



STAFF REPORT ACTION REQUIRED

City of Toronto Auditor General's Jurisdiction and the Board of Health

Date:	September 4, 2015
To:	Board of Health
From:	Medical Officer of Health
Wards:	All
Reference Number:	

SUMMARY

On June 10, 2015, City Council adopted with amendments, the City of Toronto Auditor General's (AG) Report, *Amendments to the 2015 Audit Work Plan*. In this report, two specific decisions of City Council relate to the Board of Health (BOH) and the AG's jurisdiction. Specifically, Council:

- Requested the City Manager to seek amendments to the City of Toronto Act (COTA), which is currently under review, to allow the AG jurisdiction to audit local boards, including the BOH; and grant the AG power to review any audits that were previously conducted by their Audit departments, and
- Requested those agencies, local boards and corporations currently outside the AG's jurisdiction, including the BOH to allow the AG to undertake any audits deemed necessary until such time as COTA is amended.

This report provides an overview of the AG's current jurisdiction over the BOH under the COTA, as well as current AG powers under the Municipal Code (Municipal Code 3-15 A and B). It also provides a summary of the existing provincial statutes and policies that hold 36 boards of health in Ontario accountable through financial, operational and performance compliance requirements, audits and assessments. These include:

1. the Ministry of Health and Long-Term Care's (MOHLTC) power to audit boards of health from financial, operational, value-for-money (VFM) and compliance aspects; and

2. the *Auditor Statutes Law Amendment Act* (ASLAA), which gives the Office of the Auditor General of Ontario (OAGO) jurisdiction to undertake VFM audits of local boards of health.

RECOMMENDATIONS

The Medical Officer of Health recommends that:

1. The Board of Health ask City Council not to request amendments to the City of Toronto Act which expand the City of Toronto Auditor General's jurisdiction with respect to the Board of Health;
2. The Board of Health exercise its power under Municipal Code 3-15B, and allow the Auditor General to perform an audit of Board of Health programs and services that are 100% municipally funded and not provincially mandated, and other programs and services only when the Board deems necessary;
3. The Board of Health forward a copy of this report to the Minister of Municipal Affairs and Housing, which is leading the provincial review of the City of Toronto Act; and
4. The Board of health forward this report to the provincial Minister of Health and Long-Term Care, the Chief Medical Officer of Health, and the Association of Local Public Health Agencies.

Financial Impact

There are no financial impacts associated with this report

DECISION HISTORY

The AG's report, *Amendments to the 2015 Audit Work Plan*, was received by City Council on June 10, 2015, and was adopted with amendments ([AU2.8 Amendments to the 2015 Audit Work Plan](#)).

ISSUE BACKGROUND

The AG's report, *Amendments to the 2015 Audit Work Plan*, was prepared to inform the Audit Committee and City Council of the status of City-wide risk assessments, and changes related to projects that the AG initially planned for in 2015. In this report, the AG noted that the City-wide risk assessment did not include local boards (restricted definition) (Police Services Board, the Library Board and the BOH) and that three audit projects initially planned for 2015 would be deferred:

1. Toronto Police Services Board - Audit of expenditures and procurement
2. Toronto Public Health (TPH) Information System

3. Risk assessment of major agencies and corporations – Toronto Police, TPH, Toronto Public Library and other major agencies

The AG's report noted that the above audits and City-risk assessments could not proceed without the approval from the Police Services Board, the Library Board and the BOH.

At its June 10, 2015, meeting, City Council formally requested those agencies, local boards and corporations that are outside of the AG's jurisdiction, to allow the AG to undertake any audits the AG deems necessary. City Council also requested the City Manager to seek amendments under the COTA to allow the AG jurisdiction to audit the Police Services Board, the Library Board and the BOH; and to grant the AG power to review any audits that were previously conducted by these boards' Audit departments.

The AG and City Council do not currently have the authority under the COTA or the Municipal Code Chapter §3-15A and B to request, or initiate, an audit or risk assessment of the BOH. There are a variety of oversight and audit measures already in place for the BOH at both the municipal and provincial level.

COMMENTS

The City Solicitor has advised that, with few exceptions, the services provided by Toronto Public Health, on behalf of the Board of Health for the City of Toronto Health Unit are prescribed mandatory programs and services that the Board of Health is required to provide pursuant to the HPPA. In other words, these are not City services or City policies.

The powers and duties of the City Auditor General are derived from powers set out in the City of Toronto Act ("COTA") (Part V, sections (77-183) and the City of Toronto Municipal Code ("Municipal Code"), Chapter 3, Article II, Auditor General § 3-15, Responsibilities .

The Auditor General's COTA powers and duties, namely assisting Council and City Administrators in holding themselves accountable for the quality of stewardship over public funds and the achievement of value for money in City operations, apply only to local boards (restricted definition). The Board of Health is a local board but it is not a local board (restricted definition). As such the Auditor General's powers and duties under COTA do not extend to the Board of Health.

The City's Municipal Code authorizes the Auditor General to undertake financial (excluding attest) compliance and performance audits and provide recommendations to the board, upon request of the Board of Health, the Toronto Library Board and Toronto Police Services Board. This can include programs and services that are 100% municipally funded and not provincially mandated and other programs and services when the Board deems necessary. Should the Board of Health request the Auditor General to undertake audit activities in accordance with the Municipal Code the Auditor is obliged to report back to the Board of Health, not City Council.

Amendments to the COTA

At its June 10, 2015, City Council adopted the AG's report with amendments, including requesting the City Manager to seek amendments to the COTA that would allow the AG jurisdiction to audit those local boards, including the BOH, that are currently excluded under the Act. This includes the BOH.

Current Oversight and Accountability Requirements for the Board of Health

Any consideration of expanding the authority of the AG to include the BOH should take into account the existing oversight and audit provisions for the BOH.

1. Health Protection and Promotion Act

The City of Toronto BOH is established under the provincial HPPA, and has a statutory authority to ensure the provision of mandatory and related public health programs and services, as defined by the Act and Minister of Health and Long-Term Care. These services are funded 75% or 100% provincially.

Under section 82 of the HPPA, the MOHLTC has the authority to carry out assessments of BOHs to ensure public health programs and services are being provided in accordance with the Act. This includes the quality of the management or administration of the affairs of a board of health.

Assessments can be ordered by the Minister of Health and Long-Term Care, based on irregular or incomplete financial reporting, or concerns raised by the community regarding board governance or programs and services. Assessments are made public and recommendations can apply to both health unit operations and board governance, and may include removal and replacement of the board.

The most recent assessment was ordered by the Minister of Health and Long-Term Care earlier in 2015, against Algoma Public Health. The assessment was ordered based on financial management concerns and integrity of the board of health. Given the seriousness of the concerns, the Minister also ordered a financial audit under section 8.3 of the Accountability Agreement (between the Algoma Public Health BOH and the MOHLTC).

2. Accountability Agreements

Ministry of Health and Long-Term Care funding for public health programs and services is governed by three-year Accountability Agreements (AA) between the BOH and the Minister of Health and Long-Term Care. The AA outlines BOH obligations associated with the delivery of provincially funded public health programs, and is designed to support the continuing implementation of a performance management framework, improved administration, and strengthening of financial reporting and accountability.

The MOHLTC has the authority to conduct audits on boards of health, and does so in two ways: proactive periodic audits and ordered audits.

Proactive Periodic Audits:

With the provincial government's emphasis on accountability of public resources, the MOHLTC conducts proactive periodic audits of boards of health to ensure compliance requirements set out in the AA related to financial, operational, and VFM aspects of transfer payment funding¹. The BOH has not had a proactive periodic audit initiated by the MOHLTC under the 2014-2016 AA, to date.

Ordered Audit:

The MOHLTC can also order an audit as a result of non-compliance with any aspect of the AA. The authority to audit is in section 8.3 of the AA. Ordered audits are issued by the Minister of Health and Long-Term Care, and an audit team (from the Ministry of Finance) is deployed. The audit team has authority and jurisdiction to examine relevant files, records and supporting documentation; conduct interviews/discussions with key personnel, as they deem necessary; perform a factual accuracy review of the draft audit findings with management of the BOH; and, finalize a report that will be provided to the MOHLTC and senior management of the BOH for formal management responses and action plans to address report recommendations, including target resolution dates.²

Ministry of Health and Long-Term Care: Financial Control Schedule:

To strengthen financial accountability and reporting under the current AA, the MOHLTC also requires a new Schedule for BOH financial reporting (Schedule E-1- Board of Health Financial Controls). This schedule enhances the integrity of the boards of health financial statements, and Toronto's BOH will report its Schedule E-1 to the MOHLTC through a Financial Controls checklist. This checklist will be included as an attachment in the annual AA BOH Staff Report.

3. ASLAA (2004) and the Broader Public Sector

The ASLAA gives the Auditor General of Ontario authority to undertake VFM audits of organizations in the broader public sector (BPS). This includes organizations that are recipients of provincial grants and transfer payments (including cost-shared funding transfer payments to organizations embedded or attached to other levels of government)³, and have an accountability agreement in place (with the funding ministry) for the delivery programs and services. While the OAGO cannot audit municipalities, it can audit provincial public health programs and services, and monies paid by the province to boards of health, whether or not boards of health are municipal.

¹ 2015 Financial Planning, Accountability, and User Guide for Program-Based Grants for Mandatory and Related Public Health Programs and Services. Ministry of Health and Long-Term Care. January 2015.

² 2015 Financial Planning, Accountability, and User Guide for Program-Based Grants for Mandatory and Related Public Health Programs and Services. Ministry of Health and Long-Term Care. January 2015.

³ Guide for Broader Public Sector Organizations and Ministries relating to Value-For-Money Audits by the Auditor General of Ontario. Ontario Internal Audit Division. May, 2009.

Under the ALSAA, the OAGO has a legislative mandate to perform a VFM audit at its sole discretion⁴. For example, Toronto Public Health (TPH) was included in the OAGO VFM audit of the provincial publicly funded immunization system in 2014. Toronto Public Health prepared a staff report on the OAGO's audit and recommendations for the BOH in June 2015. This report supported the recommendations of the OAGO from a financial and system efficiency perspective.

Additional Transparency and Accountability Mechanisms in Place

In addition to the above legislative requirements for BOH financial, operational and performance compliance, there are additional transparency and accountability mechanisms in place that apply to the BOH and TPH staff. These include budgetary and financial reporting; audits, fraud and waste oversight, and enterprise risk management.

1. Budgetary and Financial Reporting to City Council

The BOH is subject to all City of Toronto financial bylaws, policies and controls including: quarterly operational and capital variance reporting, quarterly purchasing reporting, annual delegated authority (expenditures).

2. Audits

The BOH is subject to corporate financial budgetary controls including preparing annual audited statements for year end, coordinated by Corporate Finance. In addition, the City's internal audit department has the authority to audit TPH program expenditures. The City's internal audit department has audited the Tuberculosis program; Harm Reduction programs and services, and there is also continuous monitoring of corporate-wide expenditures, such as mileage and transportation claims.

3. Fraud and Waste

In 2002 City Council established a general fraud and waste hotline program which is operated by the Auditor General. Toronto Public Health staff are City employees. Complaints related to the misuse of City resources by City staff, including Toronto Public Health employees, may be reported to the Fraud and Waste Hotline. Any related investigations will be conducted by the appropriate City staff.

4. Enterprise Risk Management

Toronto Public Health is part of the City of Toronto's new Enterprise Risk Management (ERM) program which will identify risks, measure risks, assess risks and report and monitor risks.

Toronto Public Health has currently completed the initial identification of services and risk events using existing documents such as its annual service plans. This will serve to strengthen financial, organizational and performance compliance across all public health programs and services of the BOH.

⁴ Guidelines for Interaction with the Office of the Auditor General Supported by, *The Handbook for Interaction with the Office of the Auditor General of Ontario*. Health Audit Assessment Team, Ontario Internal Audit Division, Ministry of Finance. November 2013

CONCLUSION

In view of the extensive existing mechanisms for oversight, accountability and audit to which the BOH is subject, there would be little additional benefit to expand the City of Toronto's AG's jurisdiction to include the provincially mandated services of the BOH. It is recommended that the BOH ask City Council not to request such expanded power in the COTA. In addition, the existing Municipal Code provisions permitting the BOH to request an audit of its programs and services should be retained.

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