2014/15 Proposed Operating Budget, by Expenditure Type





Protecting privacy. Promoting transparency.



Service Plan

Fiscal Years 2014/15-2016/17

Presented to:

The Select Standing Committee on Finance
and Government Services
Legislative Assembly of British Columbia

December 6, 2013

TABLE OF CONTENTS

Message from the Information and Privacy Commissioner and the Registrar of Lobbyists	3
Vision and Mandate	5
Service Plan of the Office of the Registrar of Lobbyists	7
Service Plan of the Office of the Information and Privacy Commissioner	10
Caseload Statistics: Office of the Information and Privacy Commissioner	14

Message from the Information and Privacy Commissioner and the Registrar of Lobbyists

I am pleased to report that the past year was another productive and successful year for the Office of the Information and Privacy Commissioner (“OIPC”) and the Office of the Registrar of Lobbyists (“ORL”). We made significant progress in our four service plan goals for the OIPC and two goals for the ORL contained in the Service Plan tabled last year.

With respect to the goals set for the ORL last year, we have continued to provide education and outreach to registered lobbyists. The ORL carried out an extensive public consultation in 2012 regarding the current lobbying regulatory regime in B.C. As a result of the consultation, in January of 2013 the ORL published a proactive report recommending reforms to the *Lobbyists Registration Act*. We then asked public office holders, lobbyists, journalists, and other stakeholders to respond to the report’s 13 recommendations through public meetings and oral and written submissions. The purpose of this final phase of consultation was to identify and build consensus in the lobbying community around the most important, urgent and practical amendments needed for the LRA. This resulted in the ORL report “Recommended Changes to the *Lobbyists Registration Act*”, which reduced the complement to five recommendations for amendments. If implemented, these legislative amendments will make compliance easier for lobbyists and help the legislation better meet its intended purpose of increasing transparency in lobbying and making government more accessible to the citizens of B.C.

Further technical improvements to the Registry of Lobbyists have been completed to greatly improve the public search functionality. The ORL completed six investigations and anticipates completing further investigations during the remainder of the fiscal year. Informal resolutions of possible non-compliance are desirable, and the ORL will continue to use informal measures whenever they are appropriate and effective. However, three years of experience have demonstrated that it is time to use the Registrar’s powers to conduct formal investigations and apply administrative penalties more frequently than has been the case until now.

As Information and Privacy Commissioner, I issued five investigation reports and four guidance documents in the last twelve months. Most recently, I issued a report on the Public Body Disclosure of Information under Section 25 of the *Freedom of Information and Protection of Privacy Act* (“FIPPA”). Earlier in the year, we completed investigations into the following: the sharing of personal Information as part of the draft Multicultural Strategic Outreach Plan; the BC Government Open Government/Open Information Program; and a growing trend of “no responsive records” replies by the Government of British Columbia in response to general access to information requests. We also

investigated a privacy breach involving personal health data held by the Ministry of Health.

The OIPC continued its public education through delivering speeches and conferences. We also continued our program of delivering specialized training sessions to access and privacy professionals in a broad range of local public bodies (municipalities, schools, universities, health authorities and crown corporations).

In October 2013, we organized a very successful annual meeting of federal, provincial and territorial Commissioners of Information and Privacy in Vancouver. After a productive series of discussions we issued a resolution outlining the need for legislative reform. We followed this with a conference to celebrate the 20th anniversary of the proclamation of FIPPA that was attended by more than 400 delegates and speakers from private and public sectors across Canada, the United States and the United Kingdom. The conference celebrated the achievements of the past, analyzed the challenges of the present, and predicted the issues of the future with an eye to legislative reform to be ready to meet them.

I am pleased to report that our strategies for dealing with our significant caseload continue to be successful. Last fall, I reported a reduction in our backlog from 180 to 90 files in two years. We have been able to maintain it at that level despite an increase in volume of over 20% over the previous year.

During the summer of 2013, the OIPC office developed a new three-year strategic plan to replace the previous plan. Senior management, with the assistance of members of the OIPC External Advisory Board established new goals, objectives, and strategies for the remaining three years of my mandate. This Service Plan is based on the new strategic plan. The Vision and Mandate statements have not changed, but the goals and strategies reflect those of the strategic plan. I have indicated where the goals and performance measures are entirely new and where there is continuity from the previous Service Plan.

December 6, 2013

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia
and Registrar of Lobbyists

Vision

- A community where privacy is valued, respected and upheld in the public and private sectors;
- A community where access to information rights are understood and robustly exercised;
- A community where public agencies are open and accountable to the citizenry they serve; and
- A community where lobbying is understood, respected, and transparent.

Mandate

Under the *Lobbyists Registration Act* ("LRA"), the mandate of the Office of the Registrar of Lobbyists ("ORL") is to:

- Promote awareness among lobbyists of registration requirements;
- Promote awareness among the public of the existence of the lobbyists registry;
- Manage registrations submitted to the lobbyists registry; and
- Monitor and enforce compliance with the LRA.

Under the *Freedom of Information and Protection of Privacy Act* ("FIPPA") and the *Personal Information Protection Act* ("PIPA"), the mandate of the Office of the Information and Privacy Commissioner ("OIPC") is to:

- Independently review decisions and practices of public bodies and private sector organizations concerning access to information and protection of privacy;
- Comment on the implications for access to information or protection of privacy of proposed legislative schemes, automated information systems, record linkages, and programs of public bodies and organizations; and
- Educate and inform the public about access and privacy rights.

Who we serve

Under FIPPA, PIPA, and the LRA, the Offices serve:

- the information and privacy rights of citizens and consumers; and
- the Legislative Assembly of British Columbia.

How we do our work

The ORL addresses concerns about the integrity of government decision making, in that it provides a public record of who is or has attempted to influence government decisions. The ORL manages compliance through an interrelated spectrum of compliance strategies, including incentives, education and outreach to lobbyists and public office holders, verification of registration information, reporting, compliance reviews, investigation and administrative penalties, evaluation and adjustment.

The OIPC mediates and investigates access to information appeals and privacy complaints, conducts audits, delivers public education, reviews and comments on the privacy or access implications of legislation, programs or systems, conducts formal hearings and issues binding orders.



SERVICE PLAN OF THE OFFICE OF THE REGISTRAR OF LOBBYISTS

The ORL seeks province-wide compliance with the *Lobbyists Registration Act* (“LRA”) through a series of interrelated compliance strategies. Our approach is built on guidelines recommended in *Lobbyists, Governments and Public Trust*, a report by the Organisation for Economic Co-operation and Development.¹

➤ COMPLIANCE PRINCIPLES

- The purpose of the LRA is to enhance transparency in lobbying;
- Lobbying in British Columbia must comply with legislation and regulations;
- Cost-effective, informal and non-punitive forms of resolving minor matters of non-compliance should be used where appropriate;
- Enforcement activities will be carried out in a fair, objective, respectful and consistent manner;
- Educating the public about the public Registry of Lobbyists is critical to achieving the policy objective of transparency; and
- Ongoing dialogue with the stakeholder community – lobbyists, organizations, public office holders, fellow oversight agencies and the public – is essential to ensuring compliance strategies remain timely, cost-efficient and effective.

Goals, Strategies and Performance Measures

Goal 1—Enhance the enforcement function under the *Lobbyists Registration Act*

Informal resolutions of possible non-compliance are desirable, and the ORL will continue to use informal measures whenever they are appropriate and effective. However, three years of experience have demonstrated that it is time to use the Registrar’s powers to conduct formal investigations and apply administrative penalties more frequently than has been the case until now.

¹ For the complete text of the OECD report, see: <http://www.oecd.org/dataoecd/5/41/41074615.pdf>.

Goal #1 is therefore an expansion of last year's Service Plan goal #2 expressed as "Monitor and enforce the *Lobbyists Registration Act*". The strategies outlined before have been adjusted to reflect this change in emphasis. In addition, two previous performance measures, environmental scans and administrative reviews, are actually two components of a larger integrated compliance review process, and we have combined them into a single new performance measure.

Strategies

- Analyze publicly available information sources to identify government priorities, organization priorities and possible unregistered lobbying.
- Conduct compliance reviews to identify potential contraventions for formal investigation.
- Increase resources for conducting the increasing number of investigations by transferring the executive functions of the Deputy Registrar to the OIPC Assistant Commissioner and hiring a full-time investigator in the position of the former Deputy Registrar.

Performance Measure	2012/13		2013/14	2014/15	2015/16	2016/17
	Target	Actual	Target	Target	Target	Target
1. % of registrations received on time	85%	93%	90%	90%	90%	90%
2. Compliance reviews	80	103	90	90	90	90
3. Compliance investigations	10	17	10	20	20	20

Goal 2—Promote enhancements to the *Lobbyists Registration Act*.

This is a new goal that we have established this year.

Our three years of experience and feedback from lobbyists and other stakeholders have demonstrated that there are a number of ways to enhance the LRA to better meet its primary objectives. The fundamental purpose of the LRA is to create transparency regarding who is attempting to influence government decision making. However, certain features of the current legislation inadvertently undermine the goal of transparency and construct barriers to compliance. To address these issues, in my recently released ORL report "Recommended Changes to the *Lobbyists Registration Act*", I have made five recommendations for amendments.

Strategies

- Table the report to the Legislative Assembly and brief the Minister of Justice, her senior staff, and the Opposition Critic on these recommendations. Raise awareness of the issues the report highlights with the lobbying community.

There is no performance measure for this goal, as the decision will be taken by the Legislative Assembly as to whether to amend the legislation.

Goal 3—Provide education for lobbyists, public office holders and the public

Educating lobbyists, public office holders and the general public about lobbying regulation and registration requirements will continue to be a goal of the ORL. As outreach activities over the last three years have largely achieved the goals of general education for lobbyists and public office holders, we believe there is no further need for an ongoing extensive outreach program and the accompanying performance measures. Therefore, we will be devoting more attention to providing targeted education and to the other goals noted above. Consequently, we have discontinued the following performance measures from the last Service Plan: 1, 2, 3, 4, 6 and 11, all of which related to outreach activity.

Strategies

- Develop and deliver province-wide educational outreach targeted at the non-profit sector.
- Publish ORL online journal, *Influencing BC*, and circulate widely.
- Manage and keep current the Office of the Registrar of Lobbyists website: www.lobbyistsregistrar.bc.ca.
- Publish monthly summaries of registered lobbying activities in the province.

Performance Measure	2012/13		2013/14	2014/15	2015/16	2016/17
	Target	Actual	Target	Target	Target	Target
4. Issues of <i>Influencing BC</i> posted	3	3	3	3	3	3



SERVICE PLAN OF THE OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

Goals, Strategies and Performance Measures

Goal 1—Uphold privacy rights and monitor protection of personal information and data

This is a new goal that was developed for our new strategic plan with new performance measures. The goal encompasses two of the key priorities that we have identified in our 2014/15 Budget Submission that accompanies this plan. They are: (1) ensure the implementation of robust privacy rules and guidelines for data linking and information sharing activities of public bodies; and (2) increase the proportion of public and private sector organizations that have effective privacy management programs in place.

Strategies

- Secure government support for robust privacy rules and guidelines for data linking and information sharing activities of public bodies as a priority initiative.
- Collaborate with government to implement reforms and educate and train public bodies.
- Promote OIPC's privacy management accountability guidance documents.
- Develop an audit program to evaluate privacy management programs of public sector organizations to ensure their effectiveness.

Performance Measure	2014/15 Target	2015/16 Target	2016/17 Target
1. # of Audits, Compliance Reviews and Systemic Investigations	8	10	10
2. % of Audits, Compliance Reviews and Systemic Investigations Report recommendations implemented²	95%	95%	95%

² This measure replaces a previous measure of % of all OIPC post investigation recommendations implemented.

Goal 2—Promote and advocate for an open, accountable and transparent public sector

This is a revised goal that we developed for our strategic plan that expands on last year's Goal #1 relating to "An Open and Accountable Public Sector". It also reflects the key priority from the 2014/15 Budget Submission of (3) Encourage the adoption of Open Government/Open Information programs and monitor the timelines and quality of public body responses to access requests.

Strategies

- Increase the number of public bodies that have implemented effective open information programs through a systematic follow up of our open government report recommendations.
- Promote open information through our education mandate and by creating scalable guidance documents based on the open government/open information report.
- Provide support to FOI experts/leaders in public bodies by holding a one day symposium on open government best practices.
- Improve the quality and timeliness of public bodies' responses to access to information requests, by assessing and reporting on the underlying causes for the lack of timeliness responding to access requests.
- Advocate for information management legislation and policy reform that includes a duty to document, archival standards and explicit disclosure of categories of records.

Performance Measure	2012/13		2013/14	2014/15	2015/16	2016/17
	Target	Actual	Target	Target	Target	Target
3. Average processing days for all ministries (business days)	20	30	20	20	20	20
4. % of access requests processed on time by all ministries	95%	87%	95%	95%	95%	95%

Goal 3—Ensure public bodies and private sector organizations understand their responsibilities under the law and individuals understand the value of information and privacy rights

This is a restatement of Goal #3 from last year's Service Plan which involves ensuring broad public and organisational knowledge of information and privacy rights and responsibilities. The Performance Measure remains the same.

Ensuring awareness of information rights remains a goal of our office. The OIPC will continue to support its education mandate through conferences and other speaking engagements.

Strategies

- Meet the demand from public bodies and organizations for speakers and training in FIPPA and PIPA compliance by developing curricula and external resources so that public bodies and organizations can train their own employees.
- Facilitate public awareness of privacy and access rights by developing and implementing social media strategies for stimulating interest and discussion of individual information rights, and implement them with our other communications strategies.
- Promote access and privacy issues in the public domain by responding to requests for media interviews and seeking out opportunities for public commentary.

Performance Measure	2012/13		2013/14	2014/15	2015/16	2016/17
	Target	Actual	Target	Target	Target	Target
5. Number of OIPC presentations	80	80	100	100	100	100

Goal 4—Enhance the quality and capacity of the OIPC’s people, systems, processes and culture

Delivering our mandate efficiently and effectively remains a goal of our office and this goal has been restated from the 2013/14 Service Plan to reflect this commitment. The Performance Measures remain the same.

Strategies

- Ensure the timely resolution of complaints, reviews, and requests for information by conducting a review of internal processes and develop internal standards and identifying and developing best practice guidelines to assist investigators in mediating complaints.
- Leverage relationships with functional counterparts at other oversight agencies.
- Create opportunities for skills, knowledge and professional development for OIPC staff.
- Promote a positive workplace culture, collaboration and engagement among OIPC staff and conduct surveys and internal reviews.

Performance Measure	2012/13		2013/14	2014/15	2015/16	2016/17
	Target	Actual	Target	Target	Target	Target
6. % of requests for review settled without inquiry	95%	94%	95%	95%	95%	95%
7. Proportion of review files resolved within 90 business days	65%	60%	65%	65%	65%	65%
8. % of complaint files resolved within 120 business days	75%	73%	75%	75%	75%	75%
9. Average number of orders and other decisions produced per adjudicator per year	18	10 ³	22	22	22	22

³ There was complete turnover of the adjudication team with the entire complement of three new adjudicators requiring start up training.

Caseload Statistics: Office of the Information and Privacy Commissioner

File Type	Fiscal 2010/11	Fiscal 2011/12	Fiscal 2012/13	Fiscal 2013/14 Projected ⁴
Appeals (requests for review)	538	568	618	734
Complaints	561	572	443	616
Requests for time extensions	352	382	735	892
Policy consultations	65	100	135	58 ⁵
Review of bills	37	55	56	4
Speeches	47	87	80	60 ⁶
Privacy breach reviews	65	84	106	130
Others ⁷	1,882	1,856	1,512	1,846
Total Case Files	3,547	3,704	3,685	4,340

General telephone calls to reception ⁸	3,744	4,353	2,686	2,078
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⁴ This projection is based on statistics up to September 30, 2013 at the midpoint of the fiscal year - doubled.

⁵ The fiscal year began with a pre-election writ period, followed by the writ period and election. As a result the government's policy and legislative agenda was much lighter than in previous years.

⁶ The OIPC rationed speaking engagements during the first half of the 2013/14 fiscal year to focus on the 20th Anniversary Conference in October. It is anticipated that in the second half of the fiscal year the total will be higher than during the first half and bring the total closer to the annual average.

⁷ Other file types include media inquiries, conference attendance, projects, and courtesy copies of letters not requiring a response.

⁸ Previously described as "General requests for information & assistance".