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City staff improperly approved spending nearly \$2.5 million of taxpayers' money on purchases since 2009, including \$973,000 since penny-pinching Mayor Rob Ford took office.

As Ford searches for "gravy" to cut a large deficit, city officials this year hired a tai chi instructor for \$3,674.

In 2009, staff signed off on spending \$80,000 for a consultancy firm managed by a man who was charged with — and soon convicted of — rape.

And they have okayed spending tens of thousands more on untendered contracts to a graphic-design company and a recruitment firm.

In each case staff disobeyed city rules that say they must get authorization before they spend money without seeking competitive bids — so-called sole-source purchases.

The city started to keep track of such "inappropriate" or "significant non-compliant" purchases in 2009. The *Star* obtained a copy of the list through freedom of information legislation.

The total amount spent last year was close to \$1 million.

And the number of unauthorized purchases appears to be rising.

In the first half of 2011, as council considers closing libraries and daycare spaces to cut the deficit, staff members have signed off on spending nearly \$1 million without first getting approval.

"It's not chump change," said Councillor Paul Ainslie. "If people are flouting the rules, they have to be held responsible for it."

Although no payments are made until the work is formally approved, the contractors have already started the work — work the city will have to pay for.

City spokesperson Wynna Brown said instances of staff breaking sole-source procedures are rare, totalling just 1.6 per cent of the 1,257 untendered purchases made in 2010.

"Where there may be an issue, it's documented and appropriately addressed. The message to staff at all levels has been clear: compliance with purchasing policies is an expectation," she said.

However, the *Star* investigation found several departments are repeat offenders. At the top of the list is the parks, forestry and recreation division, which has broken the spending rules 21 times in two years.

Most of the divisions on the list had one to three improper purchases during that time period. The departments ranged from legal services to waste management.

The reasons for the improper purchases range from administrative errors to the work being completed before the necessary paperwork is processed, Brown said.

Ainslie wants the city to take a hard stance on officials who repeatedly disobey the rules. First, he said, make sure all staff involved in purchasing clearly understand the rules concerning sole-source procurement.

"If you're going to continue to flout the rules, break the rules in a substantial way, you're fired," he said.



Last year, parks and recreation made seven unapproved purchases, totalling about \$200,000. This year, the number has already doubled, to 14.

The department's general manager, Brenda Patterson, was unavailable for comment. In July, she was promoted to deputy city manager.

Large city divisions, such as parks and recreation, conduct more purchases than smaller departments, Brown said.

However, that's not a valid excuse to break the rules, said Deputy Mayor Doug Holyday.

"We have rules there because those rules are necessary to protect tax dollars and make sure what we're buying is done properly and at the best price."

He said he was concerned to learn that the number of improper purchases appears to be increasing.

"I think this is a matter the auditor general might want to take a look at and make sure changes are made so it doesn't continue."

The city insists that, while staff have broken the rules, most of the spending met the city's criteria for sole-source procurement.

But Ainslie accused some of the divisions of skirting the policy intentionally as a way to get around budgetary restrictions.

He questioned why parks and recreation sole-sourced \$3,674.76 for a tai chi instructor. The instructor gave three lessons a week at a North York community centre.

"(The department) probably didn't get approval to hire within their budget," said Ainslie, chair of the government management committee, which monitors the city's assets and resources.

"They flout the laws in purchasing, spend \$3,600 and, in the next budget cycle, say: 'Look, we got our tai chi instructor, kids all love it, great program, we can't live without it now. It better be a full-time position approved every year.'"

The city's purchasing division deemed the expense as "non-compliant" with its procurement procedures and the instructor is no longer teaching tai chi on the city's dime, Brown said.

City staff is urged to use sole-source purchasing as little as possible. Ford has long railed against no-bid purchases, going so far as alleging a sole-source deal with a Beach pub operator was corrupt. The mayor's office did not respond to a request for comment.

However, there are circumstances in which sole sourcing is acceptable, such as tight time constraints, emergencies where work such as repairs or construction must be done immediately, or where the vendor has a special expertise that can't be provided by another company.

Policy stipulates that staff must fill out a purchase order form clearly outlining why the purchase can't be put out for competitive bids. Those forms must be approved by a department head, the purchasing division or, in big-ticket cases, council, before the purchase is made.

But some staff members aren't following this process.

Toronto's purchasing division created a log tracking the city's improper sole-source purchases following a 2009 auditor general's report that found staff paying vendors for work before obtaining the necessary approval.

Auditor General Jeffrey Griffiths said it's not enough simply to list which departments are breaking the rules.

"There's no point in having that list if there is no action taken," he said in an interview.

Right now if a department makes an untendered purchase without approval, the purchasing department will send out a letter notifying the division's manager and outlining proper procedure.

The purchasing department also provides training courses tailored to specific departments.

That's what is happening in transportation services, said acting general manager Andy Koropeski. The department, which is the second worst offender with seven improper purchases in two years, will be bringing in mandatory training in the fall.

He said many of the department's inappropriate purchases were the result of a misunderstanding "by the staff that the paperwork was done."

"I think if you look at the discrepancies on that list, compared to our overall purchasing, the proportion is quite low," he said. "It's always a concern when the procedure isn't followed and that's why we're taking the steps to make the training routine."

However, the number of unapproved purchases — and their value — appears to be increasing year over year.

In 2009, there were eight cases logged. That grew to 20 in 2010, which has ballooned to 31 after seven months this year.

(The figures logged by the purchasing division aren't completely accurate, Brown said. The city only began tracking inappropriate purchases for the last half of 2009, while its 2010 data is missing seven months of purchases processed by departments. The true value of the improperly approved purchases since 2009 is probably higher than \$2.5 million.)

Retraining isn't necessarily the solution for repeat offenders, critics said.

"Senior managers that we're talking about, they know what the issues are and they should deal with them. You don't need retraining," the auditor general said. "What I think is necessary is action be taken with these individuals who continue to contravene the rules."

"You shouldn't purchase anything without proper authority."

One of those purchases was in 2009, when the city contracted Responsible Business Group, agreeing to pay the consultants \$80,000 to help develop a green loyalty card program.

Paperwork to get approval had been delayed because of the garbage strike, Brown said.

Unbeknownst to city officials, the company's manager of business development, Daniel Kaye, was actually Daniel Katsnelson — a man convicted of prowling a York University dorm and raping two teenagers.

Then-mayor David Miller had posed with Katsnelson in a photograph that circulated on Twitter.

The city quickly terminated the contract.

The nearly \$2.5 million in unapproved purchases since 2009 can be considered small in the grand scheme of city expenditures. In 2010, the city spent more than \$2 billion in total purchases, \$154 million of which was on properly approved sole-sourced deals.

But the number of improper purchases shouldn't be considered negligible, Ainslie said.

"When someone's inappropriately spending a million here, a half-million there, it all adds up in the end. It's all taxpayers' money."

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