



Gas Tax/Public Transit Management Services

...delivering the federal gas tax and public transit agreement funding in British Columbia

TO: Chief Administrative Officers and Chief Financial Officers

DATE: December 19, 2006

SUBJECT: Gas Tax Agreement Update

Your Council/Board will have recently received the first Annual Report of the Gas Tax/Public Transit Management Services Secretariat. That report provides a high level overview of program development and implementation activities over the past year and highlights a number of projects currently underway. This bulletin provides more detailed information about some of the decisions of the Gas Tax Agreement (GTA) Partnership Committee (PC) that affect use of Community Works Funds (CWF). This is the first of what we anticipate will be regular bulletins to GTA recipients, intended to keep recipients up to date on Gas Tax implementation and administration activities. Further information about any of these provisions may be obtained from Gas Tax/Public Transit Management Services.

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USE OF COMMUNITY WORKS FUNDS TOWARDS A PROJECT OWNED BY ANOTHER ELIGIBLE RECIPIENT

The GTA provides a requirement that all eligible projects, other than capacity building projects, must result in a tangible capital asset in BC primarily for public use or benefit and owned by an Eligible Recipient. Eligible Recipients are defined in the GTA to include local governments and a broad range of others, including P3 partners, not-for-profit and non-governmental organizations. The asset resulting from the project must be owned by the Eligible Recipient for a period of 10 years after construction and if sold during that period, the disposal may trigger a requirement to repay all or part of the grant.

The CWF Agreements translated the ownership requirements such that the local government recipient of the CWF must own the asset. This results in a situation where the CWF agreement itself precludes a local government from using any of its CWF towards a project that is owned by any other potential Eligible Recipient. So, for instance, the CWF Agreement would preclude the local government from undertaking a project jointly with another local government or from providing some of its CWF funding to an eligible project of a not-for-profit (e.g., energy improvements to a community hall that is owned by a society).

It is possible, however, to waive the preclusion for such use of funds through an amendment to the CWF Agreement. PC has agreed to a number of CWF amendments that have the effect of allowing a local government to give its CWF funding to any other Eligible Recipient (as defined in section 1.1 of the GTA) for use by the Eligible Recipient towards Eligible Costs of an Eligible Project. **If you wish to use your CWF for these purposes, you must ensure that your CWF Agreement is amended.** It is a straightforward amendment that UBCM will send to you upon request.

PC also made decisions about the accountability and reporting of funds used in this way. If CWF are used for a project owned by another local government, the two local governments can decide which will report on the project and its outcomes. However, where the CWF are used for a project owned by a non-local government entity, then the local government that receives the CWF retains responsibility for the funds and reporting on their use. In order to fulfill these commitments, the local government will need to enter into an agreement with the asset owner to pass on some obligations (e.g., the owner will need to maintain records, provide access to auditors, spend funding on eligible costs of eligible projects, report to the local government on the outcomes achieved, etc).

SOLID WASTE STRATEGIES

One of the GTA Schedule A eligible project sub-categories is “Develop or improve solid waste collection, treatment and disposal strategies in ways that reduce resource use, or encourage recycling and re-use”. The use of the term “strategies” in this sub-category has created uncertainty because it connotes planning activities, even though the “ESMI projects” and “Municipal Infrastructure” definitions would suggest that this project sub-category would need to lead to a tangible capital asset.

The PC decision considered that the term “strategies” in the project sub-category description was inconsistent with the above noted definitions and that the inconsistency must be resolved in favour of the definitions. Therefore, the sub-category should be interpreted to be capital in nature and can be read as though “strategies” was not a part of the description. (i.e., “Develop or improve solid waste collection, treatment and disposal in ways that reduce resource use, or encourage recycling and re-use”).

ENERGY IMPROVEMENTS IN NEW BUILDINGS AND INFRASTRUCTURE

The “retrofit local government buildings and infrastructure” eligible project sub-category provides eligibility for projects that result in energy conservation in an existing facility (e.g., heating and cooling systems, windows, lights, insulation, etc). It was unclear whether similar components in new infrastructure would be eligible under the “alternative energy systems that serve local government infrastructure” sub-category.

PC considered the meaning of this sub-category in the context of other sub-categories, including “alternative energy systems” and “community energy systems”. It also considered the difference between energy improvements in a retrofit context and those in a new context and considered whether allowing energy improvements for new infrastructure might have unintended consequences (i.e., since some components of a new building such as windows and roofs are needed even if energy conservation were not considered, PC did not consider it appropriate to use Gas Tax Funds to pay for the full cost of these components).

The PC decision was that “alternative energy systems that serve local government infrastructure” should be interpreted to include the cost of energy efficiency measures or equipment (i.e., mechanical components and other measures, such as windows, insulation, etc) in new local government buildings and infrastructure that can reasonably be said to exceed the cost of standard construction or equipment. We recommend that local governments intending to use CWF for energy improvements in new buildings and infrastructure obtain construction quotes that can clearly identify the incremental cost of the energy efficient component from the cost of the standard component, so that CWF can be allocated only for these incremental costs.

CAPACITY BUILDING

The capacity building category has been the subject of a number of local government questions. This is partly because of the interrelationship between capacity building and Integrated Community Sustainability Planning (ICSP), the framework of which is still under development. While a final ICSP framework has not yet been established, the following principles constitute an interim framework:

- long-term thinking – thinking ahead to achieve progress and become resilient to changing circumstances;
- broadening the scope of plans – addressing more issues in a comprehensive way by considering all four sustainability pillars (social, environmental, economic, cultural);
- integration – integrating plans at various levels;
- collaboration – working in partnership with the private sector, NGOs, First Nations and other levels of government;
- public engagement and education – designing processes that enhance public input into planning processes;
- implementation – keeping plans off the shelf and putting them into action; and
- monitoring and evaluation – setting targets and tracking results to celebrate progress and focus efforts on issues that matter most.

While Schedule A of the GTA provides examples of the types of plans that may be eligible for funding (i.e., regional growth strategies through to energy conservation plans), local governments should consider how the ICSP interim framework can be applied to any that are funded by CWF. In addition, local governments are encouraged to consider the ICSP approach in other activities and decision-making processes.

Aside from this connection to ICSP, there has been some uncertainty about the breadth of eligible capacity building activities (e.g., How broad is planning? What implementation activities are authorized?). PC considered this issue and clarified that the following activities are eligible components of a capacity building project:

- collaboration: building partnerships and strategic alliances, participation, and consultation and outreach;
- knowledge: use of new technology, research, and monitoring and evaluation;
- integration: planning, policy development and implementation (e.g., environmental management systems, life cycle assessments);
- education and training related to management, operation and maintenance of infrastructure; and

- any other education and training to implement a plan if this is intended to work towards reduced greenhouse gas emissions, cleaner water or cleaner air objectives.

Collaboration, knowledge and integration are cited in most GTAs in other provinces and territories but were omitted from BC's GTA because they are considered to be an integral part of any planning activity here; the PC decision clarifies that these activities are eligible in BC also. The education and training activities are intended to provide limited staff training that is directly related to managing infrastructure and an initial public education that may be needed to implement the reduced GHG, cleaner air or cleaner water objectives in a plan. CWF funding for these training and education activities must relate to "one-time" activities that are directly related to the plan and that are required to implement it (i.e., funding is restricted to the initial training and education needed to implement a plan). Ongoing training and education activities are **not** eligible for GTA funding.

INCREMENTALITY

Recipients of GTA funding are required to ensure that the funding will result in net incremental spending on infrastructure or capacity building. While not defined in the GTA, the concept of incrementality means that the funding represents additional spending. The PC was tasked with more clearly delineating this concept through approving a methodology for measuring incrementality. The Public Transit Agreement (PTA) provides a similar requirement for recipients to ensure incremental spending and for PC to determine a methodology for measuring incrementality. PC has decided on one methodology for measuring incrementality to be applied to both GTA and PTA funding.

Incrementality in most GTAs in other provinces/territories is based on some form of historical cost (i.e., an individual local government must spend more in each year it receives GTA funding than its average spending in the years leading up to the GTA funding). This is a different test than is traditionally used in infrastructure programs, which tend to focus incrementality at an individual project level (i.e., in order for project funding to be considered incremental, the funding must allow for a project that was not previously planned to be implemented, or for the timing of a project to be advanced or the scope increased from that planned).

Based on advice from local governments, UBCM disagreed with both these approaches: the first, because capital spending patterns tend to be uneven, with significant spikes in some years, which can create difficulties for individual local governments to meet average spending each year; and the second, because it tends to work against sound capital planning. In addition, UBCM wanted a methodology that took the unique nature of BC's GTA into account – one that recognizes the collective nature of the funding for Tiers 1 and 2 and the need to treat those local governments in the same manner, while respecting that Tier 3 is treated differently under the agreement and therefore may need or warrant a different incrementality treatment. Consequently, UBCM recommended that:

- net capital spending for each of GVTA and BC Transit be required to be more during the period from 2006 to 2010 than the weighted average net capital spending from 2000-2004,
- net capital spending for all local governments, in the aggregate, be required to be more during the period 2006-2010 than the collective net capital spending from 2000-2004 (i.e., the spending test relates to all local governments collectively, but no one local government would be required to meet the test individually), and
- the principles inherent in the incrementality requirement be upheld through a Financial Officer (FO) certification requirement (i.e., each FO must certify the local government spent more than it would have otherwise spent by the amount of the Gas Tax funding).

The UBCM-recommended approach was approved by PC and full text of the decision is attached as Appendix 1.

When selecting projects to fund with CWF, the key element in the methodology to consider is that incrementality does not need to be proven in relation to that individual project. Instead, the FO will need to make a statement, as part of the CWF Agreement annual reporting requirements, along the following lines:

In my opinion, the Gas Tax/Public Transit funds will result in Net Capital Spending on Municipal Infrastructure, Public Transit Infrastructure or capacity building, in excess of amounts that would have otherwise been spent on Municipal Infrastructure, Public Transit Infrastructure or capacity building, as applicable.

Full instructions on this certification will be provided to local governments as part of the annual reporting instructions. In the interim, and particularly when projects are being selected for funding, it will be important to keep this certification in mind. Local governments will need to think about how much they would have spent on capital projects during the year if the CWF were not available and the FO will need to certify that they have spent to this level. A number of factors may affect what would have otherwise been spent – factors such as the amount contemplated for spending in the financial plan, average spending or historic spending patterns, current construction costs, the current economic state of the local government, other pressing priorities (either expected or emergency), changes to the tax base, etc. – all of these factors might need to be considered by the FO in making the certification. FOs are encouraged to document the rationale behind the certification – a clear articulation of the considerations made in determining what the local government would have otherwise spent may be particularly useful in a subsequent audit.

In addition to these annual FO certification requirements, it is important to remember that each local government has a role to play in the aggregate responsibility to spend more during the period 2006-2010 than was spent during the period 2000-2004. UBCM is responsible for ensuring that this collective responsibility is met and will be reviewing individual local government capital spending each year to see whether or not we collectively appear to be on track to meet the commitment. Local governments can help in this process by attempting to meet the test individually each year. While we recognize that meeting a historical average each year will not be appropriate in all circumstances (i.e., not every local government will be able, or should, exceed the base in every year), we are hopeful that not meeting this target will be the exception, rather than the rule.

**GAS TAX/PUBLIC TRANSIT MANAGEMENT SERVICES
ACTIVITIES IN THE COMING MONTHS**

PC's work over the next few months will focus on the ICSP framework and developing a set of indicators for reporting on outcomes. In addition to supporting these development activities, UBCM will be focusing its efforts on managing the GSPF and IF programs and on preparing for our second annual reporting cycle. Our next major communications piece for GTA recipients will be a Gas Tax Guide intended as an aid to decision making when considering projects for CWF funding, this winter, followed by annual reporting instructions in the spring.

If you have any suggestions in regard to the content, format or method of UBCM communications related to the GTA please contact us:

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**APPENDIX 1:
FULL TEXT OF PC INCREMENTALITY
METHODOLOGY DECISION**

1. The methodology for measuring the incrementality of GTA and PTA Funds is:
- for GVTA, the GTA and PTA Funds received by GVTA represent incremental spending if the total Net Capital Spending by GVTA from January 1, 2006 to December 31, 2010 exceeds \$ 591,162,000;
 - for BC Transit, the GTA and PTA Funds received by BC Transit represent incremental spending if the total Net Capital Spending by BC Transit from April 1, 2006 to March 31, 2010 exceeds \$ 80,645,000;
 - for all Local Governments that receive Community Works Funds, the total GTA and PTA Funds received by those Local Governments represent incremental spending if the aggregate total Net Capital Spending of these Local Governments from, January 1, 2006 to December 31, 2010 exceeds the Aggregated Base Amount for these Local Governments.

The following definitions apply for the purposes of this methodology:

- “Net Capital Spending” means the amount of Capital Spending less the amount of any government capital grant or other government capital contribution, including, but not limited to grants under an Infrastructure Program, the Gas Tax Agreement and the Public Transit Agreement;
- “Capital Spending” means additions to fixed assets during the year, as would typically be reported on the Statement of Cash Flows;
- “Aggregated Base Amount” means the sum of the following calculation for each Local Government that receives Community Works Funds,
 $(NCS^1+NCS^2+NCS^3+NCS^4+NCS^5)$ where
 - NCS¹ = Net Capital Spending for 2000
 - NCS² = Net Capital Spending for 2001
 - NCS³ = Net Capital Spending for 2002
 - NCS⁴ = Net Capital Spending for 2003
 - NCS⁵ = Net Capital Spending for 2004

2. If Tier 3 local government(s) receive Innovations Fund funding, UBCM must report back to the Partnership Committee with a recommendation relating to the methodology for measuring incrementality for that (those) local governments.
3. For the purposes of a Financial Officer declaration that Funds result in net incremental capital spending on Municipal Infrastructure or capacity building (under GTA) or Public Transit Infrastructure (under PTA), incrementality be expressed as a principle statement and require FOs to make a declaration maintaining that principle. Financial Officer declarations would therefore be in substantially the following form (with Net Capital Spending having the same meaning as in recommendation 1 above):

In my opinion, the Gas Tax/Public Transit funds will result in Net Capital Spending on Municipal Infrastructure, Public Transit Infrastructure or capacity building, in excess of amounts that would have otherwise been spent on Municipal Infrastructure, Public Transit Infrastructure or capacity building, as applicable.

4. Require the Province of BC to provide to Canada and UBCM on an annual basis a report setting out the Net Capital Spending for each recipient local government for the preceding year.