

Report of Special Warrants Issued (November 5, 2016 to January 30, 2017)

Pursuant to section 78(7) of the *Financial Administration Act*

On December 16, 2016, the Financial Management Board recommended that the Commissioner approve a Special Warrant in the amount of \$7.5 million for the Department of Public Works and Services to purchase core assets of the Northern Transportation Company Ltd. (NTCL). The Commissioner approved the request for Special Warrant on December 16, 2016 in accordance with section 78(2) of the *Financial Administration Act* (FAA). This item meets the criteria for a Special Warrant as stipulated in section 78(2) of the FAA, as noted in brackets below.

This expenditure was urgently required to be made more than two weeks in advance of the next sitting of the Legislative Assembly which was scheduled to commence on January 31, 2017 (section 78(2)).

The Government of the Northwest Territories must secure its ability to resupply petroleum products in communities previously served by the marine fleet belonging to NTCL. It is in the public interest to secure the resupply of petroleum products to NWT residents to meet core needs for home and business heating, as well as essential equipment usage for both NWT residents and GNWT operations (sections 78(2)(b) and (e)).

NTCL was granted a protection order under the *Companies' Creditors Arrangement Act* of Alberta. This led to the court-approved Sales and Solicitation Process whereby the core assets and non-core assets of NTCL were available for purchase. In order to ensure that the GNWT could secure its ability to resupply petroleum products to NWT residents and businesses, a time-limited bid to purchase core assets of NTCL was urgently required. There was no existing appropriation for this infrastructure expenditure (section 78(2)(c)).

Since the core assets of NTCL used for the resupply of petroleum products are specialized, there were no other means available to the GNWT to address its ability to secure the resupply of petroleum products (section 78(2)(d)).

There was a short time limit to submit an offer to the court for the purchase of NTCL's core assets. The offer had to be submitted to the court in December 2016 to mitigate the risk that another buyer's bid would be accepted by NTCL's creditors. A delay in submitting an offer would likely have resulted in significant monetary loss for the GNWT and the public, as the GNWT would need to find another supplier of petroleum products, with the required infrastructure to resupply fuel in the NWT, most likely at a significantly higher price than what NTCL provided services (section 78(2)(e)).

Excerpts from the relevant sections of section 78 of the FAA are reproduced below for reference.

Excerpts from section 78 – Special Warrants

- (2) The Commissioner may issue a special warrant authorizing an expenditure when the Legislative Assembly is not in session and is not scheduled to resume sitting within two weeks from the date of issue, if the Board reports to the Commissioner that
 - (a) the requirement for the expenditure was unforeseen and the expenditure is urgently and immediately required;
 - (b) the expenditure is in the public interest;
 - (c) there is no appropriation or an insufficient appropriation to incur the expenditure;
 - (d) there are no other means available to address the circumstances giving rise to the need for the expenditure; and
 - (e) a delay of the expenditure would likely result in
 - (i) significant monetary loss for Government or the public,
 - (ii) significant loss of or damage to public or private property, or
 - (iii) significant personal loss.

- (5) A special warrant issued under this section is deemed to be an appropriation for the Government fiscal year in which the special warrant is issued and expenditures in accordance with the deemed appropriation are authorized.

- (7) The Minister of Finance shall
 - (a) cause a report to be prepared for each sitting of the Legislative Assembly that includes information about each special warrant issued under this section during the period preceding the sitting, including how the requirements of this section were met; and
 - (b) cause the report referred to in paragraph (a) to be laid before the Legislative Assembly at the earliest opportunity.