

CITY OF HAMILTON

**CITY MANAGER'S OFFICE
Audit Services Division**

TO: Chair and Members Audit, Finance and Administration Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: January 17, 2013	
SUBJECT/REPORT NO: Audit Report 2012-10 - Public Health Services (PHS) - Tobacco Control Program (AUD13006) (City Wide)	
SUBMITTED BY: Ann Pekaruk Director, Audit Services City Manager's Office	PREPARED BY: Ann Pekaruk 905-546-2424 x4469
SIGNATURE:	

RECOMMENDATION

- (a) That the Management Action Plans as detailed in Appendix "A" of Report AUD13006 be approved; and
- (b) That the Medical Officer of Health be directed to instruct the appropriate staff to have the Management Action Plans (attached as Appendix "A" to Report AUD13006) implemented.

EXECUTIVE SUMMARY

The 2012 Internal Audit work plan approved by Council included an audit of a specific PHS program. The Tobacco Control program was selected for review. Enforcement of compliance with legislative requirements in terms of tobacco promotion, distribution, sale and consumption was examined. The effectiveness and efficiency of the current service delivery model including the administrative procedures were assessed.

The results of the audit are presented in a formal Audit Report (2012-10) containing observations, recommendations and management responses. Audit Report 2012-10 is attached as Appendix "A" to Report AUD13006.

Alternatives for Consideration – Not Applicable

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

Financial: None.

Staffing: None.

Legal: None.

HISTORICAL BACKGROUND (Chronology of events)

The audit was scheduled as part of the 2012 Internal Audit work plan approved by Council. The audit fieldwork was completed in October 2012. The results of this audit are attached as Appendix “A” of Report AUD13006.

The Audit, Finance and Administration Committee receives and approves final audit and review reports as part of its responsibilities for the oversight of governance and control.

POLICY IMPLICATIONS

- Smoke-Free Ontario Act (SFOA)
- Ontario Provincial Offences Act
- City of Hamilton By-law 11-080 (although pertinent parks and recreation properties not determined at time of audit)
- Tobacco Control Act

RELEVANT CONSULTATION

Appendix “A” to Report AUD13006 includes action plans which reflect the responses of management responsible for the Tobacco Control Program Section of the Healthy Living Division of Public Health Services.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

There are approximately 465 premises in the City of Hamilton that sell tobacco. Three Tobacco Enforcement Officers (TEOs) visit these premises as well as other institutions

regulated by consumption restrictions to inspect, re-inspect, educate, follow up complaints, and lay charges. Such visits numbered over 1260 (to August 31, 2012) and 1400 in 2011.

The inspection of the premises that sell tobacco is in accordance with the Smoke-Free Ontario Act (SFOA). TEOs' inspections include compliance with promoting the sale of tobacco, storage and warning signs. Inspections are also performed with Test Shoppers aged 15 to 17 years of age to test for the sale of a tobacco product to youth under 19 years. To August 31, 2012 year to date, 96 charges were laid and 42 warnings issued. In all of 2011, charges numbered 177 and there were 103 warnings.

There are provisions in the SFOA which automatically prohibit vendors from selling tobacco products if they are convicted of two tobacco convictions within a five year period.

The results of all inspections are entered in the Tobacco Inspection System (TIS).

A formal Audit Report (2012-10) containing observations, recommendations and resulting management action plans was issued. Five recommendations were included in Audit Report 2012-10 (attached as Appendix "A" of Report AUD13006). The recommendations made are:

- Update PHS's inventory of tobacco vendors to reflect all the premises licensed to sell tobacco products;
- Exchange related tobacco database changes with the Municipal Law Enforcement Section;
- Update Tobacco Inspection System (TIS) to include data from all inspections performed in 2011 and 2012;
- Develop a procedure for use in times of data uploading issues to ensure all inspection information is reported in TIS on a daily basis as specified in the agreement with the Ministry; and
- Request automatic prohibition orders for vendors convicted of two tobacco sales offences within a five year period.

ALTERNATIVES FOR CONSIDERATION

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

Not applicable.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Delivery of municipal services and management of capital assets/liabilities in a sustainable, innovative and cost effective manner.

Healthy Community

- ◆ Adequate access to food, water, shelter and income, safety, work, recreation and support for all (Human Services)

Environmental Stewardship

- ◆ Aspiring to the highest environmental standards

APPENDICES / SCHEDULES

Appendix "A" to Report AUD13006

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**CITY OF HAMILTON
INTERNAL AUDIT REPORT 2012-10
PUBLIC HEALTH SERVICES (PHS) - TOBACCO CONTROL PROGRAM**

#	OBSERVATIONS OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN
1.	<p><u>Tobacco Vendor Inventory</u> A key deliverable specified in Schedule A-4 of the agreement between the City of Hamilton's Public Health Services (PHS) and the Ministry of Health Promotion and Sport (Ministry) (now the Ministry of Health and Long Term Care) is the maintenance by PHS of an inventory of all premises where tobacco products are sold.</p> <p>PHS maintains an inventory of such premises based on inspection data in the Tobacco Inspection System (TIS). However, the City's Municipal Law Enforcement Section also has a database of premises licensed to sell tobacco products. A comparison of the information in these two sources identified several differences - e.g. five locations with licenses to sell tobacco which were not included in the TIS. These vendors are not inspected by the Tobacco Enforcement Officers (TEOs) and present a risk that they may not be complying with the Smoke-Free Ontario Act (SFOA).</p>	<p>That PHS update their inventory of tobacco vendors to reflect all the premises licensed to sell tobacco products and thus, subject to inspection.</p> <p>That PHS and the Municipal Law Enforcement Section work co-operatively to regularly exchange related tobacco database changes and update their respective tobacco vendor inventories.</p>	<p>Agreed. Public Health Services will update their inventory of tobacco vendors.</p> <p>Agreed. PHS has been providing its current list of known tobacco vendors to Municipal Law Enforcement annually since 2006. PHS and Municipal Law Enforcement will develop a semi-annual process to jointly review current tobacco vendors with the intent of updating the respective departments' active lists. To be completed by June 2013.</p>

PUBLIC HEALTH SERVICES (PHS) - TOBACCO CONTROL PROGRAM
October 2012

#	OBSERVATIONS OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN
2.	<p><u>Tobacco Vendor Inspections</u></p> <p>One of the program requirements specified in Schedule A-4 of the agreement between the City's PHS and the Ministry is the daily reporting in the TIS of the data collected from the inspections of tobacco vendors.</p> <p>One of the three TEOs that performs inspections has had difficulties intermittently throughout 2011 and 2012 in uploading inspection data from her computer tablet into the TIS. This results in incomplete records and any statistical information obtained from the TIS can be misleading. In addition, without the daily update of inspection data, PHS is not in compliance with the applicable term of the agreement with the Ministry even though the uploading issues have been reported.</p>	<p>That TIS be updated to include data from all inspections performed in 2011 and 2012.</p> <p>That an alternate procedure for use in times of data uploading issues be developed to ensure all inspection information is reported in TIS on a daily basis as specified in the agreement.</p>	<p>Agreed. Previous Smoke-Free Ontario Act inspections are being updated within the TIS. To be completed by Q1, 2013.</p> <p>Agreed. A policy and procedure will be developed, implemented and monitored pertaining to the frequency of TIS data entry practices. To be completed by Q2, 2013.</p>

PUBLIC HEALTH SERVICES (PHS) - TOBACCO CONTROL PROGRAM
October 2012

#	OBSERVATIONS OF EXISTING SYSTEM	RECOMMENDATION FOR STRENGTHENING SYSTEM	MANAGEMENT ACTION PLAN
3.	<p><u>Automatic Prohibitions of Tobacco Vendors</u> Automatic prohibitions are Ministry directives forbidding vendors from selling tobacco products. Such prohibitions are usually the result of a variety of tobacco sales offences, the most common being the selling of tobacco products to youth under 19 years of age. The Smoke-Free Ontario Act (SFOA) Compliance Protocol states that a vendor that has incurred two tobacco convictions within a five year period will face a six month prohibition and three convictions within a five year period results in a nine month prohibition. However, the staff of the Tobacco Control Program only apply for automatic prohibitions of tobacco vendors after they have been convicted three times.</p>	<p>That staff of the Tobacco Control Program request automatic prohibition orders for vendors convicted of two tobacco sales offences, as per the Smoke-Free Ontario Act.</p>	<p>Agreed. PHS Tobacco Enforcement will apply to the Ministry of Health and Long Term Care (MOHLTC) for automatic prohibitions that are specific to eligible tobacco vendors using the established two registered convictions within the past five year threshold requirement as outlined in the Smoke-Free Ontario Act. Completed in Q4, 2012.</p>