

Authority: Administration Committee Report No. 5, Clause No. 7,
as adopted by City of Toronto Council on July 20, 21 and 22, 2004
Enacted by Council: September 30, 2004

CITY OF TORONTO

BY-LAW No. 778-2004

To amend City of Toronto Municipal Code Chapter 71, Financial Control, to incorporate amendments identified as part of a procurement review.

WHEREAS the City has undertaken a procurement process review to identify efficiency and accountability improvements and as part of the review identified associated changes to the Financial Control By-law; and

WHEREAS it is desirable to provide authority for the Chief Administrative Officer to authorize over-expenditures on commitments in amounts within the delegated staff spending authority; and

WHEREAS it is desirable to detail the Treasurer's authority to pay accounts and expenditures without the need of the issuance of a purchase order and to make technical amendments to clarify the approvals required in respect of over-expenditures within budget and over budget and associated definitions as a result of such changes and associated changes within the procurement review;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Chapter 71, Financial Control, of The City of Toronto Municipal Code is amended as follows:
 - A. By amending § 71-1 by:
 - (1) deleting the definition of APPROVAL OF COUNCIL and substituting the following:

APPROVAL OF COUNCIL – The funding approval authorized by the adoption of interim or final operating budgets or the capital budget.
 - (2) deleting the definition of CAPITAL PROJECT and substituting the following:

CAPITAL PROJECT – An undertaking in respect of which an expenditure is incurred to acquire, improve, demolish or maintain land, buildings, engineering structures, machinery and equipment, including installation of computer software, and is the level at which Council approves funding and funds control in the capital budget.

- (3) deleting the definition of PURCHASING AGENT and adding the following definition in lieu thereof:

CHIEF PURCHASING OFFICIAL – The person holding the position of Director of Purchasing and Materials Management in the Finance Department whose responsibility it is to supervise and carry out the procurement function on behalf of the City and includes his or her designate.

- (4) adding the following to the end of the definition of COMMITMENT:

For the purpose of this chapter, commitment also includes a settlement of a legal action provided such settlement complies with the spending authorities as set out in this chapter and has the concurrence of the City Solicitor and, where appropriate, the Director of Risk Management within the Finance department.

- B. By adding the following section:

§ 71-1.1. Monetary References.

All references in this chapter to dollar amounts are Canadian dollars and shall be considered to be exclusive of taxes unless otherwise provided.

- C. By deleting § 71-8C and substituting the following:

- C. If there is no excess available from another departmental program, any expenditure(s) that would result in a department exceeding the funding available in a program requires Council approval prior to a commitment being made to incur such expenditure(s), except for purchases made in accordance with § 195-9B(1) or § 195-10F of Chapter 195, Purchasing.

- D. By deleting § 71-9 and substituting the following:

§ 71-9. Spending authority; capital budget.

- A. Review of expenditure levels.

- (1) The capital budget approved by Council establishes the spending authority for a capital project. Department heads shall ensure that expenditures do not exceed the approved budget(s).
- (2) Department heads shall report any anticipated over-expenditure to the Treasurer and the appropriate standing committee as soon as such potential over-expenditure is known.

- B. Over-expenditures on a capital project.
- (1) A department head is authorized to approve additional expenditures where costs for a capital project increase to the extent that they exceed the original funding approval for the capital project by the lesser of 10 percent or \$500,000, provided that excess funds are available in another capital project to fund the over-expenditure. If costs for a capital project exceed the original funding by more than 10 percent or \$500,000 or excess funds are not available in another capital project, Council approval must be obtained before any payment can be made to incur the additional cost, except for purchases made under §§ 195-9B(1) or 195-10F of Chapter 195, Purchasing. If §§ 195-9B(1) or 195-10F of Chapter 195, Purchasing applies, the approval of the Chief Administrative Officer is required before any payment may be made for the additional costs, and such additional costs shall be reported to Council. If the additional funding is to be provided through the issuance of debentures, the Treasurer shall certify that such funding is within the city's updated debt and financial obligation limit.
 - (2) If Council approval must be obtained under Subsection B(1), a report to Council shall be prepared by the Treasurer and the department head identifying suggested sources of funding for the over-expenditure. If the additional funding is to be provided through the issuance of debentures, the Treasurer shall certify that such funding is within the City's updated debt and financial obligation limit.
- C. Except where a capital project has been financed through the issuance of debentures and subject to compliance with the provisions of Chapter 227, Reserves and Reserve Funds, unspent funds in any capital project that is completed shall be applied, subject to the approval of the Treasurer, first against other capital projects in the department that may be overspent before any reallocation is requested to fund a new capital project within the department. If there are still excess funds, the Treasurer shall apply such funds to other departmental over-expenditures, then to other capital projects. Such reallocations shall be reported to Council.
- D. Allocations between subprojects within a capital project and any subsequent reallocations of these funds among other subprojects or the addition of subprojects may be made by a department head, provided that such reallocation does not exceed the approval by Council for the capital project.
- E. Any reallocation of budget between capital projects in an amount of less than \$250,000 requires approval of the Treasurer. Any reallocation of budget in excess of \$250,000 between capital projects requires approval of the Treasurer and subsequent Council approval of the reallocation.

- F. Departments in preparing their annual capital budgets must include in their submissions a cash flow forecast which indicates the entire capital expenditure for each capital project, including those capital projects approved in previous years.
- G. Any capital project approved in a previous year for which a cash flow forecast is not included in a subsequent capital budget shall be considered to be completed and may be closed by the Treasurer after consultation with the department head. If additional expenditures are expected to occur as a result of litigation or claims, it may not be appropriate to reflect those expenditures in the capital forecasts. In such cases the department head must advise the Treasurer of the possibility of additional costs to the capital project.
- H. The Treasurer, after consultation with the department head, shall close any capital project that is considered to be complete and shall submit a report to Council on an annual basis detailing all capital projects closed during the year.
- E. By renaming Article III – Council Approval as Article III – Compliance.
- F. By deleting § 71-10 and substituting the following:
- § 71-10. Expenditure compliance.**
- No expenditure shall be made and no account shall be paid by or on behalf of the City, except with Council approval and in accordance with the provisions of this chapter.
- G. By adding the following section:
- § 71.10.1 Commitment compliance.**
- No commitment shall be made except in accordance with the provisions of this chapter and the provisions of Chapter 195, Purchasing.
- H. By renumbering § 71.10.1. Reporting of certain financial information, to § 71-10.2. Reporting of certain financial information.
- I. By deleting § 71-11 and substituting the following:
- § 71-11. Spending authorities.**
- A. The Chief Administrative Officer or his or her designate may make a commitment, not exceeding \$500,000 in any one instance, provided that approved purchasing procedures have been followed in accordance with the provisions of Chapter 195, Purchasing and cash flow funding has been provided in the interim operating budget, operating budget or capital budget to the satisfaction of the Treasurer. The Chief Administrative

Officer may delegate any amount within the limit of \$500,000 to a Department Head. A Department Head may further delegate any amount within the commitment authority delegated to him or her to a director.

- B. Despite Subsection A, The Chief Administrative Officer may amend the spending authority of any staff member and may place conditions or restrictions on the delegation of authority to any staff member within the \$500,000 limit of the commitment authority applicable to the Chief Administrative Officer.
- C. A commitment in excess of \$500,000 requires Bid Committee, Standing Committee or Council approval in accordance with the provisions of Chapter 195, Purchasing, before expenditures may be made.

J. By adding the following section:

§ 71-11.1. Over-expenditures on commitments.

- A. A department head, or his or her delegate, may authorize expenditures in excess of the amount of a commitment, entered into in compliance with this chapter and Chapter 195, Purchasing, to a maximum of 10 percent of the original amount of the commitment, provided that
 - (1) Such additional amount shall not exceed \$500,000; and
 - (2) Council has:
 - (a) Provided funds in the operating or capital budget for that purpose; or
 - (b) Approved the project and the funding therefor; and
 - (c) Sufficient funds remain in the project or program; and
 - (3) If the commitment was within the spending authority of staff, the person authorizing the additional amount is in a management position superior to that of the person which authorized the original amount of the commitment.
- B. Despite Subsection A, the Chief Administrative Officer, or his or her delegate, may authorize additional expenditures in excess of the original amount of a commitment, entered into in compliance with this chapter and with Chapter 195, Purchasing, of up to \$500,000 provided there is compliance with the conditions contained in Subsection A(2) and, in the event of any delegation under this Subsection B by the Chief Administrative Officer, additional compliance with the condition contained in Subsection A(3).

C. Any amendment to a commitment which requires expenditures in excess of the amounts that may be authorized under Subsection A or B requires approval of the appropriate standing committee prior to the making of a payment for the expenditure except for purchases made under § 195-9B(1) or § 195-10F of Chapter 195, Purchasing.

K. By deleting § 71-14 and substituting the following:

§ 71-14. Authority to pay certain accounts.

Despite any other provision in this chapter or any provision of Chapter 195, Purchasing, the Treasurer is authorized to pay the accounts and expenditures set out in Schedule A at the end of this chapter without the involvement of the Chief Purchasing Official or the issuance of a purchase order, provided that funds are available in the operating budget or a capital project for that purpose.

L. By adding the following Article as Article XI:

**ARTICLE XI
Review**

§ 71-20. Comprehensive Review.

The Treasurer shall undertake a comprehensive review of this chapter every five years.

M. By renumbering Article XI – Title to Article XII – Title and renumbering § 71-20. Short title to § 71-21. Short title.

N. By adding the attached Schedule “A” to the chapter.

2. This by-law comes into force on November 1, 2004.

ENACTED AND PASSED this 30th day of September, A.D. 2004.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)

SCHEDULE "A" TO CH. 71, FINANCIAL CONTROL

In accordance with § 71-14, the following items can be processed without purchase order or a sole source request form.

1. Utilities

Toronto Hydro
Water and sewage charges
Natural gas
Basic telephone/long distance service
Basic television cable service

2. Training and Education

Membership fees-Professional Associations
Magazine and Periodical Subscriptions
Training Registration (except where bulk training is arranged through a bidding process)
Conference and Seminars

3. Refundable employee expenses

Meal allowances
Travel expenses
Entertainment allowance
Hotel accommodations
Mileage
Cash advance

4. General Expenses

Property Taxes
Postage (Canada Post)
Licenses, e.g. vehicles
Charges to or from other government agencies including contracts with Federal, Provincial or Municipal governments Agencies, Boards, Commissions and Railways for minor goods and services incidental to an approved Capital project, provided that the goods and services of the main project shall be subject to the by-law
Grants to organizations
Land purchases/expropriation
Land registry fees
Refunds
Legal settlements
Grievance payments
Experts and witnesses for civil actions or administrative hearings
Arbitrators and Mediators

5. Federal, Provincial and Municipal mandated programs (including but not limited to the following):

Ontario Works Act – delivery of related assistance programs such as Funeral, Cemetery and Burial Services administered by Community and Neighbourhood Services

Health Care Professional Caregivers and Services such as doctors and contraceptives (as approved by Toronto Board of Health)

Required Medical Services and Supplies as defined by the Province of Ontario such as services obtained from Sunnybrook Hospital for EMS

Services provided by City based Community Groups such as Community Services (eg. snow shovelling, grass cutting and home care transfer services to seniors and adults with disabilities)

Delivery of the Provincial Court Program such as Court Translators

6. TTC Tokens

7. Petty cash replenishment

8. Payments to past and current employees

All salaries, wages and benefits due to any person in the employ of the City.

All retiring allowances and mandatory sick pay grants due to any person previously in the employ of the City.

9. Government payments

All accounts for fees and levies payable to the federal, provincial or other municipal government, or to any agency, board or commission thereof.

10. Debt

All accounts for payments of principal or interest on debentures, loans or overdrafts, including foreign exchange in accordance with Council's investment policy.

11. School Board, TTC, Capital Works

All accounts for payments to the school boards of amounts raised for them by tax levy.

All accounts for advances to the Toronto Transit Commission or the school boards on account of capital works, pending the issuance of debentures where all necessary authorizations of such capital works have been received, such advances to be made after receipt of a written request.

12. ABC operating

All accounts for advances to agencies, boards and commissions on account of the operating budget therefor authorized by Council for their purposes.

13. Pension deductions and contributions

All accounts relating to employee pension deductions and employer pension contributions in respect of the salaries and wages to those persons who are paid by or employed by the City, and which are payable in respect of any duly authorized registered pension plan on behalf of the respective employee.

14. Repairs to City roads

All accounts for the costs of repairs to City roads certified by the Commissioner of Works and Emergency Services, provided that the cost is recoverable from a public utility corporation or a corporation carrying out a public utility function.