

**CITY OF HAMILTON**

**CORPORATE SERVICES  
City Clerk's Division**

<b>TO:</b> Chair and Members Audit, Finance and Administration Committee	<b>WARD(S) AFFECTED:</b> CITY WIDE
<b>COMMITTEE DATE:</b> September 9, 2013	
<b>SUBJECT/REPORT NO:</b> Proposed Write-offs of Outstanding Fines for Provincial Offences (FCS13052) (City Wide)	
<b>SUBMITTED BY:</b> Jane Lee Acting General Manager, Finance & Corporate Services	<b>PREPARED BY:</b> Wendy Mason, 905 546-2424 ext. 5718
<b>SIGNATURE:</b>	

**RECOMMENDATION**

That staff be authorized to write-off the following outstanding Provincial Offences deemed uncollectible, in the total amount of \$744,348:

- (i) \$425,665 in uncollectible fines with a due date of December 31, 2005 and prior;
- (ii) \$188,579 for deceased person files from July 1, 2012 through June 30, 2013; and,
- (iii) \$130,104 for underpayments from July 1, 2012 through June 30, 2013.

**EXECUTIVE SUMMARY**

It is appropriate and necessary to review and purge all revenue deemed uncollectible from the Integrated Courts Offence Network (ICON) on an annual basis. ICON is the

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Provincially mandated database that the Provincial Offences Office is required to use as per the transfer agreement between the Province of Ontario and the City of Hamilton.

***Alternatives for Consideration – See Page 3***

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS** (for Recommendation(s) only)

**Financial:** As POA works on a cash basis for accounting purposes, these amounts are not true accounts receivables on the city books. Accordingly, there is no budgetary/financial impact on the City.

**Staffing:** The writing-off of these assets will have no impact on staffing.

**Legal:** If approved by Council, staff will advise the Ministry of the Attorney General of this recommendation and request that they be authorized to purge these records from the Ministry database (ICON).

**HISTORICAL BACKGROUND** (Chronology of events)

There are currently outstanding files that do not meet our criteria to be secured by a Certificate of Default in Civil Court therefore, negating the possibility of further enforcement means. An offender must have a minimum balance of \$5,000 and own property within the City of Hamilton before a certificate of default is filed. These files are seven years old or more and are now deemed uncollectible in terms of available remedies, and therefore, should be written-off. As of December 31, 2012, the total outstanding receivables for the Provincial Offences Office were \$51,833,277.

The Provincial Offences Office has an internal collections section and utilizes two external collection agencies for outstanding fines. Internal collections was responsible for \$3,434,183 in revenue generated in 2012 and the external collection agencies collected \$953,621 on our behalf.

The collection agency request for proposal was awarded in 2012 and resulted in one new agency being brought on board, and the retention of one agency from the previous contract. The first placement agency collected \$547,812 on behalf of Hamilton POA and the second placement agency collected \$405,809.

**POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS**

The above recommendation is in compliance with existing corporate, provincial policies, procedures and standard accounting practises respecting the writing-off of uncollectible monies. The write-off procedure, which is followed by POA, is attached as Appendix "A" to report FCS13052.

**RELEVANT CONSULTATION**

N/A

**ANALYSIS / RATIONALE FOR RECOMMENDATION**

(include Performance Measurement/Benchmarking Data, if applicable)

Staff anticipate the amount of the write-offs to be \$425,665 in uncollectible fines with a due date of December 31, 2005 and prior, deceased person files \$188,579 and underpayments \$130,104 from July 1, 2012 through June 30, 2013. The total amount of \$744,348 includes the Victim Fine Surcharge which is payable to the Province of Ontario. The proposed write-offs are attached as Appendix "B" to report FCS13052.

Write-off reports have been completed on an annual basis, by the Provincial Offences Office since 2004. All offences filed in the Provincial Offences Office are pursued by way of enforcement if they are not paid by their due date. Enforcement includes suspension of a driver's licence; denial of licence plate renewal, referral to our external collection agency, and civil enforcement. Outstanding fines are tracked, through our collections database, wherein chronic offenders can be identified, based upon criteria that anyone with more than three offences in a five year period is classified as chronic. Files that have been written-off remain in the collection database with the status of written-off.

The approval to write-off these fines will reduce the accounts receivables owing to the City of Hamilton and allow our collection staff to concentrate their efforts in pursuing more recent fines for which there is a higher probable rate of collection. After writing off the proposed amount of \$744,348, the remaining accounts receivables will be approximately \$51,088,928.

**ALTERNATIVES FOR CONSIDERATION**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

A record is maintained of all write-offs, for future reference, if required. In view of the fact that amounts to be written-off are deemed uncollectible, it would not be cost effective to continue collection efforts that would yield little or no return.

The Ministry of the Attorney General has issued a directive to all POA office in the Province to establish and maintain write-off policies and procedures.

**ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:**

**Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

**Strategic Objective**

2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.

**APPENDICES / SCHEDULES**

Appendix "A" to Report FCS13052 – Provincial Offences Write-Off Procedures  
Appendix "B" to Report FCS13052 – Write-Off Summary Spreadsheet

**THE CITY OF HAMILTON**

**PROVINCIAL OFFENCES WRITE OFF PROCEDURES**

**EFFECTIVE DATE: May 8, 2008**

**Revised: June 26, 2013**

**PURPOSE**

The purpose of the City of Hamilton Provincial Offences Act (POA) Write-Off Best Practices is:

- To provide for a responsible and proactive approach to City of Hamilton POA receivables that have either been deemed "Uncollectible", or have met minimum requirements established by the City of Hamilton in conjunction with the Ministry of Attorney General (MAG) for Write Off.
- The City of Hamilton, POA court must demonstrate Due Diligence with respect to Write Off's of POA accounts receivable.
- All reasonable efforts are made to minimize the value of POA accounts receivable recommended for "Write Off".

**DEFINITIONS**

- MAG, Ministry of the Attorney General
- MOU, Memorandum of Understanding
- POA, Provincial Offences Act
- Write Off, Means removal from City of Hamilton financial statements, and cessation of collection activity
- Underpayments, Outstanding POA account receivable of less than \$35.00  
Underpayments for an amount over \$35.00 are to be  
Written off by Lynn Matthews, Shirley Wetherup or  
Kathy Martin.

**SCOPE**

- The decision to Write-Off POA accounts receivable is a local decision; however, the Best Practice is subject to POA Transfer Agreement and related Memorandum of Understanding (MOU) with MAG.
- This Best Practice for POA accounts receivable Write-Off has been developed to comply with guidance established through MAG, and their Write-Off Directive.
- The recommended Best Practices contained herein have been developed to provide the City of Hamilton, POA with a Best Practice regarding the Write Off of POA accounts receivable that have been deemed "uncollectible", plus underpayments and deceased persons.
- Where the City of Hamilton has written-Off POA accounts receivable and any part of the account is subsequently paid, the requirements of the POA Transfer Agreement and the Provincial Offences Act regarding remittance of funds to the Province of Ontario shall continue to apply.

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- POA accounts receivable may be Written-Off for accounting purposes only. It does not absolve the convicted offender from the requirement to pay the outstanding fines. All fines imposed through POA courts are debts to the Crown and are not subject to the Limitations Act.

### PRACTISE

- The City of Hamilton has established a threshold for the collection of outstanding POA accounts receivable,
- With the exception of minor underpayments and deceased persons, POA accounts receivable marked for write off must have been in default for a minimum of 7 years,
- The City of Hamilton shall exhaust all reasonable and appropriate measures and efforts to collect unpaid fines prior to considering write off. The following collection activities must be applied progressively before consideration of Write Off is given. Once completed they are deemed to be adequate evidence sufficient for Write Off of Account Receivable:
  1. Timely creation and distribution of notices and communications.
  2. Progressively severe delinquency notices, including letters.
  3. Consideration of an extended payment plan.
  4. All administrative sanctions available have been applied.
  5. The use of specialized collection assistance.
  6. The use of appropriate Civil Enforcement mechanisms where deemed cost effective.
- Documentation in support of a Write-Off recommendation must at a minimum include the following:
  1. Copy of original Certificate of Offence or Part III information.
  2. Documentation as to all collection activities undertaken.
  3. Adequate records and reason for the recommended Write-Off.
- Action to collect accounts receivable outstanding less than 7 years from individuals for whom a Death Certificate has been received may be undertaken should the City of Hamilton collection policy and protocols specifically require recoveries from Estates.
- The MOU requires that an equal effort to collect all unpaid fines regardless as to whether they are retained by the municipality or paid to a third party must be demonstrated.
- Write off decisions of all POA accounts receivable must be transparent and justifiable, and must not place the administration of justice into disrepute.
- Where the City of Hamilton has Written-Off POA accounts receivable and any portion of those accounts receivable are subsequently paid, the City of Hamilton must remit to the Province of Ontario, in a timely manner, all monies received in respect to fines, surcharges and fees that are payable to Ontario pursuant to section 165 (5) of the Provincial Offences Act.
- Where the City of Hamilton has Written-Off POA accounts receivable and the related cases have been purged from ICON and any portion of those accounts receivable are subsequently paid, the cases related to the payment received must be reentered into ICON and the payment must be recorded as revenue with supporting documents and distributed in accordance with the MOU.
- On an annual basis, the City of Hamilton must provide MAG, POA Unit, with information regarding the total value of all fines deemed “Uncollectible” and Written-Off during the previous municipal fiscal year as part of the annual performance and progress report.

**PROCEDURE**

- Each year, in September a report to council will be prepared to obtain approval for the total amount of uncollectibles pulled from the CAMS system and the amount of underpayments and the amount for deceased persons pulled from ICON report Rico 2218 Monthly Audit Write Off Report to determine the total amount to be written off.
- Upon council approval, all original Defaulted Fine informations will be pulled and updated to CW in ICON. No suspensions are to written off.
- UPs will be updated to CW from the Monthly Audit Write Off Report (RICO 2218).
- The ICON purge will pick up the deceased persons from the DP code which appears on the Monthly Audit Write off Report (RICO 2218)
- All write offs to be completed in ICON by December 31.
- MAG will produce a Preliminary Write Off Report which we will balance to our CAMS reports and RICO 2218 in order to confirm dollar amount to be written off.
- Any disputes pertaining to the report will be forwarded to MAG.
- If no disputes, files will be purged and a final write off report is produced by MAG.

The Collections Coordinator will pull the CAMS numbers in September of each year which will be added to the Underpayments amount pulled from the Rico 2218 Monthly Audit Write Off Report from the ICON system for July 1 – June 30 annually. Deceased Persons fines being written off will be pulled from the Rico 2218 ICON report for January 1 to June 30<sup>th</sup> for 2011 and July 1 to June 30<sup>th</sup> for each year thereafter.. The ICON system will automatically purge all cases with a DP (deceased person) code in it and include this number in the final purge report. The number reported to council for Deceased Persons will include fines from January 1 to June 30 of the current year as well as fines from July 1 to December 31 of the previous year. We can determine that the amount reported to council will be more than the actual write off amount as the CAMS number provided will include the Victim Fine Surcharge where the ICON final write off report does not include the VFS. The Collections Coordinator is trying to determine if the author of the CAMS report can create a report that will separate the VFS from Fine, Costs and Fee to better permit us to provide a more accurate write off number. The Ministry of the Attorney General will generate a preliminary write off report in January of each year and the final write off report to follow in approximately one or two months time using the time criteria of write off codes entered into ICON between January 1 and December 31 of each year. Upon issue of the preliminary purge report, The Collections Coordinator and the Coordinator of Court Services will compare the ICON purge numbers to the council write off numbers for reconciliation purposes.

**Provincial Offences Write Offs  
June 25, 2013**

**Write-Offs Summary**

	Files	Dollars
Uncollectable	1589	\$425,665
Deceased Persons	506	\$188,579
Under Payments	901	\$130,104
<b>Total</b>	<b>2996</b>	<b>\$744,348</b>

**Write-Offs Over Last Five Years**

Write Off Year	Dollars	
2009	\$ 1,468,949	Uncollectables
2010	\$ 564,740	Uncollectables
2011	\$ 976,874	Uncollectables, Underpayments and Deceased Persons
2012	\$ 1,056,465	Uncollectables, Underpayments and Deceased Persons
2013	\$ 744,348	Uncollectables, Underpayments and Deceased Persons