

Authority: Additional Matter, Report dated November 24, 2004, from Mayor Miller, entitled "Review of the City's Administrative Structure", as adopted as amended, by City of Toronto Council on November 30, December 1 and 2, 2004
Enacted by Council: April 14, 2005

CITY OF TORONTO

BY-LAW No. 331-2005

To amend Municipal Code Chapter 71, Financial Control, and Chapter 195, Purchasing, to reflect the reorganization of the City's administrative structure.

WHEREAS the *Municipal Act*, R.S.O. 1990 has been replaced by the *Municipal Act, 2001*; and

WHEREAS under the City's administrative reorganization approved by Council both the Deputy City Manager and Chief Financial Officer and the Treasurer will exercise the powers and duties of a treasurer under the *Municipal Act, 2001*; and

WHEREAS under the administrative reorganization:

- (1) Six large departments have been replaced by organizational units called divisions (some called offices) in addition to the office of the Auditor General;
- (2) The six department commissioners have been replaced by administrative officials who will exercise variable administrative responsibilities, including financial control, for some of the divisions; and
- (3) A division head is responsible for budget management of his or her program, or services within a program, as the case may be; and

WHEREAS by the adoption of Clause 40 of Report 4 of the Policy and Finance Committee at its meeting held on April 12, 13 and 14, 2005, Council has authorized the amendment of the Municipal Code respecting the introduction of bills to Council to make technical amendments;

WHEREAS Article I, Interpretation, of Chapter 1, General Provisions, of The City of Toronto Municipal Code applies to City by-laws;

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

1. Chapter 71, Financial Control.

Chapter 71, Financial Control, is amended as follows:

A. Section 71-1 is amended as follows:

- (1) By adding the following definitions in alphabetical order:

CHIEF FINANCIAL OFFICER — The person appointed by Council as the Deputy City Manager and Chief Financial Officer.

CITY MANAGER — The person appointed by Council as the City's chief administrative officer under section 229 of the *Municipal Act, 2001*.

DIVISION:

- A. An organizational unit of the City, whether or not it is called a division or office, that is headed by a division head.
- B. For the purpose of making a commitment under this chapter, includes the office of the City Manager.

DIVISION HEAD:

- A. Any General Manager or any director or executive director reporting to a City Manager, Deputy City Manager, the Chief Financial Officer, the Treasurer or Chief Corporate Officer.
 - B. The Auditor General, the City Clerk, the City Solicitor and the Medical Officer of Health.
 - C. For the purpose of making a commitment under this chapter for their office, a Deputy City Manager, the Chief Financial Officer, the Treasurer and the Chief Corporate Officer.
 - D. A person authorized to act in the place of an official listed in Subsections A, B or C by Council or by the City Manager or another official under delegated authority.
- (2) By deleting the definitions of "Chief Administrative Officer" "department", "department head" and "director".
 - (3) By amending the definition of "Chief Purchasing Official" by deleting "in the Finance Department".
 - (4) By deleting the definition of "commitment" and substituting the following:

COMMITMENT:

- A. A contractual obligation for the purchase of goods, services or construction, including the execution of any document evidencing the obligation.
 - B. A settlement of a legal action, if the settlement complies with the spending authorities in this chapter and has the concurrence of the City Solicitor and, where appropriate, the Manager of Insurance and Risk Management within the Corporate Finance division.
- (5) By amending the definition of "program" by deleting "of a department".

- (6) By amending the definition of “standing committee” by deleting “, as amended, or successor by-law”.
- (7) By amending the definition of “subproject” by deleting “department” and substituting “division”.
- (8) By deleting the definition of “Treasurer” and substituting the following:

TREASURER — A person appointed to the management position of Treasurer in the City’s administrative organization and who has also been appointed as a deputy treasurer under section 286 of the *Municipal Act, 2001*.

- B. Section 71-4 is amended by deleting “departments” and substituting “divisions”.
- C. Section 71-7 is deleted and the following substituted:

§ 71-7. Capital budget.

- A. Council, in adopting the capital budget, shall determine the sums required for each capital project listed in the capital budget, and each sum provided for a capital project shall be a capital account.
- B. The Chief Financial Officer shall certify that funding for the capital projects in the capital budget is within the City’s updated debt and financial obligation limit.
- D. Section 71-8 is deleted and the following substituted:

§ 71-8. Spending authority; operating budget.

- A. Review of expenditure levels.
 - (1) The operating budget approved by Council establishes the spending authority for a program.
 - (2) Division heads shall ensure that expenditures do not exceed the approved program budget.
 - (3) Spending or funds control is based on the total gross expenditures approved for a program.
 - (4) Division heads must review expenditure levels to address revenue shortfalls.
 - (5) A division head may request funds control to be implemented at a lower level than the program level.

- (6) Division heads shall report any anticipated over-expenditure to the Chief Financial Officer and the appropriate standing committee as soon as the potential over-expenditure is known.
- B. Any expenditure that would result in a division exceeding the funding available in a program requires Council approval before a commitment is made to incur the expenditure, except for purchases made under § 195-9B(1) or 195-10F of Chapter 195, Purchasing.
- C. Reallocations; transfer between programs and services.
 - (1) Reallocation of approved budgets of more than \$500,000 requires Council approval.
 - (2) The transfer of approved budgets of more than \$500,000 between programs or services or between programs and services affecting the net operating budget for a program requires the approval of the Chief Financial Officer, the City Manager and Council.
 - (3) The transfer of approved budgets of not more than \$500,000 in respect of each reallocation between services within a program which do not affect the net operating budget for the program requires the approval of the Chief Financial Officer and the City Manager.
 - (4) Any reallocation under Subsection C(3) shall be reported to Council not later than the second regular Council meeting following the reallocation.
 - (5) Transfers during the year between non-tax-supported services, such as water and wastewater, can be made where it is not contrary to law, only within that program area and not to other programs within a division.
- D. Auditor General.
 - (1) Despite Subsection C(2), the transfer of approved budgets between services within the office of the Auditor General affecting the net operating budget of the office of the Auditor General requires the approval of the Audit Committee, the Chief Financial Officer and Council.
 - (2) Despite Subsection C(3) the transfer of approved budgets of not more than \$500,000 in respect of each reallocation between services within the office of the Auditor General which do not affect the net operating budget for the office of the Auditor General requires the approval of the Audit Committee, the Chief Financial Officer and Council.

E. Section 71-9 is deleted and the following substituted:

§ 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.
- (2) Division heads shall ensure that expenditures do not exceed the approved budget.
- (3) Division heads shall report any anticipated over-expenditure to the Chief Financial Officer and the appropriate standing committee as soon as the potential over-expenditure is known.

B. Over-expenditures on a capital project.

- (1) A division 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, if excess funds are available in another capital project to fund the over-expenditure.
- (2) 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.
- (3) If § 195-9B(1) or 195-10F of Chapter 195, Purchasing, applies, the approval of the City Manager or a Deputy City Manager is required before any payment may be made for the additional costs, and the additional costs shall be reported to Council.
- (4) If the additional funding is to be provided through the issuance of debentures, the Chief Financial Officer shall certify that the funding is within the City's updated debt and financial obligation limit.
- (5) If Council approval must be obtained under Subsection B(2), the Chief Financial Officer together with the division head and the appropriate Deputy City Manager shall prepare a report to Council identifying suggested sources of funding for the over-expenditure.

C. Unspent funds.

- (1) Except where a capital project has been financed through the issuance of debentures and subject to compliance with Chapter 227, Reserves and

Reserve Funds, unspent funds in any capital project that is completed shall be applied, subject to the approval of the Chief Financial Officer, against other capital projects that may be overspent before any reallocation is requested to fund a new capital project within the division.

- (2) A reallocation under Subsection C(1) 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 division head, if the reallocation does not exceed the approval by Council for the capital project.
 - E. Reallocations.
 - (1) Any reallocation of budget between capital projects in an amount of not more than \$250,000 requires approval of the Chief Financial Officer.
 - (2) Any reallocation of budget between capital projects of more than \$250,000 requires approval of the Chief Financial Officer and subsequent Council approval of the reallocation.
 - F. Divisions 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. Closure review.
 - (1) 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 Chief Financial Officer after consultation with the division head.
 - (2) A division head shall advise the Chief Financial Officer if additional expenditures are expected to occur as a result of litigation or claims as it may not be appropriate to reflect those expenditures in the capital forecasts.
 - H. The Chief Financial Officer, after consultation with the division 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.
- F. Section 71-10.2 is amended as follows:
- (1) Subsection A is amended by deleting “department” in the first line and substituting “division”.

- (2) Subsection A(1)(f) is deleted and the following substituted:
 - (f) Impact on reserves or reserve funds or both, including current and future liabilities;
 - (3) Subsection A(2) is amended by deleting the three occurrences of “Treasurer” and substituting in each case “Chief Financial Officer”.
 - (4) Subsection B is amended by deleting “Treasurer shall review such” and substituting “Chief Financial Officer shall review the”.
- G. Section 71-11 is deleted and the following substituted:
- § 71-11. Spending authorities.**
- A. A commitment of more than \$500,000 requires Bid Committee, Standing Committee or Council approval as required by Chapter 195, Purchasing, before expenditures may be made.
 - B. The City Manager or his or her designate may make a commitment of not more than \$500,000 in any one instance, if the purchasing procedures in Chapter 195, Purchasing, have been followed and cash flow funding has been provided in the interim operating budget, operating budget or capital budget to the satisfaction of the Chief Financial Officer.
 - C. The City Manager may delegate commitment authority in any amount within the limit of \$500,000 to a division head.
 - D. A General Manager, a Deputy City Manager, the Chief Financial Officer, the Treasurer, the Chief Corporate Officer and the Medical Officer of Health may delegate any amount within the commitment authority delegated to him or her by the City Manager to a person holding a management position directly reporting to them.
 - E. Despite Subsections C and D, the City Manager 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 City Manager.
- H. Section 71-11.1 is amended as follows:
- (1) Subsection A is amended by deleting “department” in the first line and substituting “division”.
 - (2) Subsection B is amended by deleting the two occurrences of “Chief Administrative Officer” and substituting in both cases “City Manager”.

- I. Section 71-12A is amended by deleting the two occurrences of “department” and substituting in both cases “division”.
- J. Section 71-13 is amended by deleting the one occurrence of “Treasurer” in the section title and in the section and substituting in both cases “Chief Financial Officer”.
- K. The title of Article V is amended by deleting “Treasurer” and substituting “Chief Financial Officer”.
- L. Section 71-14 is amended as follows:
 - (1) By deleting “provided that” and substituting “if”.
 - (2) By deleting “Treasurer” and substituting “Chief Financial Officer”.
- M. Section 71-16 amended as follows:
 - (1) Subsection A(2) is amended by deleting “departments” and substituting “programs”.
 - (2) Subsection B is deleted and the following substituted:
 - B. Approval must be obtained from the Chief Financial Officer for any use of contingency funds for any purpose.
 - C. The Chief Financial Officer shall report to Council requesting approval for the use of contingency funds.
- N. Section 71-17 is deleted and the following substituted:

§ 71-17. Authority to write off outstanding debt.

 - A. The Chief Financial Officer is authorized to write off outstanding amounts owing to the City as uncollectable, if the amount is not more than \$10,000 and is not an amount raised as taxation or deemed to be taxes, except for items added to the tax bills for collection purposes only and not as a result of a tax or assessment appeal.
 - B. Write-offs of amounts owing to the City of more than \$10,000 must be approved by Council except for tax reductions as a result of a successful appeal of assessment or taxes by a taxpayer.
- O. Section 71-18 is amended as follows:
 - (1) The title of the section is amended by deleting “Departmental” and substituting “Divisional”.

- (2) Subsection A is amended as follows:
 - (a) By deleting “Chief Administrative Officer and each department” and substituting “City Manager and each division”.
 - (b) By deleting the two occurrences of “department” and substituting in both cases “division”.
- (3) Subsection B is amended as follows:
 - (a) By deleting “Chief Administrative Officer or department” and substituting “City Manager or division”,
 - (b) By deleting “department” and substituting “division”.
- P. Section 71-19 is deleted.
- Q. Section 71-20 is amended by deleting “Treasurer” and substituting “Chief Financial Officer”.
- R. Schedule A to Chapter 71 is amended as follows:
 - (1) Section 5 of the schedule is amended as follows:
 - (a) By deleting “Community and Neighbourhood Services” and substituting “the Social Services division”.
 - (b) By deleting “EMS” and substituting “the Emergency Medical Services division”.
 - (3) Section 14 of the schedule is amended by deleting “Commissioner of Works and Emergency Services” and substituting “General Manager of Transportation Services”.

2. Chapter 195, Purchasing.

Chapter 195, Purchasing, is amended as follows:

- A. Section 195-1 is amended as follows:
 - (1) By adding the following definitions in alphabetical order:

CHIEF FINANCIAL OFFICER — The person appointed by Council as the Deputy City Manager and Chief Financial Officer.

CITY MANAGER — The person appointed by Council as the City’s chief administrative officer under section 229 of the *Municipal Act, 2001*.

DELEGATE — A staff member who has been delegated commitment authority under § 71-11D of Chapter 71, Financial Control.

DIVISION:

- A. An organizational unit of the City, whether or not it is called a division or office, that is headed by a division head.
- B. For the purpose of making a commitment under this chapter, includes the office of the City Manager.

DIVISION HEAD:

- A. Any General Manager or any director or executive director reporting to a Deputy City Manager, the Treasurer or the Chief Corporate Officer.
- B. The Auditor General, the City Clerk, the City Solicitor and the Medical Officer of Health.
- C. For the purpose of making a commitment under this chapter for their office, a Deputy City Manager, the Chief Financial Officer, the Treasurer and the Chief Corporate Officer.
- D. A person authorized to act in the place of an official listed in Subsections A, B or C by Council or by the City Manager or another official under delegated authority.

DIVISIONAL PURCHASE LIMIT — The maximum dollar amount that any division head may expend in any one instance to procure goods and services directly rather than through the offices of the Chief Purchasing Official, such amount not to exceed \$7,500 or such increased amount as approved by the Chief Administrative Officer under § 195-10D.

- (2) By deleting the definitions of “Chief Administrative Officer” “department”, “department head”, “departmental purchase limit” and “director”.
- (3) By deleting the definition of “award” and substituting the following:

AWARD — The acceptance of a bid or a proposal by the Chief Purchasing Official, City Manager, division head, delegate, the Bid Committee, standing committee or Council as authorized by this chapter.

- (4) By amending the definition of “Chief Purchasing Official” by deleting “in the City’s Finance Department and”.
- (5) By amending the definition of “Financial Control By-law” by deleting “Code or successor by-law” and substituting “Municipal Code”.

- (6) By amending the definition of “funding approval” as follows:
 - (a) By deleting the title “FUNDING APPROVAL —” and substituting “FUNDING APPROVAL:”.
 - (b) By amending Subsections A and B(1) in both cases by deleting “Treasurer” and substituting “Chief Financial Officer”.
 - (c) By deleting Subsection B(2)(a) and substituting the following:
 - (a) The written confirmation of a division head that the commitment is in respect of necessary current and ongoing division operations and that the subject matter of the commitment was contained in a program that had funding approval in the prior year; and
 - (d) By amending Subsection B(2)(b) by deleting “Treasurer” and substituting “Chief Financial Officer”.
 - (7) By amending the definition of “standing committee” by deleting “, as amended, or successor by-law”.
 - (8) By amending the definition of “subproject” by deleting “department” and substituting “division”.
 - (9) By deleting the definition of “Treasurer” and substituting the following:

TREASURER — A person appointed to the management position of Treasurer in the City’s administrative organization and who has also been appointed as a deputy treasurer under section 286 of the *Municipal Act, 2001*.
- B. Section 195-3 is amended by deleting “departments” and substituting “divisions”.
- C. Section 195-5 is amended as follows:
- (1) Subsection A is amended by deleting “departments” and substituting “divisions”.
 - (2) Subsection I is amended by deleting “department” and substituting “division”.
- D. Section 195-6 is amended by amending Subsections A and B in both cases by deleting “department” and substituting “division”.

E. Section 195-7 is deleted and the following substituted:

§ 195-7. Chief Purchasing Official and opening of responses.

- A. Responses received by the Chief Purchasing Official in the location specified in the call before the time stipulated therein for receipt shall be opened by the Chief Purchasing Official at the time and location specified in the call, and the names of the bidders and proponents shall be read out.
- B. The prices contained in bids only, where appropriate in the discretion of the Chief Purchasing Official, shall also be read out.
- C. The prices contained in proposals shall not be read out.
- D. All bidders and proponents and other interested members of the public shall be entitled to be present when the information is read out.

F. Section 195-8 is amended as follows:

- (1) By amending Subsections A and B in both cases by deleting “department” and substituting “division”.
- (2) By amending Subsection B(2) by deleting “department’s” and substituting “division’s”.

G. Section 195-9 is amended as follows:

- (1) By amending Subsection A by deleting “department” and substituting “division”.
- (2) By deleting Subsection B(1) and substituting the following:
 - (1) When an event occurs that the City Manager, a division head or a delegate determines is a threat to public health, the maintenance of essential City services, the welfare of persons or of public property or the security of the City’s interests and the occurrence requires the immediate delivery of goods or services, and time does not permit for an award, other than by the Chief Purchasing Official, but in the case of a delegate’s determination, the resulting commitment must be within the commitment authority of the delegate under the Financial Control By-law; or
- (3) By amending Subsection C as follows:
 - (a) By deleting “§ 195-9B” and substituting “Subsection B”.
 - (b) By deleting “Chief Administrative Officer or department” and substituting “City Manager or division”.

H. Section 195-10 is amended as follows:

- (1) By deleting the title of the section and substituting the following:

§ 195-10. City Manager, division heads and delegates.

- (2) By amending Subsection A as follows:

(a) By deleting “Chief Administrative Officer or a department” and substituting “City Manager or a division”.

(b) By amending Subsection A(2) by deleting “departmental” and substituting “divisional”.

- (3) By amending Subsection C by deleting “departmental” and substituting “divisional”.

- (4) By deleting Subsection D and substituting the following:

D. The City Manager is authorized to determine from time to time, in consultation with the Chief Financial Officer and the Chief Purchasing Official, any increase to the divisional purchase limit within the commitment authority delegated to the City Manager under the Financial Control By-law.

- (5) By amending Subsection E by deleting “department” and substituting “division”.

- (6) By deleting Subsection F and substituting the following:

F. When an event occurs that the City Manager, a division head or a delegate determines is a threat to public health, the maintenance of essential City services, the welfare of persons or of public property or the security of the City’s interests, or financial liability arising from environmental conditions, and the occurrence requires the immediate delivery of goods or services and time does not permit for the division to allow the Chief Purchasing Official to acquire the goods and services, the City Manager, a division head or a delegate may make the purchases without the involvement of the Chief Purchasing Official, but the resulting commitment must be within the commitment authority of the authorizing official under the Financial Control By-law.

G. The Chief Purchasing Official must be advised of any purchase authorized under Subsection F by the authorizing official, and, if the authorizing official is a division head or delegate, the City Manager must also be advised of the purchase.

I. Section 195-11 is amended as follows:

(1) Subsection A is amended as follows:

- (a) Subsection A(1) is amended by deleting “Chief Administrative Officer” and substituting “City Manager”.
- (b) Subsection A(2) is amended by deleting “and Treasurer”.
- (c) Subsection A(3) is amended by deleting “department” and substituting “division”.

(2) Subsection C is amended by deleting the two occurrences of “department” and substituting in both cases “division”.

J. Section 195-13 is amended as follows:

(1) Subsection A is amended as follows:

- (a) Subsection A(1) is amended by deleting “department” and substituting “division”.
- (b) Subsection A(3) is amended by deleting “Treasurer” and substituting “Chief Financial Officer”.

(2) Subsection B(1) is amended by deleting “department” and substituting “division”.

K. Subsection 195-14 is deleted and the following substituted:

§ 195-14. Reporting on awards.

- A. The Chief Purchasing Official shall report on a semi-annual basis through the Administration Committee to Council on all awards made by the Bid Committee under this chapter.
- B. The report shall include information on the names of all successful bidders and proponents and the amount of the awards.

L. Section 195-15A is amended by deleting “, as amended from time to time”.

M. Section 195-18 is amended as follows:

- (1) Subsections B and C are renumbered as Subsections C and D.

(2) Subsection A is deleted and the following substituted:

- A. If any materials or equipment owned by the City are declared by the division head having control over them to be surplus to present and future division requirements, and are declared by the Chief Purchasing Official to be surplus to present and future corporate requirements, the Chief Purchasing Official may either dispose of the materials or equipment by public auction or solicitation deemed appropriate by the Chief Purchasing Official in the circumstances.
- B. Funds received for the disposal of surplus materials and equipment will be credited back to the division having control over the surplus materials or equipment disposed.

(3) Renumbered Subsection C [formerly Subsection B] is amended by deleting “department” and substituting “division”.

(4) Renumbered Subsection D(1) [formerly Subsection C(1)] is amended by deleting “B” and substituting “C”.

N. Section 195-22 is deleted.

3. This by-law comes into force on April 15, 2005.

ENACTED AND PASSED this 14th day of April, A.D. 2005.

DAVID R. MILLER,
Mayor

ULLI S. WATKISS
City Clerk

(Corporate Seal)