

CHAPTER 1

Create Hong Kong, Commerce and Economic Development Bureau

**Administration of
the Entertainment Special Effects Ordinance**

**Audit Commission
Hong Kong
31 March 2011**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 56 of the Director of Audit contains 8 Chapters which are available on our website at <http://www.aud.gov.hk>.

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ADMINISTRATION OF THE ENTERTAINMENT SPECIAL EFFECTS ORDINANCE

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PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 Prior to June 2000, the use of pyrotechnic materials in the production of special effects in films, television programmes and theatrical performances was subject to the issue of a permit under the Dangerous Goods Ordinance (Cap. 295). The use of other dangerous goods such as petrol and liquefied petroleum gas in the production of entertainment special effects was regulated under the Dangerous Goods Ordinance and the Gas Safety Ordinance (Cap. 51). The conveyance, storage, use and discharge of pyrotechnic materials and other dangerous goods were under the jurisdiction of five different departments (Note 1).

1.3 As the provisions of the Dangerous Goods Ordinance and the Gas Safety Ordinance were not designed to meet the operational needs of the film and entertainment industry, coupled with the lack of a central licensing authority, the industry encountered considerable difficulties in complying with the statutory requirements. In June 2000, the Entertainment Special Effects Ordinance (ESEO — Cap. 560) was passed to establish a new regulatory system to govern the use of dangerous goods for producing special effects in entertainment programmes (Note 2).

1.4 Under the ESEO, materials used in producing entertainment special effects are collectively termed as special effects materials. Special effects materials are classified into pyrotechnic special effects materials (PSEMs) and non-PSEMs. PSEMs (see Photograph 1) are explosives by nature. Examples include soft detonators, black powder composition

Note 1: *The five departments were the Television and Entertainment Licensing Authority, the Marine Department, the former Civil Engineering Department (renamed as the Civil Engineering and Development Department after merging with the Territory Development Department in July 2004), the Fire Services Department and the Electrical and Mechanical Services Department.*

Note 2: *Under the ESEO, entertainment programmes do not cover fireworks displays, but include:*

- (a) any film, commercial and television broadcast programme; and*
- (b) any literary, dramatic, musical and artistic works performed before a live audience or otherwise, and similar production.*

Firework displays are regulated under the Dangerous Goods Ordinance.

Head of Create Hong Kong as the Licensing Authority

1.7 The **Create Hong Kong (CreateHK)** is an office set up under the Commerce and Economic Development Bureau (CEDB) on 1 June 2009 to lead, champion and drive the development of the creative economy in Hong Kong. With the establishment of CreateHK, there is better support to the trade through a one-stop service. The Head of CreateHK has been the Licensing Authority since July 2009 following the transfer of the **Film Services Office** from the Television and Entertainment Licensing Authority (TELA) to CreateHK in June 2009. The **Special Effects Licensing Unit (SELU)** of the Film Services Office assists the Authority in carrying out his responsibilities. The Authority's main responsibilities include:

- (a) licensing of Special Effects Operators (SEOs);
- (b) issuing permits for the discharge of special effects materials;
- (c) registration of PSEMs; and
- (d) regulating the supply, use, conveyance and storage of PSEMs.

Organisation

1.8 The SELU is headed by a Senior Engineer and staffed by five officers, including one Senior Explosives Officer, two Explosives Officers I and two Explosives Officers II. An organisation chart of the SELU under CreateHK is at Appendix A.

Office Guidelines

1.9 The SELU issues Office Guidelines for its staff to follow in carrying out their work. Up to 31 December 2010, the SELU issued 12 sets of Office Guidelines covering various areas of its work, including:

- (a) procedures for processing licences and permits applications;
- (b) action to be taken for non-compliances of licences and permits holders; and
- (c) inspections conducted by the SELU.

Guidance Notes and Codes of Practice

1.10 CreateHK also publishes a set of Guidance Notes and two Codes of Practice for reference by the industry. The Guidance Notes introduce the statutory requirements under the ESEO and the relevant licence and permit application procedures. The Codes of Practice provide guidance on:

- (a) the use, storage and conveyance of special effects materials; and
- (b) the use of liquefied petroleum gas for the production of special effects.

Audit review

1.11 The introduction of the ESEO is a big step towards regulating the use of special effects materials in entertainment programmes, including the setting up of the Licensing Authority and centralising the regulatory control over such materials under the Authority's jurisdiction (see paras. 1.2 and 1.3). Given that the new regulatory system has been established for 10 years and special effects materials could be dangerous, the Audit Commission (Audit) has recently carried out a review of the work of the SELU in the administration of the ESEO. The audit focused on the following areas:

- (a) import and registration of pyrotechnic special effects materials (PART 2);
- (b) licences and permits (PART 3);
- (c) inspections by Special Effects Licensing Unit (PART 4);
- (d) management of stores of pyrotechnic special effects materials (PART 5); and
- (e) performance management (PART 6).

Audit has found areas where improvements can be made, including inadequacies in, and non-compliance with, the Office Guidelines (as summarised at Appendices B and C). Audit has made a number of recommendations to address the issues.

General Response from the Administration

1.12 The **Head of Create Hong Kong** welcomes the audit review and fully appreciates Audit's efforts. He has said that:

- (a) CreateHK has always been dedicated to drive the development of creative industries in Hong Kong, and provides one-stop service to the various creative industry sectors to support and facilitate them to flourish;

- (b) as the administrator of the ESEO, CreateHK is committed to continuing its efforts to improve the administration of the ESEO, with a view to better protecting public safety, and better addressing the operational needs of the film and entertainment industries;
- (c) owing to the creative nature of the film and entertainment industries, it is essential to allow certain flexibility in the administration of individual licence applications while adhering to the safety requirements; and
- (d) for the efficient and effective administration of the ESEO, this is a good opportunity to review some of the regulatory control processes with a view to streamlining the procedures in the various Office Guidelines and reducing the paper work. In particular, he will review:
 - (i) the need for the submission of Discharge Reports and Conveyance Reports after these activities have been completed (see para. 3.25(c)); and
 - (ii) the frequency of some of the inspections (e.g. on the stores and designated areas for the storage of PSEMs, and on PSEM suppliers — see para. 4.13(b) and (c)).

1.13 The **Head of Create Hong Kong** has also said that:

- (a) with six dedicated officers (see para. 1.8), the SELU deals with over 2,000 licences and permits and conducts over 200 inspections a year;
- (b) since the enactment of the ESEO, there has been a good safety track record in the administration and use of PSEM in comparison with many other countries;
- (c) through the implementation of a systematic training and qualifying examination regime, the standards of skill and safety awareness of the SEOs have also improved; and
- (d) there is room for streamlining the procedures as stated in paragraph 1.12(d) without compromising safety.

Acknowledgement

1.14 Audit would like to acknowledge with gratitude the full cooperation of the staff of CreateHK during the course of the audit review.

PART 2: IMPORT AND REGISTRATION OF PYROTECHNIC SPECIAL EFFECTS MATERIALS

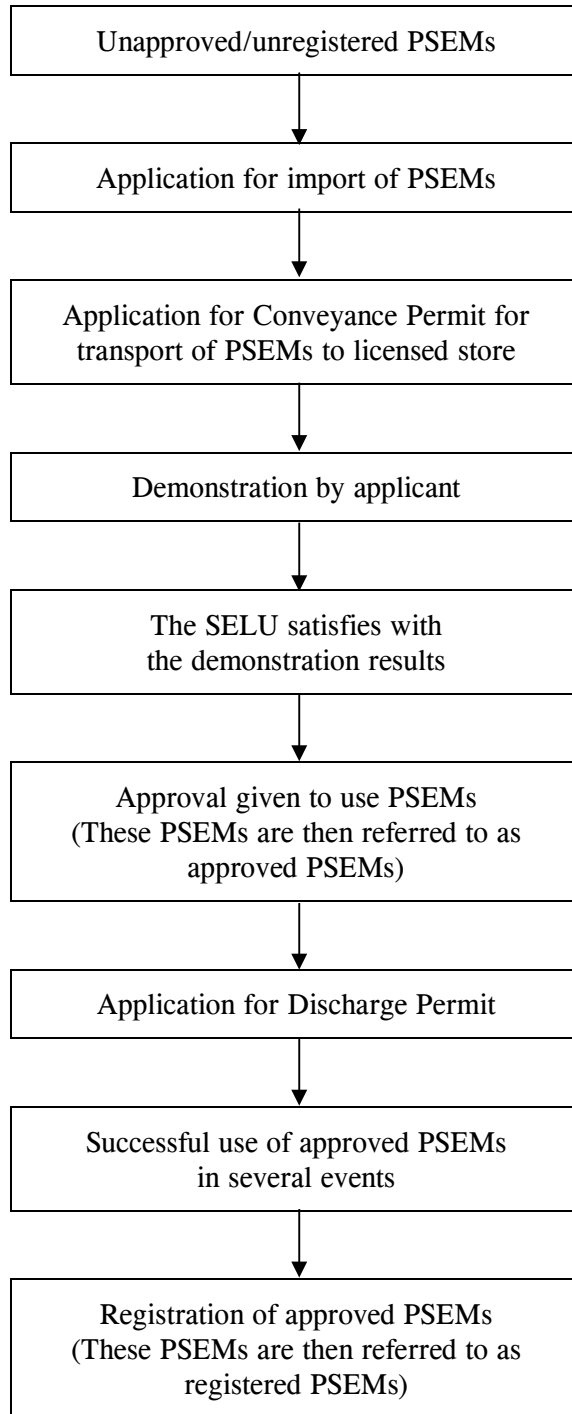
2.1 This PART examines the import and registration of PSEMs.

Approval and registration of PSEMs

2.2 Under the ESEO, unless otherwise approved by the Licensing Authority in writing, no person shall supply, convey, store, or use any PSEM in Hong Kong unless that PSEM has been registered and is included in the PSEM Register. This requirement seeks to ensure that unsafe PSEMs are not available in Hong Kong. According to the Guidance Notes issued by the Authority, PSEMs that have never been used in Hong Kong may be approved for import into Hong Kong before they are registered. The Authority may consider including the approved PSEMs in the PSEM Register only after they have been successfully used in several events. The registration process of PSEMs is illustrated in Figure 1.

Figure 1

Registration of PSEMs



Source: *Audit analysis of CreateHK records*

Application for import of PSEMs

2.3 Any persons who want to import PSEMs into Hong Kong should apply to the SELU and comply with the requirements set out in the Guidance Notes issued by the Licensing Authority. Different requirements are set out in the Guidance Notes for importing approved/registered PSEMs and unapproved/unregistered PSEMs.

2.4 According to the Guidance Notes, to import approved/registered PSEMs, the applicant shall, prior to confirmation of shipping arrangements, submit to the SELU a list of the proposed PSEMs (including the quantity of each PSEM) together with details of the proposed storage and conveyance means in Hong Kong. A conveyance permit is required for custom clearance and for conveying the proposed PSEM on arrival to an approved storage. If unapproved/unregistered PSEMs are included in an application, the applicant is required to submit additional documents (where applicable) for the consideration of the SELU. The applicant is also required to arrange for firing of the unapproved/unregistered PSEMs to demonstrate the installation and firing methods, the actual effects and fallout area, and the reliability of the PSEMs. After the demonstration with satisfactory results, the PSEMs will be approved for use in Hong Kong.

Audit observations and recommendations

2.5 Audit reviewed all the 42 applications approved in 2010 by the SELU for import of PSEMs. These applications covered 542 approved/registered PSEMs and 93 unapproved/unregistered PSEMs. Audit noted that the required information/documents specified in the Guidance Notes were not always submitted to the SELU before the applications for import were approved. Instead, the required information/documents were submitted when the applicants applied for Conveyance Permits. Details were as follows:

- (a) of the 42 applications:
 - (i) all the applications did not provide any details on the conveyance means of the PSEMs in Hong Kong; and
 - (ii) 26 (62%) applications did not provide details of the proposed storage of the PSEMs;
- (b) of the 93 unapproved/unregistered PSEMs covered by 11 applications, some required information/documents were not provided (see Table 1); and
- (c) no record was available showing that the SELU had taken follow-up action with the applicants before approvals for import were given.

Table 1
Application for import of unapproved/unregistered PSEMs
(2010)

Required information/document not provided	PSEM involved	
	No. (a)	Percentage (b) = (a)/93 × 100%
(i) Laboratory testing report (the United Nations test series)	87	94 %
(ii) Packaging compliance certificate	93	100 %
(iii) Shelf life	37	40 %
(iv) Manufacturer's quality control and quality assurance document	37	40 %

Source: Audit analysis of CreateHK records

2.6 In February 2011, the SELU informed Audit that in considering whether import applications should be approved:

- (a) information in the laboratory testing reports (see item (i) in Table 1) was required to ascertain the United Nations Classification of the PSEMs. For the 87 cases, such information could be obtained from other sources. Therefore, there was no need for the applicants to submit the testing reports;
- (b) the submission of packaging compliance certificate (see item (ii) in Table 1) was not essential; and
- (c) the Licensing Authority would not refuse the applications on the grounds that the applicants had not submitted information on shelf life, and the manufacturer's quality control and quality assurance documents (see items (iii) and (iv) in Table 1).

2.7 The Licensing Authority does not provide a standard form for use by applicants in their applications for import of PSEMs. Audit considers that a well-designed application form (with a checklist) can help ensure that the applicants submit all the required information/documents and facilitate the SELU's processing of the applications.

Audit recommendations

- 2.8 **Audit has recommended that the Head of Create Hong Kong should:**
- (a) **revise the Guidance Notes to ensure that the applicants for import of PSEMs are required to provide only the information and documents that are necessary for the SELU to consider whether their applications should be approved;**
 - (b) **ensure that the required information and documents as stipulated in the Guidance Notes are provided by the applicants for import of PSEMs;**
 - (c) **take follow-up action with the applicants if the required information and documents are not submitted with their import applications; and**
 - (d) **consider designing standard forms to facilitate the submission of applications for import of PSEMs.**

Response from the Administration

2.9 The **Head of Create Hong Kong** agrees with the audit recommendations. He has said that CreateHK will:

- (a) review the relevant Guidance Notes to reflect more clearly what documents are essential and what documents are desirable but not essential; and
- (b) review the relevant procedures regarding the application for import of unapproved/unregistered PSEMs with a view to providing clear guidelines to the applicants.

Registration of approved PSEMs

2.10 According to the Guidance Notes, inclusion of approved PSEMs in the PSEM Register may only be considered after their successful use in several events. As at 31 December 2010, 173 approved PSEMs were not yet included in the PSEM Register.

Audit observations and recommendations

Information on successful use of approved PSEMs

2.11 Audit examined the records of all 28 PSEMs registered in the period 2008 to 2010. Although information on PSEMs used in shows could be traced by checking through the Discharge Permits, there was no readily available record showing that the SELU had tracked the number and details of the events in which the 28 PSEMs had been successfully used before they were registered.

Approved PSEMs not yet registered

2.12 A properly maintained PSEM Register will facilitate the sourcing of PSEMs by suppliers and SEOs from overseas and local suppliers/manufacturers. Audit noted that the Licensing Authority had not promulgated any Office Guidelines or Guidance Notes on the mechanism for changing the status of approved PSEMs to registered ones by entering them in the PSEM Register. In December 2010, the SELU informed Audit that the SELU would review the list of approved PSEMs about two years after they were approved. However, as at 31 December 2010, of the 173 approved PSEMs, 41 (24%) were approved more than two years ago but had not yet been registered (see Table 2). In January 2011, the SELU informed Audit that some of these PSEMs had in fact been used successfully in several events, but they were not entered in the Register because the practitioners who imported them did not want to make public the information, considering that such information might be commercially sensitive.

Table 2

**Approved PSEMs but not yet registered
(31 December 2010)**

No. of years since approval	No. of PSEMs
≤1 year	77
>1 year to 2 years	55
>2 years to 3 years	20
>3 years to 4 years	13
>4 years (Note)	8
Total	173

Source: Audit analysis of CreateHK records

Note: One PSEM was approved more than seven years ago.

Audit recommendations

- 2.13 **Audit has recommended that the Head of Create Hong Kong should:**
- (a) **ensure that all registrations of approved PSEMs are properly supported by information on the events in which the PSEMs have been successfully used;**
 - (b) **devise a system to monitor the number of events in which approved PSEMs have been successfully used (e.g. by reviewing the use of approved PSEMs regularly);**
 - (c) **review the propriety of the practice of not registering approved PSEMs because the practitioners concerned do not want the SELU to register them, even though the PSEMs have been successfully used in several events; and**
 - (d) **in the light of the results of the review in (c) above, ensure that all approved PSEMs which have been successfully used in several events are entered in the PSEM Register as soon as practicable.**

Response from the Administration

- 2.14 The Head of Create Hong Kong agrees with the audit recommendations. He has said that CreateHK will:
- (a) document the successful use of approved PSEMs to facilitate the consideration of whether an approved PSEM should be registered; and
 - (b) review the practice of not registering approved PSEMs because the practitioners concerned do not want the SELU to do so, even though the PSEMs have been successfully used in several events.

PART 3: LICENCES AND PERMITS

3.1 This PART examines the administration of the system of licences and permits under the ESEO.

System of licences and permits

3.2 The discharge of all special effects materials (PSEMs and non-PSEMs), and the conveyance, storage and supply of PSEMs are regulated through a system of licences and permits administered by the SELU. The following five types of licences and permits are issued under the ESEO:

- (a) ***SEO Licence.*** To ensure that special effects materials are discharged only by qualified practitioners, the ESEO stipulates that no person shall use any special effects material without a SEO Licence. Different types of SEO Licence are issued for different classes of SEOs in accordance with their qualifications and experience;
- (b) ***Supplier Licence.*** A Supplier Licence is required for the supply of PSEMs. The maximum period covered by a Supplier Licence is two years. Each Supplier Licence holder is required to appoint a licensed SEO as the operator-in-charge. The Supplier Licence specifies the conditions such as the types and maximum quantity of PSEMs to be supplied, details of the operator-in-charge and the records to be kept;
- (c) ***Store Licence.*** A Store Licence is required for the storage of PSEMs. The Store Licence specifies the conditions such as the types and the maximum quantity of PSEMs to be stored, the designated areas where the store is allowed to be located, details of the operator-in-charge supervising the store and the safety measures in place;
- (d) ***Discharge Permit.*** A Discharge Permit is required for using special effects materials for producing entertainment special effects. The Discharge Permit specifies the conditions such as the time, date and venue of the discharge, types and maximum quantity of special effects materials (PSEMs and non-PSEMs), details of the operator-in-charge and the safety measures in place. Different types of Discharge Permits are issued for different types of entertainment programmes; and
- (e) ***Conveyance Permit.*** Under the ESEO, no person shall, unless otherwise exempted, convey within Hong Kong any PSEM without a Conveyance Permit. The Conveyance Permit specifies the conditions such as the date, locations and route of the conveyance, types and quantity of PSEMs and the required safety measures.

Processing of applications for licences and permits

3.3 To apply for a licence or permit, an applicant is required to complete an application form and submit it together with all the supporting documents specified in the application form and the Guidance Notes issued by the SELU. Depending on the types of licences or permits applied for, the SELU may carry out inspections, interviews, assessments, criminal record checks, or consult other government departments before issuing the licences or permits.

Audit observations and recommendations

Supplier Licence and Store Licence

3.4 Under the ESEO, an applicant has to satisfy the Licensing Authority that he is a fit and proper person to be issued a licence. The Office Guidelines stipulate that the SELU should take into consideration of any objection from, and comments made by, the police with regard to the applicant, and any criminal conviction records released by the police to determine whether the applicant is a fit and proper person. In June 2010, the SELU revised the Office Guidelines to spell out that:

- (a) in urgent cases, the SELU may issue the licences without waiting for the results of the criminal record checks;
- (b) applicants for renewal of licences or for varying the licensed scope of operation are also subject to criminal record checks; and
- (c) criminal record checks conducted within six months can be used to support an application.

3.5 Audit examined 10 of the 80 Store Licences issued during the period January 2008 to September 2010, and all the 9 Supplier Licences issued since June 2000 (the introduction of the ESEO) up to September 2010. Audit found that, of the 19 Licences issued:

- (a) for 6 Licences, no criminal record checks were conducted because the applicants had already held a valid SEO Licence. However, the Office Guidelines contained no provision on whether criminal record checks were required for applicants who held a valid SEO Licence; and
- (b) for 2 Licences, criminal record checks were completed after the issue of the licences and for one of them, no justification was recorded to support the early issue of the Licence.

Discharge Permit

3.6 Audit examined the supporting records of 30 of the 3,526 Discharge Permits issued during the period January 2008 to September 2010. Audit noted the following non-compliances with the Office Guidelines:

- (a) for 4 Permits, not all the required supporting documents or information were received; and
- (b) for 12 Permits, not all the required supporting documents had been received before the Permits were issued. The delays ranged from 3 to 14 days (with an average of 7 days).

3.7 According to the Office Guidelines, applications for amendments to Discharge Permit may be approved before the expiry of the Permit and the actual discharge of special effects materials. Audit reviewed 30 applications for amendments to Discharge Permits approved during the period January 2008 to September 2010. Audit noted that, contrary to the Office Guidelines, the SELU had approved two applications after the Discharge Permits had expired and the discharges had been made. The justifications for the late approvals were not documented. In January 2011, the SELU informed Audit that unanticipated changes to discharge arrangements were sometimes needed. Therefore, the permit holders requested urgent verbal approvals from the SELU. In the two cases identified by Audit, the officers in charge might have verbally approved the amendments before the expiry of the Permits and the actual discharges. Covering approvals were subsequently obtained.

Conveyance Permit

3.8 Under the ESEO, the Licensing Authority may issue a Conveyance Permit subject to such terms and conditions as he thinks fit. According to the Office Guidelines, the conveyance should be supervised by licensed SEOs of specific classes depending on the risk levels and the net explosive quantities (NEQs) of the PSEMs.

3.9 Audit examined 80 of the 435 Conveyance Permits issued during the period January 2008 to September 2010. Audit found that:

- (a) for 6 Permits, the class of SEO Licence specified for the supervisors in the Permits was higher than that required according to the Office Guidelines; and
- (b) for 1 Permit, the class of SEO Licence specified for the supervisor in the Permit was lower than that required according to the Office Guidelines.

Provision of checklist to facilitate vetting of applications

- 3.10 Audit examination of the applications for licences and permits also revealed that:
- (a) two checklists were used to facilitate the vetting of applications for Store Licences and SEO Licences to ensure that all requirements had been complied with before approving the applications;
 - (b) while the checklist used for vetting applications for SEO Licences had been incorporated in the Office Guidelines, the checklist used for vetting applications for Store Licences had not; and
 - (c) no checklist was compiled to facilitate the vetting of applications for other types of licences and permits, namely Supplier Licences, Discharge Permits and Conveyance Permits.

Audit recommendations

- 3.11 **Audit has recommended that the Head of Create Hong Kong should:**
- (a) **clearly spell out in the Office Guidelines whether criminal record checks are required for applicants of Supplier Licences and Store Licences who hold a valid SEO Licence;**
 - (b) **record the justifications (e.g. urgent requests) for issuing licences before criminal record checks have been completed;**
 - (c) **ensure that all required supporting documents have been received before issuing licences and permits;**
 - (d) **ensure that approvals for applications for amendments to Discharge Permit are given before the expiry of the Permits and the actual discharges as stipulated in the Office Guidelines;**
 - (e) **ensure that, for exceptional cases where verbal approvals have been given, such verbal approvals (with justifications) are properly documented, and proper procedures are followed as soon as possible to support the verbal approvals;**
 - (f) **ensure that the appropriate classes of SEO Licence are specified for the supervisors of conveyance as a condition in the Conveyance Permits issued;**

- (g) **provide checklists to facilitate the efficient and effective vetting of applications for licences and permits, and to ensure that all pertinent requirements relating to the applications have been complied with; and**
- (h) **incorporate the checklists in the Office Guidelines for easy reference by the vetting officers.**

Response from the Administration

3.12 The **Head of Create Hong Kong** agrees with the audit recommendations. He has said that CreateHK will:

- (a) revise the Office Guidelines to clearly spell out that criminal record checks are not required for applicants of Supplier Licences and Store Licences who hold a valid SEO Licence;
- (b) document verbal approvals given for amendments to Discharge Permits; and
- (c) consider incorporating checklists in the Office Guidelines to ensure that all required supporting documents have been received before issuing licences and permits, and for easy reference by the vetting officers.

Submission of reports by licence and permit holders

3.13 Holders of licences and permits are required under the ESEGR and the conditions of licence/permit to submit various types of reports to the SELU on a periodic basis (see Table 3).

Table 3

Submission of reports by holders of licences and permits

Report	Key information	Time of submission
Discharge Report	Actual quantity of special effects materials used	Within seven days of the discharge
Conveyance Report	Name of the SEO supervising the conveyance	Within seven days of the conveyance
Supplier Stock Report	Exact quantity and description of all PSEMs in the possession of the supplier, duly certified by the operator-in-charge	Within 21 days of: (a) the date of the expiration of each 12-month period during the validity of the Supplier Licence; or (b) any date notified to the supplier by the Licensing Authority in writing
Store Stock Book	All entries made during the last three years	Upon expiry, suspension, surrender or revocation of the Store Licence
Store Transaction Report	All movements of PSEMs in or out of the store in the preceding month	Within seven working days at the beginning of each month

Source: Audit analysis of CreateHK records

Audit observations and recommendations

Discharge Reports

3.14 Audit reviewed the records of Discharge Reports for all the 3,526 Discharge Permits issued during the period January 2008 to September 2010. Audit noted that up to 31 December 2010, Discharge Reports had not been submitted for 94 Discharge Permits (see Table 4).

Table 4

**Submission of Discharge Reports
(January 2008 to September 2010)**

Year	No. of Discharge Permits issued	No. of Discharge Reports not submitted
2008	1,382	50
2009	1,350	25
2010 (up to September)	794	19
Total	3,526	94

Source: Audit analysis of CreateHK records

3.15 Audit further reviewed the Discharge Reports submitted for 10 Discharge Permits issued in each of the three years. Audit noted that there were delays in submitting the Discharge Reports (see Table 5).

Table 5

**Delays in submission of Discharge Reports
(January 2008 to September 2010)**

Year	No. of Discharge Reports reviewed	No. of Discharge Reports submitted with delays	Delay
2008	10	7	18 to 166 days (average 69 days)
2009	10	6	5 to 100 days (average 48 days)
2010 (up to September)	10	5	14 to 51 days (average 27 days)
Overall	30	18	5 to 166 days (average 48 days)

Source: Audit analysis of CreateHK records

3.16 To follow up with the holders of the Discharge Permits for non-submission of Discharge Reports, the Office Guidelines (before September 2010 — Note 3) stipulated that the SELU should send to the operators-in-charge concerned:

- (a) a written reminder three weeks after the due date;
- (b) a written warning five to six weeks after the due date; and
- (c) a strong written warning setting out the deadline and penalty to be imposed eight weeks after the due date.

3.17 Audit reviewed the follow-up action taken by the SELU with the holders of 112 (94 + 18) Discharge Permits who had not submitted Discharge Reports or had submitted the Reports with delays (see Tables 4 and 5). Audit found the following:

- (a) no record was available showing that the SELU had taken follow-up action with the holders of 108 Discharge Permits;
- (b) for 2 Discharge Permits, the Discharge Reports were received 24 weeks after the due date. The SELU only issued two written reminders after the Reports had been outstanding for 11 and 20 weeks respectively; and
- (c) for 2 Discharge Permits, written reminders were sent after the Reports had been outstanding for 5 and 9 weeks respectively. The Reports were received in the same week as the reminders were sent.

Conveyance Reports

3.18 The SELU did not promulgate any Office Guidelines regarding the follow-up action that should be taken on outstanding Conveyance Reports. Audit reviewed the records of Conveyance Reports submitted for all the 435 Conveyance Permits issued during the period January 2008 to September 2010. Audit noted that up to 31 December 2010, Conveyance Reports had not been received for 11 Permits (see Table 6). No record was available showing that the SELU had followed up with the permit holders.

Note 3: *The SELU revised the Office Guidelines in September 2010. The revised Office Guidelines have stipulated that a written reminder should be sent to the operator-in-charge three weeks after the due date. If the Discharge Report is still outstanding after four weeks, the SELU will decide the appropriate disciplinary action to be taken.*

Table 6

**Submission of Conveyance Reports
(January 2008 to September 2010)**

Year	No. of Conveyance Permits issued	No. of Conveyance Reports not submitted
2008	156	5
2009	149	4
2010 (up to September)	130	2
Total	435	11

Source: Audit analysis of CreateHK records

3.19 Audit further reviewed the Conveyance Reports submitted for 10 Conveyance Permits issued in each of the three years. Audit noted that there were delays in submitting the Conveyance Reports (see Table 7). No record was available showing that the SELU had taken follow-up action with the permit holders.

Table 7

**Delays in submission of Conveyance Reports
(January 2008 to September 2010)**

Year	No. of Conveyance Permits reviewed	No. of Conveyance Reports submitted with delays	Delay
2008	10	4	7 to 42 days (average 17 days)
2009	10	6	10 to 107 days (average 48 days)
2010 (up to September)	10	6	5 to 59 days (average 32 days)
Overall	30	16	5 to 107 days (average 33 days)

Source: Audit analysis of CreateHK records

Supplier Stock Reports

3.20 The SELU did not promulgate any Office Guidelines regarding the follow-up action that should be taken on outstanding Supplier Stock Reports. Audit examined the records of Supplier Stock Reports submitted for all nine Supplier Licences issued to four suppliers since June 2000. Up to September 2010, 13 Reports should have been submitted. Audit however found that:

- (a) up to 31 December 2010, 7 Reports had not been submitted;
- (b) 4 Reports were submitted late by 49 to 135 days;
- (c) 1 Report submitted was not properly prepared; and
- (d) except for 1 outstanding Report, no record was available showing that the SELU had followed up with the supplier for the outstanding Reports.

3.21 In February 2011, the SELU informed Audit that the Licensing Authority allowed the suppliers to submit the Reports prior to Supplier Inspections (see para. 4.2(g)) instead of within 21 days of the expiry of each 12-month period during the validity of the Licences. However, no record was available showing that the Authority had complied with the ESEGR to notify the suppliers in writing of such dates allowed for the submission of the Reports.

Store Stock Books

3.22 The SELU did not promulgate any Office Guidelines regarding the follow-up action that should be taken on outstanding Store Stock Books. Audit examined the submission records for 10 of the 41 Store Licences which had expired or had been suspended, surrendered or revoked since June 2000. Audit noted that:

- (a) up to 31 December 2010, Store Stock Books were not submitted by 4 licence holders;
- (b) Store Stock Books submitted by 2 licence holders only showed a snapshot of the stock on hand at the date of submission, instead of showing all the entries made during the past three years;
- (c) Store Stock Books submitted by 4 licence holders did not cover all the entries made during the past three years; and
- (d) no record was available showing that the SELU had taken follow-up action with the licence holders.

Store Transaction Reports

3.23 The SELU did not promulgate any Office Guidelines regarding the follow-up action that should be taken on outstanding Store Transaction Reports. Audit noted that, contrary to the licence conditions, the Reports were not submitted on a monthly basis. Instead, before each SELU's inspection, the holder of the Store Licence submitted a Report, which covered movements of PSEMs in or out of the store since the last inspection. Audit examined the submission records of five store licence holders from January to September 2010. Each licence holder should have submitted a monthly Store Transaction Report within the first seven days of each month. For the period, 45 Reports should have been submitted. Audit however noted that up to 31 December 2010, 22 Reports had not been submitted and 18 had been submitted late (see Table 8). No record was available showing that the SELU had taken follow-up action with the licence holders.

Table 8

**Submission of monthly Store Transaction Reports
(January to September 2010)**

Store Licence	No. of Reports not submitted	Report submitted with delay	
		No. of Reports	Delay
A	4	4	22 to 81 days (average 46 days)
B	5	3	3 to 58 days (average 29 days)
C	4	5	3 to 39 days (average 21 days)
D	9	N/A (Note)	N/A (Note)
E	0	6	26 to 85 days (average 49 days)
Overall	22	18	3 to 85 days (average 37 days)

Source: Audit analysis of CreateHK records

Note: The licence holder did not submit any monthly Store Transaction Report during the period. Instead, he submitted three statements, showing a snapshot of the stock on hand at the date of submission.

Audit recommendations

- 3.24 **Audit has recommended that the Head of Create Hong Kong should:**
- (a) **promulgate Office Guidelines regarding follow-up action that should be taken on non-compliances with the requirements relating to the submission of various types of reports;**
 - (b) **ensure that licence and permit holders properly prepare and submit reports in accordance with the requirements of the ESEGR and the licence and permit conditions; and**
 - (c) **ensure that appropriate follow-up action, including disciplinary action, is taken in accordance with the Office Guidelines on non-compliances with the requirements relating to the submission of reports.**

Response from the Administration

3.25 The Head of Create Hong Kong agrees with the audit recommendations. He has said that CreateHK will:

- (a) review the Office Guidelines with a view to promulgating in clearer terms the follow-up action on non-compliances with the requirements relating to the submission of various types of reports;
- (b) consider promulgating a standardised Store Stock Book format to facilitate the timely submission of properly-prepared reports in accordance with the requirements of the ESEGR and the licence and permit conditions;
- (c) review the requirement for the submission of Discharge Reports and Conveyance Reports as there are no safety implications even if their submission is discontinued; and
- (d) set up a bring-up system to ensure that appropriate follow-up action is taken, commensurate with the seriousness of the non-compliances relating to the submission of the various types of reports.

PART 4: INSPECTIONS BY SPECIAL EFFECTS LICENSING UNIT

4.1 This PART examines issues relating to inspections conducted by the SELU.

Types of inspections

4.2 The SELU conducts seven main types of inspections. They are:

- (a) Store Pre-licensing Inspections (SPIs) conducted before issuing Store Licences;
- (b) Demonstration Inspections (DIs) conducted before issuing Discharge Permits;
- (c) Venue Inspections (VIs) conducted before issuing Discharge Permits;
- (d) Actual Discharge Inspections (ADIs) conducted during the actual discharge of special effects materials;
- (e) Conveyance Inspections (CIs) conducted during the conveyance of PSEMs;
- (f) Store and Designated Area Inspections (SDAIs) conducted at licensed stores and their associated designated areas; and
- (g) Supplier Inspections (SIs) conducted at licensed suppliers' offices.

The SELU also conducts other inspections of miscellaneous nature, such as ad hoc inspections or inspections upon the request of licence or permit holders during PSEMs installation and disposal.

4.3 Inspections conducted by the SELU during the period January 2008 to September 2010 are shown in Table 9.

Table 9
Numbers of inspections
(January 2008 to September 2010)

Year	SPI	DI	VI	ADI	CI	SDAI	SI	Others	Total
2008	22 (10%)	15 (7%)	19 (9%)	6 (3%)	3 (1%)	124 (56%)	4 (2%)	26 (12%)	219 (100%)
2009	49 (19%)	30 (11%)	17 (6%)	15 (6%)	4 (2%)	120 (45%)	2 (1%)	27 (10%)	264 (100%)
2010 (up to September)	11 (4%)	25 (11%)	19 (8%)	9 (4%)	0 (0%)	164 (69%)	2 (1%)	7 (3%)	237 (100%)
Total	82 (11%)	70 (10%)	55 (8%)	30 (4%)	7 (1%)	408 (57%)	8 (1%)	60 (8%)	720 (100%)

Source: Audit analysis of CreateHK records

Audit observations and recommendations

Demonstration Inspections (DIs) and Venue Inspections (VIs)

4.4 According to the Office Guidelines, prior to issuing a Discharge Permit, DIs and/or VIs may have to be conducted. However, the Office Guidelines do not spell out clearly the criteria for determining when a DI and/or a VI should be conducted before issuing a Discharge Permit. It is only stipulated in the Guidelines that:

- (a) for simple cases, inspection is normally not required;
- (b) for complicated cases, VIs may be conducted prior to the issue of the Permits; and
- (c) for applications involving new or complicated special effects, or new equipment, the subject officers should conduct DIs.

4.5 Audit examined 30 Discharge Permits issued in the period January 2008 to September 2010 (10 Permits for each year). Audit found that:

- (a) DIs were not conducted for 25 Permits;
- (b) VIs were not conducted for 23 Permits; and
- (c) the decisions, with justifications, for not conducting DIs and/or VIs were not documented in any of the cases. As a result, it could not be ascertained whether the decisions were consciously made and properly justified by the subject officers.

4.6 In December 2010, the SELU informed Audit that no inspection was required:

- (a) for simple special effects scenes such as gun fights, bullet hits, small explosion scenes and small flame effects; or
- (b) when the SELU was familiar with the discharge venue and was satisfied with the proposed safety measures.

Store and Designated Area Inspections (SDAIs)

4.7 According to the Office Guidelines, SDAIs should be conducted for each licensed store and each designated area at least once every three months, i.e. the time interval between inspections should not be longer than 92 days. As at 31 December 2010, there were 57 licensed stores. Audit examined the inspection records of 10 stores and their associated designated areas for the period January 2008 to September 2010. Audit noted that of all the 133 SDAIs conducted, the time interval for 109 SDAIs was longer than 92 days (see Table 10).

Table 10

**Number of SDAIs conducted more than 92 days since the previous inspection
(January 2008 to September 2010)**

Year	No. of SDAIs	Elapsed time since the previous inspection (Day)
2008	34	97 to 782 (average 202)
2009	40	106 to 519 (average 178)
2010 (up to September)	35	93 to 344 (average 170)
Overall	109	93 to 782 (average 183)

Source: Audit analysis of CreateHK records

Supplier Inspections (SIs)

4.8 The Office Guidelines do not stipulate the required frequency of SIs. In December 2010, the SELU informed Audit that SIs were conducted at least twice a year. As at 31 December 2010, there were three licensed suppliers. Audit examined the inspection records for two of the three suppliers for the period January 2008 to December 2010. Audit noted that all SIs were conducted at irregular intervals. The time intervals between SIs varied from 94 to 766 days. Furthermore, for one supplier, no SI was conducted in 2009 and only one was conducted in 2010.

Actual Discharge Inspections (ADIs) and Conveyance Inspections (CIs)

4.9 The SELU conducts ADIs and CIs to ensure that holders of Discharge Permits and Conveyance Permits comply with the permit conditions. Audit noted that the required percentages of permits for which ADIs and CIs should be conducted, and the criteria for determining when an inspection should be conducted were not specified in the Office Guidelines. Audit analysed the inspection records for the period January 2008 to September 2010 and found that the numbers of ADIs and CIs conducted in a year as a percentage of permits issued varied from 0.4% to 1.1% and from 0% to 2.7% respectively (see Table 11). No documentation was available to justify the variations.

Table 11

**Numbers of ADIs and CIs as a percentage of permits issued
(January 2008 to September 2010)**

Year	ADI			CI		
	No. of ADIs	No. of permits issued	Percentage	No. of CIs	No. of permits issued	Percentage
2008	6	1,382	0.4%	3	156	1.9%
2009	15	1,350	1.1%	4	149	2.7%
2010 (up to September)	9	794	1.1%	0	130	0%
Overall	30	3,526	0.9%	7	435	1.6%

Source: Audit analysis of CreateHK records

Surprise element of inspections

4.10 The Office Guidelines stipulate that ADIs and SDAIs should be conducted on a pre-arranged and/or surprise basis. However, the Guidelines do not specify the required ratio between pre-arranged inspections and surprise inspections, and the criteria for determining when a surprise inspection (instead of a pre-arranged one) should be conducted.

4.11 Audit examined the inspection records for the period January 2008 to September 2010. Audit noted that, except for one surprise SDAI conducted in September 2010 (during the course of this audit), record was not available showing whether the inspections were conducted on a pre-arranged or surprise basis. In February 2011, the SELU informed Audit that, due to operational constraints, it was difficult, if not impossible, to conduct inspections without giving short notice to the licence or permit holders. Therefore, most inspections were pre-arranged with short notice given to the licence or permit holders.

Audit recommendations

- 4.12 **Audit has recommended that the Head of Create Hong Kong should:**
- (a) **clearly spell out in the Office Guidelines the criteria for determining when a DI and/or a VI should be conducted before the issue of a Discharge Permit;**
 - (b) **ensure that the decisions, with justifications, for not conducting DIs and/or VIs are properly documented;**
 - (c) **ensure that SDAIs are conducted according to the frequency stipulated in the Office Guidelines;**
 - (d) **clearly spell out in the Office Guidelines the required frequency of SIs and ensure that SIs are conducted at regular intervals;**
 - (e) **clearly spell out in the Office Guidelines the criteria for determining when ADIs and CIs should be conducted;**
 - (f) **clearly spell out in the Office Guidelines the required ratio between pre-arranged inspections and surprise inspections for ADIs and SDAIs, and the criteria for determining when a surprise inspection (instead of a pre-arranged one) should be conducted;**
 - (g) **ensure that ADIs and SDAIs are conducted on both pre-arranged and surprise basis; and**
 - (h) **ensure that the information on whether an inspection is a pre-arranged or a surprise one is clearly documented in the inspection report.**

Response from the Administration

4.13 The **Head of Create Hong Kong** agrees with the audit recommendations. He has said that CreateHK will:

- (a) incorporate in the Office Guidelines some illustrative examples to clearly spell out the criteria for determining when a DI and/or a VI are required;
- (b) review the frequency of SDAIs as specified in the Office Guidelines taking into account the stock level and the movement frequency of PSEMs in the stores;
- (c) review the required frequency of SIs and spell out clearly such frequency in the Office Guidelines; and

- (d) clearly document in the inspection report whether an inspection is a pre-arranged or a surprise one.

Documentation of inspection results

4.14 During an inspection, an inspection officer has to carry out various checking procedures before he can be satisfied that the pertinent requirements are properly complied with. After the inspection, he will record the results in an inspection report.

Audit observations and recommendations

4.15 The Office Guidelines stipulate a set of checking procedures for each of the four types of inspections, namely DIs, VIs, ADIs and SDAIs. These procedures consist of 11 to 20 checking steps for each type of inspections. For SPIs, a checklist is used to record the results of checking performed during the inspections. However, the checking procedures are not included in the Office Guidelines. For CIs and SIs, detailed checking procedures are not spelt out in the Office Guidelines.

4.16 Audit reviewed 10 inspection reports for each type of inspections, except CIs and SIs, conducted in the period January 2008 to September 2010. For CIs and SIs, Audit reviewed the inspection reports for all the 7 and 8 inspections respectively conducted in the period (see Table 9 in para. 4.3). Except for SPIs, Audit found that it was not possible to ascertain from the inspection reports whether all the checking steps had been properly carried out because:

- (a) the reports for DIs, VIs, ADIs, and SDAIs recorded the results of only some of the required checking steps; and
- (b) for CIs and SIs, detailed checking procedures are not spelt out in the Office Guidelines (see Table 12).

Table 12

**Results of checking steps recorded in inspection reports
(January 2008 to September 2010)**

Type of inspections	No. of required checking steps	No. of checking steps recorded in inspection reports
DI	11 to 14 (Note 1)	1 to 3
VI	15	1 to 6
ADI	18 to 20 (Note 1)	1 to 8
SDAI	15	7 to 10
SPI	8	8
CI	N/A (Note 2)	3 to 6
SI	N/A (Note 2)	1 to 6

Source: Audit analysis of CreateHK records

Note 1: Some checking steps were not applicable to every inspection.

Note 2: Detailed checking procedures are not spelt out in the Office Guidelines.

4.17 Audit considers that measures should be taken to enhance the efficiency and effectiveness of the inspections and to ensure that all the required checking steps are properly carried out.

Audit recommendations

4.18 **Audit has recommended that the Head of Create Hong Kong should:**

- (a) **clearly specify the checking steps for every type of inspections in the Office Guidelines with a view to facilitating the efficient and effective conduct of the inspections; and**
- (b) **design a checklist for each type of inspections and require the inspection officers to document in the inspection reports the results of every checking step performed during the inspections.**

Response from the Administration

4.19 The **Head of Create Hong Kong** agrees with the audit recommendations. He has said that CreateHK will incorporate in the existing Office Guidelines a checklist for each type of inspections covering all essential checking steps.

Inspection teams

4.20 It is not specified in the Office Guidelines the criteria for determining the number of officers who should take part in each inspection. Taking into consideration the nature of and the checking steps required for the inspections, Audit considers that there may be room for reducing the size of the inspection teams for some inspections. For instance, SDAIs for stores with small quantity of PSEMs may be inspected by one officer. In February 2011, the SELU informed Audit that there were safety considerations which limited the room for reducing the size of the inspection teams. For example, more than one officer were required to conduct inspections in venues which were difficult to gain access.

Audit observations and recommendation

4.21 Audit analysed the records of all the 237 inspections conducted during the period January to September 2010 and found that 85% of the inspections were carried out by inspection teams of more than one officer (see Table 13). No documentation was available showing the justifications for engaging two or more officers in carrying out such inspections.

Table 13

**Number of officers in inspection teams
(January to September 2010)**

No. of officers in inspection team	No. of inspections	Percentage
1	36	15%
2	172	73%
3 to 6	29	12%
Total	237	100%

Source: Audit analysis of CreateHK records

Audit recommendation

4.22 **Audit has recommended that the Head of Create Hong Kong should clearly spell out in the Office Guidelines the criteria for determining the number of officers in the inspection teams.**

Response from the Administration

4.23 **The Head of Create Hong Kong agrees with the audit recommendation.**

Handling of non-compliances

4.24 If non-compliances with licence/permit requirements are observed during inspections, the inspection officers will ask the operators-in-charge to take remedial action. Disciplinary action may also be taken against the operators-in-charge. Different levels of disciplinary action are specified in the Office Guidelines, varying from verbal warning to the revocation of licence/permit in serious cases. The Office Guidelines included a number of factors that should be considered in assessing the level of action to be taken, such as the seriousness and practical effects of the non-compliances, and the attitude of the operators-in-charge.

Audit observations and recommendations

4.25 Audit reviewed the records for inspections conducted in the period January 2008 to October 2010 and noted that there were cases of delay in:

- (a) identifying non-compliances with licence conditions;
- (b) taking remedial action by the operators-in-charge; and
- (c) taking disciplinary action.

Two cases are given below for illustration purpose.

Case 1

1. On 17 July 2009, the SELU conducted an SDAI. The inspection officer did not verify whether the total NEQ of the PSEMs held in the store had exceeded the maximum quantity allowed by the Store Licence. Instead, the officer asked the operator-in-charge to submit the stock records with total NEQ later.

2. About five and a half months later, on 4 January 2010, the operator-in-charge submitted the stock records as at 3 January 2010 with total NEQ of the PSEMs kept in the store. The total NEQ as at 3 January 2010 did not exceed the maximum allowed by the Licence.

3. The PSEM register held by the SELU contained information about the NEQ of every type of PSEMs. Audit calculated the total NEQ of the PSEMs held in the store as at 17 July 2009 (i.e. the date of inspection) and found that the total NEQ had exceeded the maximum allowed by the Store Licence.

4. In February 2011, the SELU informed Audit that the store was located in one of the three designated areas in a detached building. The total NEQ of the PSEMs in all the designated areas did not exceed the sum of the maximum NEQ allowed for each designated area. Hence, there was no safety concern on this non-compliance.

Audit comments

5. Had the inspection officer calculated on the spot the total NEQ of PSEMs held in the store, he should have identified that the total NEQ as at 17 July 2009 had exceeded the maximum allowed for the store. According to the Office Guidelines, timely remedial action by the operator-in-charge should have been demanded and disciplinary action should have been taken.

Source: Audit analysis of CreateHK records

Case 2

1. In the period January 2008 to October 2010, the SELU conducted seven SDAIs for a licensed store.
2. In five of the inspections, discrepancies were identified between the physical stock and the stock records kept by the store. Only one verbal warning was issued 104 days after the first inspection. No documentation was available showing the justifications for not taking disciplinary action after the other four inspections.
3. In February 2011, the SELU informed Audit that disciplinary action was not taken after the four inspections because the operator-in-charge had either taken or agreed to take prompt remedial action.

Audit comments

4. The SELU should have either taken disciplinary action on the non-compliances or properly documented the justifications for not doing so.

Source: Audit analysis of CreateHK records

Audit recommendations

4.26 **Audit has recommended that the Head of Create Hong Kong should take necessary measures to ensure that:**

- (a) **the inspection officer will endeavour to identify non-compliance cases without delay; and**
- (b) **appropriate action as stipulated in the Office Guidelines is taken on all non-compliance cases.**

Response from the Administration

4.27 The **Head of Create Hong Kong** agrees with the audit recommendations. He has said that CreateHK will take measures to verify the total NEQ of PSEMs during inspections.

PART 5: MANAGEMENT OF STORES OF PYROTECHNIC SPECIAL EFFECTS MATERIALS

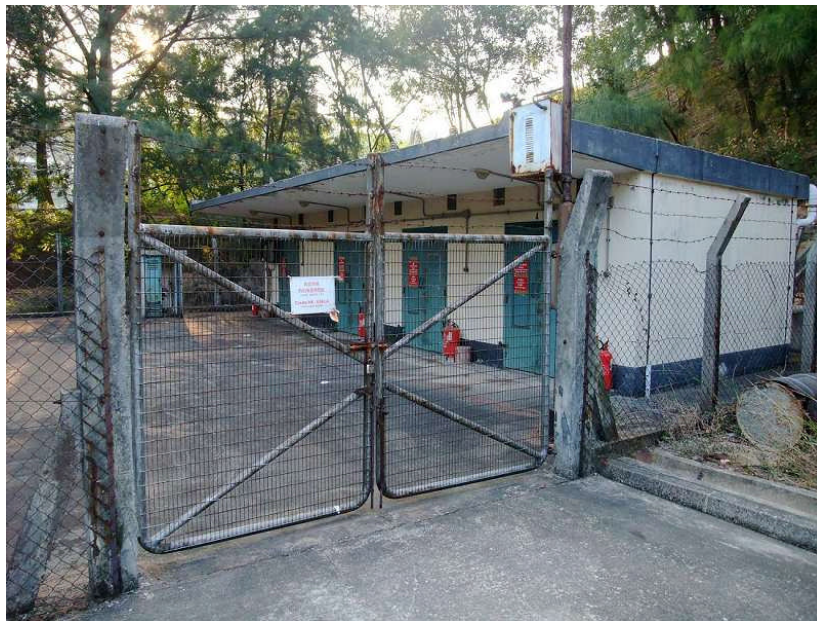
5.1 This PART examines the management of stores of PSEMs by the SELU.

PSEM Store

5.2 The SELU maintains a PSEM Store (see Photograph 2) in Castle Peak Bay, Tuen Mun. The Store was formerly an ammunition store of a British Army barracks. PSEMs purchased for conducting assessments relating to SEO Licence applications, and PSEMs surrendered by practitioners are kept in the Store.

Photograph 2

PSEM Store in Tuen Mun



Source: Photograph taken by Audit

Audit observations and recommendations

Office Guidelines

5.3 The Office Guidelines do not cover any procedures or requirements on the management of the PSEM Store. Audit considers that the SELU should incorporate procedures and requirements relating to the management of the PSEM Store into the Office Guidelines to enhance the management of the Store.

Stores and Procurement Regulations

5.4 The Stores and Procurement Regulations (SPRs) are made by the Financial Secretary/Secretary for Financial Services and the Treasury under the Public Finance Ordinance (Cap. 2). The SPRs apply to all public officers except in so far as they are inconsistent with any enactment.

5.5 Audit reviewed the operation of the PSEM Store and found that the SELU did not apply the SPRs in managing the Store. Consequently, many SPRs were not complied with. Examples of SPRs not complied with are summarised in Table 14.

Table 14

Examples of SPRs not complied with

SPR	Requirement
620(a)	Departments should account for serviceable and unserviceable stores in separate ledgers.
620(e)	The officer responsible for keeping the ledger should mark all corrections to entries in the stores ledgers clearly in red ink and initial them.
680(d)	Departments should maintain Surprise Inspection Book for recording results of surprise inspections.
1035(b)	The Controlling Officer should investigate discrepancies between the physical and ledger balances of stores.

Source: SPRs and Audit analysis of CreateHK records

Procurement of PSEMs

5.6 Under the ESEGR, every applicant for a SEO Licence is required to conduct a demonstration of the use of special effects materials as part of the assessment process before his application is approved. In September 2008, the SELU purchased 390 items of PSEMs from four suppliers at a total cost of \$25,545 for such purpose.

5.7 Audit reviewed the records for such purchases and found that no record was available showing how the purchase quantities were determined. Up to 30 November 2010, 104 (27%) of the 390 items had been used. As the shelf life of these PSEMs was two years, the remaining 286 items costing \$16,122 had passed their shelf life and became useless. Taking into account the relatively short shelf life of the PSEMs, wastage can be reduced by:

- (a) estimating the usage of PSEMs for assessment purpose more accurately; and
- (b) purchase PSEMs in smaller quantities with a view to reducing the stock level.

Safety requirements

5.8 When the ex-ammunition store was converted to the PSEM Store in 1999, the Commissioner of Mines prepared a set of safety requirements for the Store that should be complied with. The SELU had not promulgated any new set of safety requirements to replace the one prepared in 1999. Audit visited the Store on 6 January 2011 and found that there were non-compliances with such requirements (see Table 15). In February 2011, the SELU informed Audit that the set of safety requirements prepared by the Commissioner of Mines was obsolete. The SELU followed the relevant safety requirements stipulated in the Manufacture and Storage of Explosives Regulations — Approved Code of Practice and Guidance 2005 published by the Health and Safety Executive of the United Kingdom. The putting up of signs prohibiting smoking and naked light on the doors of the compartment stores complied with the Approved Code. Besides, there was no requirement under the Approved Code on the colour of the doors of PSEM stores.

Table 15

**Non-compliances with safety requirements
(6 January 2011)**

Requirement	Audit observation
The outside doors of the compartment stores should be painted red.	The doors were painted blue.
Detonating cord and soft detonators should be stored in different compartment stores.	Detonating cord and soft detonators were stored in the same compartment store.
A sign prohibiting smoking and naked light should be displayed on the perimeter fence at the gate entrance.	No such sign was displayed at the gate entrance. Instead, one such sign was mounted on the door of each compartment store.

Source: CreateHK records and Audit visit to the PSEM Store

Stores ledger

5.9 Prior to 1 January 2010, the SELU did not keep stores ledger for the PSEM Store. Instead, the SELU maintained a stock list which showed the balance on hand of each PSEM as at the date of preparation of the list, and the stock list was updated at irregular intervals. With effect from 1 January 2010, a computerised stores ledger has been maintained for the Store. Audit found that:

- (a) although the stores ledger was computerised, sometimes a hard copy of the ledger was printed out and served as a manual stores ledger. As a result, some entries were input into the computerised stores ledger while some others were simply marked on the manual stores ledger without updating the computerised ledger; and
- (b) the stores ledger did not record the movements of one PSEM during the period 4 February to 24 June 2010, although the ledger recorded a reduction of 35 items in the balance of the PSEM as at 24 June 2010.

Expiry date of stores

5.10 Information on the expiry date of PSEMs is important in the management of the PSEM Store. The SELU issued a Code of Practice on the Use, Storage and Conveyance of Special Effects Materials. The Code stated that since PSEMs would deteriorate with age, the stock should be used on a first-in-first-out basis. However, Audit found that of the 2,174 items of PSEMs recorded in the stores ledger as at 15 November 2010, the expiry dates of 1,836 items of PSEMs were not recorded therein.

NEQs of stores

5.11 The NEQ ceiling of the PSEM Store is 150 kilograms. It is important to monitor the total NEQ of all PSEMs kept in the PSEM Store to ensure that it does not exceed the maximum NEQ allowed for the Store. Audit found that, as at 15 November 2010, the NEQs of 1,751 items of PSEMs in the Store were not recorded in the stores ledger. Therefore, the total NEQ of all the PSEMs held in the Store was not readily available. In January 2011, the officer-in-charge of the Store informed Audit that the estimated total NEQ of the PSEMs kept in the Store was about 30 kilograms which was far below the NEQ ceiling.

Store inspection

5.12 Store inspection procedures and the required frequency were not stipulated in the Office Guidelines. Audit reviewed the store inspection records for the period 2008 to 2010 and found that store inspections in the three years were conducted at irregular intervals, with the time intervals between inspections ranging from 7 to 276 days (see Table 16).

Table 16

**Store inspections conducted at PSEM Store
(2008 to 2010)**

Year	No. of inspections conducted	Elapsed time since the previous inspection (Days)
2008	5	7 to 246 (average 102)
2009	4	14 to 118 (average 58)
2010	3	80 to 276 (average 150)

Source: Audit analysis of CreateHK records

Stocktake

5.13 Stocktake procedures and the required frequency were not stipulated in the Office Guidelines. For the years 2008 to 2010, the SELU's records showed that only one stocktake was conducted at the PSEM Store on 1 September 2010, covering 54 of all the 2,193 items held on that date. In December 2010, the SELU informed Audit that a full stocktake was conducted in 2009 and since then, every time when there was a transaction for a particular PSEM, the total quantity of that PSEM was counted.

5.14 In January 2011, Audit visited the PSEM Store and conducted a sample stocktake for 18 (with 791 items) of all the 155 PSEMs (with 2,174 items) held in the Store. Audit found that there was discrepancy between the physical balance and the ledger balance for 1 of the 18 PSEMs checked. According to the stores ledger, there should be 634 items of this PSEM. They were contained in 26 packages. On each package there was a label stating that the packing size was 25 items. Audit checked the number of items in the packages and found that the actual quantity in some packages was less than 25. In total, the physical balance was 29 items less than the ledger balance. The SELU informed Audit that the PSEM concerned was surrendered by a practitioner. For safety reasons, the SELU did not open the packages to check the correctness of the quantity stated on the package labels. The discrepancies arose because the items contained in some packages were less than the stated packing size.

5.15 Audit considers that this practice of not checking the contents of the surrendered PSEM packages may impose a risk on the safety of the PSEM Store because there may be cases where:

- (a) the actual quantity of PSEMs contained in the packages exceeds the quantity stated on the package labels; or
- (b) the actual PSEMs contained in the packages are different from the descriptions stated on the package labels.

Audit recommendations

5.16 **Audit has recommended that the Head of Create Hong Kong should:**

- (a) **ensure that the relevant requirements stipulated in the SPRs for management of stores are complied with;**
- (b) **if necessary, incorporate into the Office Guidelines procedures and requirements relating to the management of stores of PSEMs to supplement the SPRs;**

- (c) ensure that the optimum quantity of PSEMs is purchased taking into account the expected number of demonstrations that will be conducted;
- (d) consider reducing the stock level of PSEMs by making more frequent purchases of smaller quantities so that they will be used up before their expiry dates;
- (e) ensure that the safety requirements for the PSEM Store are strictly complied with;
- (f) discontinue the use of the manual stores ledger and input all the entries recorded in the manual ledger to the computerised ledger;
- (g) ensure that the information recorded in the computerised ledger is accurate and complete;
- (h) ensure that the expiry date and NEQ of each PSEM are entered in the stores ledger;
- (i) ensure that the total NEQ of the PSEMs held in the PSEM Store is readily available and does not exceed the maximum NEQ allowed for the Store;
- (j) clearly spell out in the Office Guidelines the required frequency for store inspections at the PSEM Store and ensure that store inspections are conducted at regular intervals; and
- (k) carry out stocktake at the PSEM Store regularly and investigate any discrepancies identified.

Response from the Administration

5.17 The **Head of Create Hong Kong** agrees with the audit recommendations. He has said that in determining the optimum order quantity of PSEMs (see para. 5.16(c)), CreateHK will take into consideration both the expected number of demonstrations that will be conducted and the additional administrative costs involved in making more frequent purchases.

5.18 The **Director of Government Logistics** supports the audit recommendations.

PART 6: PERFORMANCE MANAGEMENT

6.1 This PART examines issues relating to the performance management of the SELU.

Performance pledges

6.2 CreateHK sets a number of performance pledges for the SELU. These pledges cover the following areas of the SELU's work:

- (a) issue of Discharge Permits;
- (b) issue of Conveyance Permits;
- (c) issue of SEO Licences;
- (d) issue of Supplier Licences;
- (e) issue of Store Licences; and
- (f) issue of notifications to applicants on the results of checking on whether they are fit and proper persons for issuing licences/permits.

6.3 Every year in November, CreateHK submits to the CEDB the performance pledges relating to the issue of Discharge Permits and Conveyance Permits together with the actual performance in the previous year and the target for the coming year. Before the transfer of the responsibilities for the regulation of special effects materials from TELA to CreateHK in June 2009, the performance information was published in the Controlling Officer's Report of TELA.

Audit observations and recommendations

Performance for the issue of Discharge Permits

6.4 The SELU reported to TELA (for 2008 and 2009) and the CEDB (for 2010) that the performance pledges and targets relating to the issue of Discharge Permits were all achieved in the previous years (i.e. 2007 to 2009). Details of the performance pledges and targets are shown in Table 17:

Table 17

**Performance pledges and targets relating to issue of Discharge Permits
(2007 to 2009)**

Performance pledge	Target (%)
Upon receipt of all key information relating to safety aspect of the proposed special effects, issue Discharge Permits in respect of:	
(a) simple cases within 3 working days	100
(b) intermediate cases within 6 working days	100
(c) complicated cases within 14 working days	100

Source: Audit analysis of CreateHK records

Audit noted that the date of receipt of all the key information referred to in the performance pledges had not been entered into the SELU's computer database to facilitate measurement of the achievement of the pledges.

Other performance pledges

6.5 According to Civil Service Bureau Circular No. 7/2009, setting performance targets and measuring achievements are key components for the implementation of performance pledges. It was also stipulated in the Circular that achievements should be regularly tracked and analysed. However, Audit noted that CreateHK did not set targets for four performance pledges, i.e. to issue SEO Licences, Supplier Licences and Store Licences within three working days, and notification of results of fit and proper check (see para. 6.2(f)) within four weeks. Furthermore, no record was available showing that the SELU had tracked and analysed the actual time taken to issue Supplier Licences and Store Licences. For the performance pledge of issuing notifications to applicants on the results of fit and proper check, the SELU only tracked the date of receiving the results from the police, but not the actual date of issuing notifications. In February 2011, the SELU informed Audit that its practice was to issue notifications immediately (or on the following working day) upon receipt of the results from the police.

Publication of performance targets and achievements

6.6 According to Civil Service Bureau Circular No. 7/2009, updated achievement results should be published alongside performance targets for ease of reference by customers and departmental management. However, CreateHK only publishes the performance pledges on the SELU's services on its website, but not the achievement results.

Audit recommendations

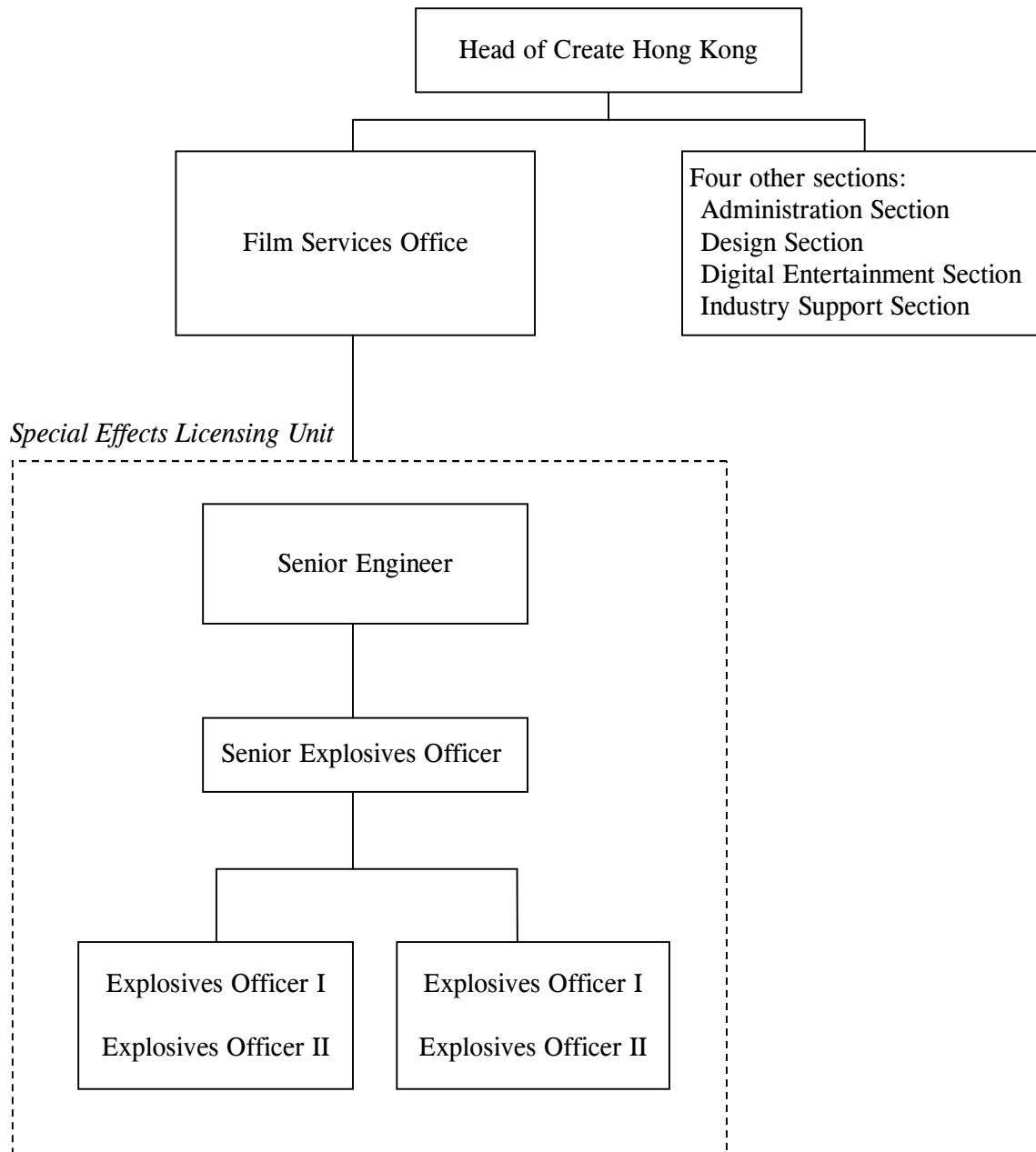
6.7 **Audit has recommended that the Head of Create Hong Kong should:**

- (a) **track and analyse the actual number of days taken to issue Discharge Permits upon receipt of all key information relating to the safety aspect of the proposed special effects;**
- (b) **set performance targets for all performance pledges and regularly track and analyse the achievements of these targets; and**
- (c) **publish on CreateHK's website the achievement results alongside the performance targets.**

Response from the Administration

6.8 The **Head of Create Hong Kong** agrees with the audit recommendations.

**Create Hong Kong
Organisation chart (extract)
(31 December 2010)**



Source: CreateHK records

Appendix B
(para. 1.11 refers)

Audit observations on inadequacies in the Office Guidelines

Audit observation	Paragraph
(a) Mechanism for changing the status of approved PSEMs to registered ones was not promulgated	2.12
(b) The Office Guidelines contained no provision on whether criminal record checks were required for applicants of Supplier Licences and Store Licences who held a valid SEO Licence	3.5
(c) Checklist for vetting applications of Store Licences was not incorporated	3.10
(d) Checklists for vetting applications of Supplier Licences, Discharge Permits and Conveyance Permits were not promulgated	3.10
(e) Follow-up action that should be taken on non-compliances with the requirements relating to submission of reports was not promulgated	3.18, 3.20, 3.22, 3.23
(f) Criteria for determining when a Demonstration Inspection and/or a Venue Inspection should be conducted before issuing a Discharge Permit were not clearly spelt out	4.4
(g) Required frequency of Supplier Inspections was not stipulated	4.8
(h) Required percentages of Discharge Permits and Conveyance Permits for which Actual Discharge Inspections and Conveyance Inspections should be conducted, and the criteria for determining when an inspection should be conducted were not specified	4.9
(i) Required ratio between pre-arranged inspections and surprise inspections for Actual Discharge Inspections and Store and Designated Area Inspections, and the criteria for determining when a surprise inspection (instead of a pre-arranged one) should be conducted were not specified	4.10
(j) Detailed checking procedures for Store Pre-licensing Inspections, Conveyance Inspections and Supplier Inspections were not spelt out	4.15
(k) Criteria for determining the number of officers that should take part in each inspection were not specified	4.20
(l) Procedures or requirements (e.g. inspection and stocktake procedures) on the management of the SELU's PSEM Store were not stipulated	5.3, 5.12, 5.13

Source: Audit analysis of CreateHK records

Audit observations on non-compliance with the Office Guidelines

Audit observation	Paragraph
(a) Not all the required supporting documents or information to support the issue of Discharge Permits were received	3.6
(b) Not all the required supporting documents had been received before the Discharge Permits were issued	3.6
(c) Applications for amendments to Discharge Permits were approved after the Permits had expired and the discharges had been made	3.7
(d) The class of SEO Licence specified in the Conveyance Permits for the supervisor of conveyance was not in accordance with the Office Guidelines	3.9
(e) Follow-up action taken with the holders of Discharge Permits who had not submitted the Discharge Reports or had submitted the Reports with delays did not comply with the Office Guidelines	3.17
(f) Store and Designated Area Inspections were not conducted at least once every three months	4.7
(g) No record was available showing whether Actual Discharge Inspections and Store and Designated Area Inspections were conducted on a pre-arranged or surprise basis	4.11
(h) No record was available showing that all checking steps specified in the Office Guidelines were performed during Demonstration Inspections, Venue Inspections, Actual Discharge Inspections and Store and Designated Area Inspections	4.16
(i) For non-compliances identified during inspections, timely remedial action by the operators-in-charge was not demanded and disciplinary action was not taken against the operators-in-charge in accordance with the Office Guidelines	4.25

Source: Audit analysis of CreateHK records

Acronyms and abbreviations

ADI	Actual Discharge Inspection
Audit	Audit Commission
CEDB	Commerce and Economic Development Bureau
CI	Conveyance Inspection
CreateHK	Create Hong Kong
DI	Demonstration Inspection
ESEGR	Entertainment Special Effects (General) Regulation
ESEO	Entertainment Special Effects Ordinance
NEQ	Net explosive quantity
PSEM	Pyrotechnic special effects material
SDAI	Store and Designated Area Inspection
SELU	Special Effects Licensing Unit
SEO	Special Effects Operator
SI	Supplier Inspection
SPI	Store Pre-licensing Inspection
SPR	Stores and Procurement Regulation
TELA	Television and Entertainment Licensing Authority
VI	Venue Inspection