

FIN H/MISC/33 Pt 1

GOVERNMENT SECRETARIAT
HONG KONG
23 February 2004

FINANCIAL CIRCULAR NO. 1/2004

Responsibility of Controlling Officers

(Note : Distribution of this Circular is **Scale C**. It should be read by Directors of Bureaux, Controlling Officers, departmental secretaries and by all other officers dealing with funds established by the Government.)

Introduction

This Circular seeks to –

- (a) remind Controlling Officers of their responsibilities under the Public Finance Ordinance (PFO), and
 - (b) highlight certain financial management considerations which Controlling Officers should observe in the process of managing changes.
2. This Circular replaces Financial Circulars No. 14/84 and 16/96.

/Public Finance Ordinance.....

To : Directors of Bureaux
Controlling Officers
Judiciary Administrator (f.i.)

Public Finance Ordinance

3. The Public Finance Ordinance (Cap 2) and subsidiary regulations and circulars provide the framework for the control and management of public finances in Hong Kong. Controlling Officers are advised to familiarise themselves with the provisions in the Ordinance and to arrange for designated officers to brief them on a need basis.

4. The main points relating to Controlling Officers are highlighted in Annex A. The guide is not meant to be comprehensive and should be read in conjunction with the Ordinance itself.

Change management

Due process

5. As part of Government's continual economy drive, bureaux and departments would have been exploring ways to re-engineer, re-prioritise work, de-regulate, streamline procedures, etc. In all cases, Controlling Officers should go through a due process to ensure that the changes are introduced after conscious deliberations on all relevant factors including but not limited to the need to have due regard to economy and cost effectiveness.

Programme and expenditure reviews

6. If it is necessary to undertake fundamental expenditure reviews, and economy drive initiatives as referred to in paragraph 5, Controlling Officers should consider seeking the assistance of the Efficiency Unit. If information on expenditure/cost control and monitoring is needed, Controlling Officers can approach the Director of Accounting Services for advice or assistance.

Changes with financial implications

7. If bureaux or departments intend to change their policies or initiate funding initiatives, Controlling Officers should ensure that the rules for internal clearance of funding initiatives, as set out in Annex B, are observed. These rules, as have been issued separately to Directors of Bureaux, are attached herewith for clarity.

/Impact on performance pledges.....

Impact on performance pledges

8. If the fundamental roles of bureaux or departments and their performance pledges set out in the Controlling Officers' Reports in the Estimates of Expenditure are to be varied, Controlling Officers should ensure that proper consultation be undertaken where necessary and proper authorisation (both within Government and beyond) be sought. This avoids bureaux and departments from being judged, unfairly, against outdated performance pledges.

Accountability

9. Controlling Officers are ultimately responsible and accountable for the proper use of funds under their control. Irrespective of whether public funds are disbursed through a procurement contract, subvention, sponsorship, or any other form or vehicle, Controlling Officers should satisfy themselves that an appropriate system of cost control or monitoring is in place, having regard to economy, efficiency and effectiveness in the delivery of public service and use of the public funds.

Applicability

10. This circular applies to trading funds to the extent that the general manager of a trading fund is a designated Controlling Officer in the Estimates.

Enquiries

11. Please contact the resource divisions of Treasury Branch for enquiries on this circular.

FREDERICK S. MA
Secretary for Financial Services
and the Treasury

Key provisions in the Public Finance Ordinance

Approved provision

1. **Section 6(3) of the PFO** limits expenditure within the approved provision for each subhead. Controlling Officers must satisfy themselves that there are adequate procedures to monitor expenditure in order to ensure that it is only incurred within the **limits and scope** authorised.

Changes to the approved estimates

2. **Section 8 of the PFO** provides that changes may be made to the approved estimates of expenditure but only in prescribed circumstances as set out in section 8(2), which may include –

- (a) the creation of new heads or subheads,
- (b) supplementary provision in approved or new subheads,
- (c) variations in the establishments of posts, and
- (d) increases in the limit to the commitments which may be entered into in respect of expenditure which is not annually recurrent.

3. Besides, material changes in the scope and ambit of expenditure subheads or capital account items are also likely to require Finance Committee approval. Where in doubt, Controlling Officers should consult Treasury Branch.

4. Basically the approved provision for each subhead is **cash-limited** except for subheads identified otherwise. Other than increase to the salaries and allowances portion of the Operational Expenses in line with civil service pay adjustment or in the most exceptional cases, supplementary provision should not be considered. In any case, it requires approval from either the Finance Committee, or Treasury Branch or Controlling Officers under delegated authority.

5. All requests for supplementary provision or other changes to the approved Estimates ought to be submitted in a **timely manner** to allow proper scrutiny. In particular, where the changes require approval by Finance Committee, Controlling Officers must give due regard to the schedule of Finance Committee meetings and the lead time involved in the preparation of Finance Committee Agenda Items, plus possible need to consult the relevant Panel(s) of the Legislative Council.

6. Controlling Officers **must not pre-empt** the outcome of LegCo's deliberations. Otherwise, incurring expenditure in such circumstances is **unlawful** under the PFO. Besides, changes to the Estimates cannot be approved retrospectively except in the case of urgent and unavoidable expenditure which has been properly dealt with in accordance with sections 15 and 21 of the PFO (see paragraphs 11-13 below).

Controlling Officers

7. According to **section 12** of the PFO, "a controlling officer shall be responsible and accountable for all expenditure from any head or subhead for which he is the controlling officer, and for all public moneys and Government property in respect of the department or service for which he is responsible."

Regulations and Directions

8. **Section 13** of the PFO requires every Controlling Officer to obey all administrative regulations and directions/instructions made in accordance with section 11 of the PFO. These include the Financial and Accounting Regulations (F&ARs), Stores and Procurement Regulations, and Financial Circulars. Controlling Officers should familiarise themselves with the key provisions or ensure that they can be properly briefed and advised through their supporting staff.

9. In particular, Controlling Officers should note that F&AR 320 stipulates that –

- (a) It is the responsibility of Controlling Officers to **exercise strict economy** in the expenditure of funds under their control.
- (b) Where Controlling Officers have reason to believe that funds surplus to requirements exist under a Capital Account¹ subhead, they shall immediately inform the Secretary for Financial Services and the Treasury so that the excess may be reserved.
- (c) In **no** circumstances may surplus funds be spent unnecessarily, for example by drawing unallocated stores in excess of reasonable requirements, simply because they are available and would otherwise lapse at the close of the financial year.

Allocation Warrant

10. Under **section 14(4) of the PFO**, a Controlling Officer may, in respect of any subhead for which he is the controlling officer, by allocation warrant authorise any other controlling officer to incur expenditure against any provision shown in that subhead. Controlling Officers should not assume that they can freely re-deploy any potential savings from within these allocations unless a variation has been issued with the agreement of the recipient of the allocation warrant.

Urgent expenditure and payments

11. **Sections 15 and 21 of the PFO** make provision for incurring urgent expenditure and processing payments pending the approval of supplementary provision or increases in commitment. Under section 15, where an urgent need has arisen for expenditure to be incurred –

¹ F&AR 320(2) is hereby amended to include the words “Capital Account” before “subhead”. With the implementation of the Operating Expenditure Envelope system, and subject to the prevailing rules and regulations on changes to estimates, Directors of Bureaux and envelope holders now have the flexibility to deploy surplus resources within their operating expenditure envelope to other heads and subheads according to their policy priorities.

- (a) which requires supplementary provision in an approved or new subhead or increases in the limit to the non-recurrent commitments; and
- (b) which, in the opinion of the Controlling Officer, cannot be deferred without serious detriment to the public interest,

the Controlling Officer may incur the expenditure on his personal responsibility pending the approval of such supplementary provision or increase in commitments.

12. In accordance with section 21 of the PFO, where an urgent need has arisen for payment –

- (a) to meet expenditure for which no provision or insufficient provision is shown in the approved estimates; and
- (b) which cannot be deferred without detriment to the public interest,

the Financial Secretary (FS) may issue contingencies warrant authorising the Director of Accounting Services (DAS) to make payment. Controlling Officers should note that, while they may incur expenditure under section 15 of the PFO, **if** the urgent payment involves payment in advance of approval of a **supplementary provision**, contingencies warrant will still have to be issued by the FS before the DAS may make such payment.

13. A Controlling Officer who wishes to resort to sections 15 and 21 of the PFO must, before incurring any such expenditure -

- (a) write personally to Treasury Branch explaining fully the reason for the excess expenditure and why the expenditure cannot be deferred without serious detriment to the public interest;
- (b) request the issue of a contingencies warrant by the FS under section 21 of the PFO to permit the DAS to effect the related payment;

- (c) process the payment on his personal authority only when Treasury Branch advises that the FS has issued the contingencies warrant to DAS; and
- (d) subsequently seek covering approval for the necessary supplementary provision.

Guarantees

14. Under **section 28 of the PFO**, no public officer shall give a guarantee involving any financial liability upon the Government unless such is given for the purpose of and in accordance with the provisions of an Ordinance or a resolution of the Legislative Council or with the prior approval of the Finance Committee.

Surcharge

15. Under **section 32 of the PFO**, a public officer may be subject to surcharge if he/she –

- (a) has failed to collect any moneys owing to the Government;
- (b) is responsible for any improper payment of public moneys;
- (c) has improperly incurred expenditure;
- (d) is responsible for any deficiency in or loss or destruction of or damage to any public moneys or Government property; and
- (e) is responsible for any loss or destruction of or damage to any property as a result of which the Government is liable for the cost of replacement, repair or compensation.

Applicability

16. Although some of the control requirements of the PFO relate only to the General Revenue Account, Controlling Officers should apply similar disciplines to control expenditure from Funds set up under **section 29 of the PFO**. These include the Capital Works Reserve Fund, the Capital Investment Fund, the Disaster Relief Fund, the Innovation and Technology Fund, the Loan Fund and the Lotteries Fund, etc.

17. The provisions on guarantees, surcharge, etc. are binding on all “public officers”².

18. The foregoing is meant to be read in conjunction with the PFO. Controlling Officers are reminded to familiarise themselves with the Ordinance.

² As defined under section 3 of Interpretation and General Clauses Ordinance (Cap 1), “public officer” means any person holding an office of emolument under the Government, whether such office be permanent or temporary.

Rules for funding initiatives

1. It is the established practice within Government for all new policy or funding initiatives to be subject to an internal vetting or resource allocation process before any commitments can be offered or made in their respect in public. To reinforce this internal discipline and to better align the internal vetting process with the “operating expenditure envelope” approach to funding, it is necessary to restate our existing ground rules.

Ground rules

2. Directors of Bureaux and Controlling Officers are requested to observe the following –

- (a) Where a bureau or department proposes a new policy that has financial implications on public expenditure and necessitates internal clearance through the Policy Committee or Executive Council, Treasury Branch should be consulted.
 - (i) For those policy initiatives that can be funded from resources **within** the proposing bureau’s “operating expenditure envelope”, Treasury Branch’s contribution would focus primarily on potential read-across for Government or the wider public sector and on “value for money” perspectives.
 - (ii) For those policy initiatives that are to be funded from resources **outside** the “operating expenditure envelope” of the proposing bureau or department (that is, from the Centre), Treasury Branch’s **prior approval** must be secured before any public commitment is offered or made. In any event, the section on “Financial Implications” in the relevant submissions should be cleared in advance by Treasury Branch.

- (b) All other proposals that require additional funding from the Centre (whether or not involving policy changes and whether recurrent or one-off in nature) should be subject to vetting through the annual resource allocation exercise. In-year bids are to be considered only on an exceptional basis.

Urgent cases

- (c) There may be occasions when urgent decisions have to be made involving additional funding from the Centre but necessitating exceptions to the established rules in (a) or (b) above.
 - (i) In these exceptional circumstances, the onus remains on the proposing bureau or department to secure confirmation from Treasury Branch that funding can and will be made available from the Centre for the said purpose **before** offering or making any public commitment on it. Such confirmation should be in traceable record form.
 - (ii) Given known budgetary constraints, it should **not** be presumed that funding would always be available from the Centre to meet commitments offered on a premature basis without having secured internal funding clearance. Unless with the aforesaid prior confirmation from Treasury Branch, the proposing bureau or department will be expected to account for and fund from **within** its own resources all commitments it has offered or made in public.

Read-across

- (d) There may be policy initiatives or proposals which are clearly within the prerogative of a Director of Bureau or Controlling Officer to decide on. Whilst clearance or funding approval from the Centre may not be required, the Director or Controlling Officer should be mindful of potential read-across implications on public expenditure or government revenue and should consult Treasury Branch where appropriate.

3. The above requirements are necessary to preserve the system of prudent financial management for Government as a whole and to ensure that commitments offered in public would have gone through a due process within Government.
