



**Government
of South Australia**

TRS20D1804

Hon Stephen Mullighan MP
Member for Lee
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SEMAPHORE SA 5019

Treasurer
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Steph
Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 29 May 2020.

Your application seeks access to:

“All minutes, briefings and correspondence titled ‘Future Jobs Fund - Update’ as described on the Objective document management system, between 14 November 2019 and 29 May 2020.”

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 12 June 2020 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 1 document was identified as answering the terms of your application.

I grant you access in part to this document.

Document Released in Part

Document 1 is released in part as it contains information which, if released, would disclose details of individual businesses and the specific circumstances relating to industry assistance, which is a matter of commercial in confidence. I therefore determine this document exempt in part pursuant to clause 7(1)(c).

Document 1 also contains information on a signed briefing by the Department of Treasury and Finance, with questions for the purpose of conducting well-informed research regarding the Future Jobs Fund.

Release of document 1 would be against the public interest because it would prejudice the ability of my office to obtain data in the future. By preventing a Minister's Office from being able to ask fearless and frank questions for the conduct of research of one of its agencies, this would negatively affect the ability of a Minister to conduct well-informed research into matters for the Government to consider and make educated decisions for the benefit of state. This adverse effect outweighs the applicant's individual interest in obtaining the data.

I therefore, release document 1 in part pursuant to clause 8 of the FOI Act.

Exemptions

Clause 7 – Documents affecting business affairs concerning

- (1) *A document is an exempt document—*
- (b) *if it contains matter—*
- (i) *consisting of information (other than trade secrets) that has a commercial value to any agency or any other person; and*
 - (ii) *the disclosure of which—*
 - (A) *could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and*
 - (B) *would, on balance, be contrary to the public interest; or*
- (c) *if it contains matter—*
- (i) *consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and*
 - (ii) *the disclosure of which—*
 - (A) *could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and*
 - (B) *would, on balance, be contrary to the public interest.*

Clause 8 – Documents affecting the conduct of research

- (1) *A document is an exempt document if it contains matter—*
- (a) *that relates to the purpose or results of research (other than public opinion polling that does not relate directly to a contract or other commercial transaction that is still being negotiated), including research that is yet to be commenced or yet to be completed; and*
 - (b) *the disclosure of which—*
 - (i) *Could reasonably be expected to have an adverse effect on the agency or other person by or on whose behalf the research is being, or is intended to be, carried out; and*
 - (ii) *Would, on balance, be contrary to the public interest.*

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045)*, the Department of Treasury and Finance is now required to publish a log of all non-personal information released under the Act.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045

can be found at the following address: <https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

As I am determining this application as Principal Officer, section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on 8226 9769.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

29 October 2020

RELEASE IN PART

MINUTE

27/02/2020
720/042
TR182020371



Government
of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File SAF17/1658

Doc No A1362912

To The Treasurer

FUTURE JOBS FUND - UPDATE

Timing: ROUTINE — For information only

Recommendations/Issues: It is recommended that you:

- note that your office has requested an update on the Future Jobs Fund (FJF);
- note of the 80 grants and loans that were approved from the FJF, there were 75 applicants approved for assistance and five were awarded both grants and loans;
- note that of the 80 grants and loans originally approved, 15 are no longer proceeding and have not resulted in executed contracts;
- note that 63 contracts have been executed, but two of these have since come to an end as the recipients advised SAFA that they were not proceeding with their projects and contract conditions providing any entitlement to receive payments have lapsed;
- note that SAFA is close to finalising terms for the two remaining contracts, which have been the subject of previous advice to you; and
- note the current status of the FJF portfolio of grants and loans discussed herein.

Noted

Hon Rob Lucas MLC
Treasurer

29/2/20

Key Points:

- Your office has requested an update of the current status of the Future Jobs Fund (FJF).
- A prior status update was provided to you in August 2018 (TRS18D1607), which provides background of the FJF - attached.

Status of FJF Portfolio as at 10 February 2020

- Of the 80 grants and loans approved only 65 progressed. SAFA closed its files on the remaining packages that were approved when recipients advised that they no longer intended to pursue their project, or did not wish to take up the conditional financial assistance that was offered.
- To date 63 contracts have been executed under the fund. Two contracts remain under negotiation with terms close to being finalised.
- Two of the contracts executed have since been closed out, as recipients advised SAFA that they were not proceeding with their projects and contract conditions providing any entitlement to state assistance had lapsed.
- The table below summarises the current status of the 80 approved FJF grants and loans, with further explanation provided in the paragraphs below:

TABLE 1

Status of 80 FJF Grants and Loans Approved			
	Grants	Loans	Total
Contracting (Negotiating)	–	2	2
Managing (Executed & on-foot)	50	11	61
Complete ⁽¹⁾	11	6	17
Total Contracts ⁽²⁾	61	19	80

(1) Complete means SAFA no longer has any involvement with the contract and includes the 15 grants/loans that were approved but did not proceed to contract and two executed contracts that have come to an end as the projects did not proceed, contract conditions could not be met and have since lapsed. SAFA has closed its files for these 17 grants/ loans.



- The two contracts that have come to an end are:



- Each of these counterparties advised SAFA that they would be unable to proceed with their projects and would therefore be unable to meet the terms of their respective grant deeds.
- Attached to this briefing is a table listing the grants and loans that were awarded but that did not proceed to contract. Entities listed have been advised that SAFA has closed its file - refer Attachment 2.

- The two contracts under negotiation are:

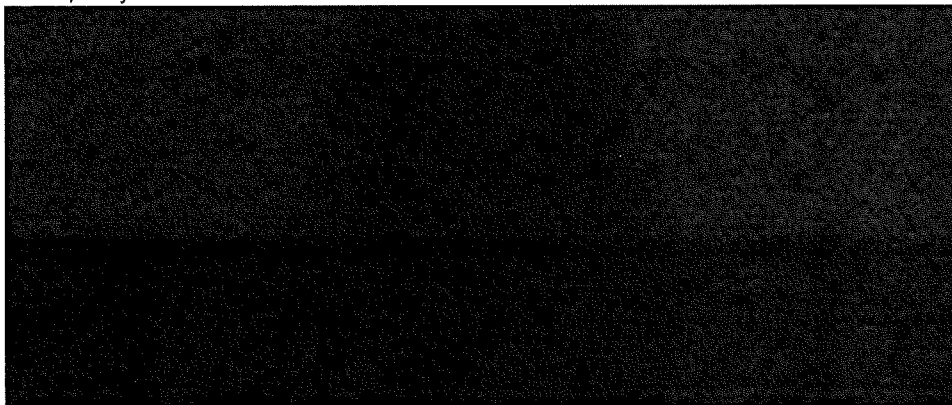


- Table 2 below shows the current status of the 61 FJF contracts that are currently on-foot and actively being managed by SAFA:

TABLE 2

<u>Status of 61 Contracts Under Management at 10 February 2020</u>			
	Grants	Loans	Total
Party meeting obligations	15	–	15
Information required	23	6	29
Variation Requested by Counterparty	11	4	15
Project awaiting closure	1	1	2
Total	50	11	61

- With respect to Table 2 above:
 - As at 10 February 2020 SAFA had evidence that indicated 15 of the 61 contracts were compliant with all contract terms;
 - Fifteen counterparties had formally requested changes to the terms of their contract (variations may relate to past breaches, present default or future obligations that cannot be met, therefore all may not necessarily be currently in default);
 - Information was required under 29 contracts in order to ascertain whether contractual obligations are being met - this is further explained below; and
 - 'Project awaiting closure' refers to two executed contracts currently under management that are coming to an end and SAFA is in the process of closing its files, they are:



- The type of information required under the 29 contracts can be categorised as follows:

TABLE 3

<u>Type of Information Required under 30 FJF Contracts</u>			
	Grants	Loans	Total
Reporting	12	4	16
Performance Milestone	7	2	9
Conditions Precedent	4	—	4
Total	23	6	29

- With respect to Table 3 above:
 - Reporting includes ongoing financial and project reporting. For example, the FJF grant contracts contain an obligation to provide an annual project report at the end of September in each year. That report includes evidence that the recipient has met its most recent annual FTE Target. Annual Financial Statements are also required - the timing of these may differ depending on the recipients' own reporting periods.
 - SAFA's contract management system records the last possible date for performance milestones to be satisfied. SAFA does not yet have evidence to demonstrate milestones have been satisfied by the due dates under nine FJF contracts. Note that there is no contractual obligation for counterparties to inform SAFA outside of reporting obligations, so in the absence of evidence indicating otherwise, it cannot be inferred that these conditions have not been satisfied. That said, it is most likely that performance against these obligations is being followed-up by the respective contract managers.
 - Most of the FJF contracts contain Conditions Precedent that must be satisfied before there is any entitlement to claim, or be paid, financial assistance under the contract. SAFA is waiting on evidence to demonstrate these have been satisfied under four of the grant contracts. Again, counterparties would generally inform us when either claiming assistance, or via the reporting obligation, and there is no contractual obligation to otherwise inform SAFA unless specifically requested.
- To date you have executed nine contract variations and SAFA is either undertaking assessment of, or finalising, a further 15 requests to vary terms under the contracts

[REDACTED]

[REDACTED] The Table in Attachment 3 lists the 22 contracts that have either had, or have requested, a contract variation (the 22 excludes the two prior contract variations, i.e. 9+15-2).

[REDACTED]



- It is recommended that you note the current status of the FJF portfolio.

Tim Burfield
ACTING GENERAL MANAGER, SAFA
26 February 2020

Contact Officer:	Rebecca Wigglesworth/ Callum Anderson Stanford
Telephone:	72291/ 63639
Email address:	callum.andersonstanford@sa.gov.au

Attachments:

1. Future Jobs Fund – Update August 2018, including the original attachment summarising the grants and loans approved from the Future Jobs Fund.
2. Table listing grants and loans that did not proceed to contract.
3. Table listing contracts that have either been subject to variation, or have requested variation.

Supported / Not Supported

David Reynolds
CHIEF EXECUTIVE
Department of Treasury and Finance
Date...07/2/20...

MINUTE

27/05/2018
7628
TR518D166F



Government
of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File SAF17/1668
Doc No SF18D00219

To The Treasurer

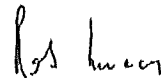
FUTURE JOBS FUND - UPDATE

Timing: ROUTINE

Recommendations/Issues: It is recommended that you:

- note that SAFA has been negotiating 80 contracts with 75 recipients for financial assistance packages that were approved from the Future Jobs Fund (Fund);
- note that approved applicants to the fund were given six months to enter into contracts for assistance from the Fund, however 40 contracts have not yet been executed for various reasons, some of which have been outside of the recipients' control and some of which is due to a lack of response from recipients; and
- note the discussion herein and approve SAFA negotiating with recipients to finalise and execute outstanding contracts by no later than 30 November 2018.

Noted/ Approved/ Not-Approved


Hon Rob Lucas MLC
Treasurer

9/9/18

Key Points:

Purpose

- The purpose of this minute is to seek your guidance on proceeding with offers of industry assistance from the Future Jobs Fund (Fund) where contracts have not yet been executed.

Background

- The 2017-18 State Budget included \$200 million towards the Future Jobs Fund (Fund). The Fund provided for a range of initiatives, including grants and low interest loans to 75 businesses in the State that made an application to the Fund. The 75 approved financial

assistance packages comprised of 60 grants and 20 loans and are being administered by SAFA - Attachment 1 provides a summary of the grants and loans that were approved.

- Note that the Fund also provided an additional \$60 million in industry assistance for the Economic Investment Fund (EIF) that was promoted by Investment Attraction SA (IASA). SAFA manages grants and loans provided from the EIF on behalf of IASA under an arrangement agreed between relevant Ministers.
- Recipients approved for grants and loans from the Fund received a letter of offer, which amongst other things, included the following:

A condition to the provision of funds by the South Australian Government will be the Company's (Grantee) execution of a formal grant deed (Deed) on terms acceptable to the Government, within six months from the date of this letter, or other period as agreed. No legally binding obligation arises from the State providing this offer, and the State may withdraw this offer if the State and [Recipient] are unable to agree and execute the Deed within six months from the date of this letter.

- The bulk of packages from the Fund were approved in two tranches, either on 6 December 2017 or on 24 January 2018. A few packages were approved individually at different times. Recipients were provided a letter of offer at the time of approval.
- SAFA has been working with the 75 recipients to negotiate and finalise terms for contracts since December 2017 with assistance from the Crown Solicitor's Office.
- The status of arrangements for the 75 packages at 15 August 2018 is summarised in the Table below (note that there were five recipients that were approved both a grant and loan):

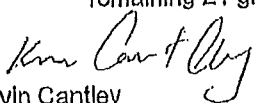
TABLE 1

	Number of grants	Numbers of loans
Contracts fully executed	33	2
Contracts partly executed	4	1
Contracts not yet executed**	23**	15**
Contracts not to proceed	-	2
Total**	60	20



- The complexity of the projects that were approved for funding and the recipient entity's corporate arrangements vary greatly. Loan arrangements in particular are inherently more complex, requiring a higher level of scrutiny around project cash-flows, debt serviceability and security arrangements. Additionally, preference was given to proposals where the State's loan would supplement commercial finance, and SAFA has had to work with proponents and commercial lenders to finalise loan terms and negotiate security and priority arrangements.
- To date 35 contracts have been executed and a further five are partly executed (executed by the recipient by not yet executed by yourself). Contracts for a further nine recipients are near final and are close to being executed (but not yet executed by either party).

- Eight recipients received contracts in draft several months ago for review, however SAFA has either not had any response, or any recent engagement from these eight entities, hence these contracts have not progressed.
- Given the passage of time, and that these eight entities have not engaged at all with SAFA recently, it is proposed that the six month timeframe to finalise documentation is not enforced, and that these recipients be advised that they have until 30 November 2018 to negotiate and execute contracts.
- SAFA has had ongoing, and in some instances extensive dialogue, to progress terms for contracts for the remaining 21 grants and loans. Reasons that contracts are not yet finalised for execution vary, but include:
 - Finalisation of security arrangements and negotiation of priority with commercial lenders;
 - Delays in negotiation for lease or purchase of land required to realise the planned expansion of the company's operations (the purpose of the funding);
 - Delays in council approvals required for zoning, development and building consents; and
 - Delays in finalising agreements for partnership or supply arrangements that are integral to the recipient's project and purpose of the grant/ loan.
- It should be noted that it has also been the case that some of the delay in finalising terms for these contracts has been with SAFA and CSO, due to the sheer volume of packages approved in a relatively short space of time.
- It is now proposed that:
 1. SAFA advise the eight recipients that were provided with draft contracts, but who have either not responded or had any engagement with SAFA to progress their contracts for several months, that they have until 30 November 2018 to negotiate and execute contracts;
 2. SAFA proceed to execute contracts with the nine recipients for which terms are largely agreed, notwithstanding contracts have not been executed within the six month timeframe in the State's letter of offer. These contracts will be executed before 30 November 2018; and
 3. SAFA continue to negotiate and finalise contracts, where possible, for the remaining 21 grants and loans by no later than 30 November 2018.


Kevin Cantley
GENERAL MANAGER, SAFA

27 August 2018

Contact Officer:	Rebecca Wigglesworth
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ATTACHMENTS

1. Summary of grants and loans approved from the Future Jobs Fund.

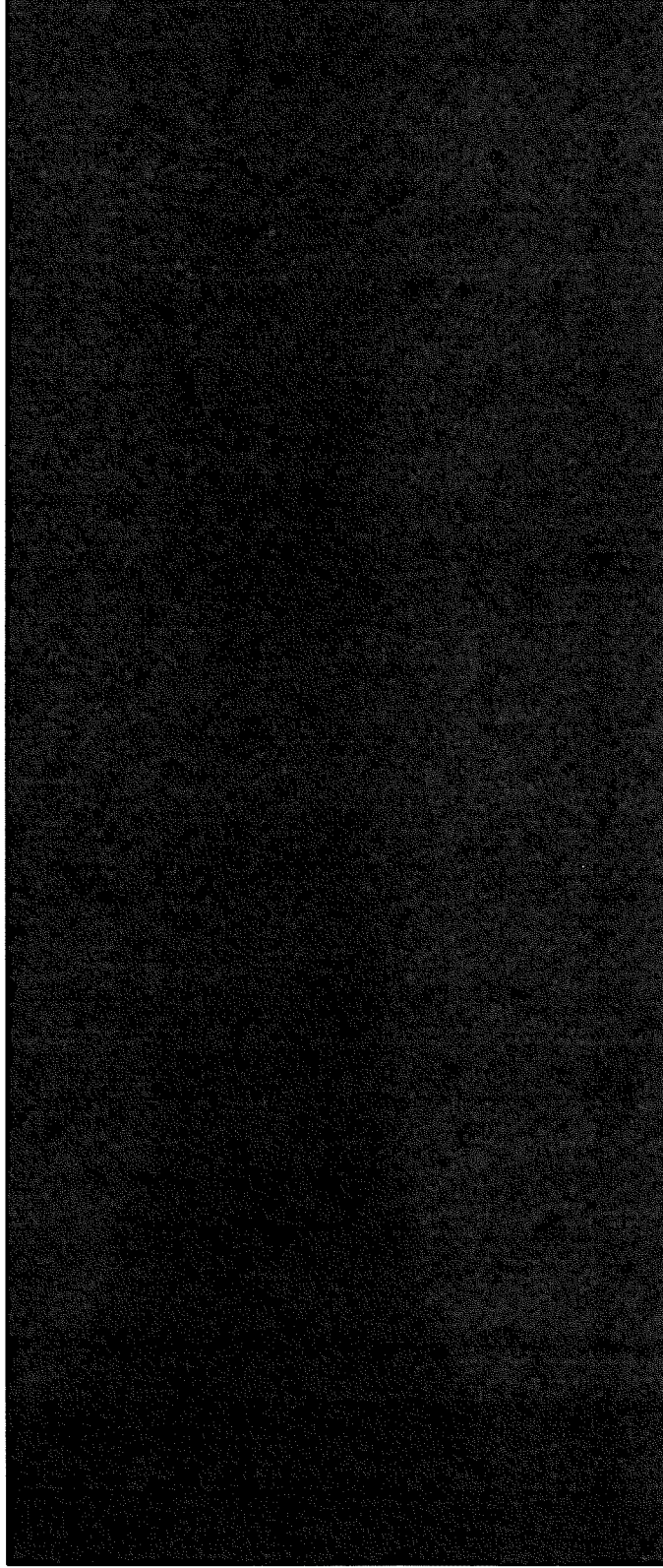
MINUTE

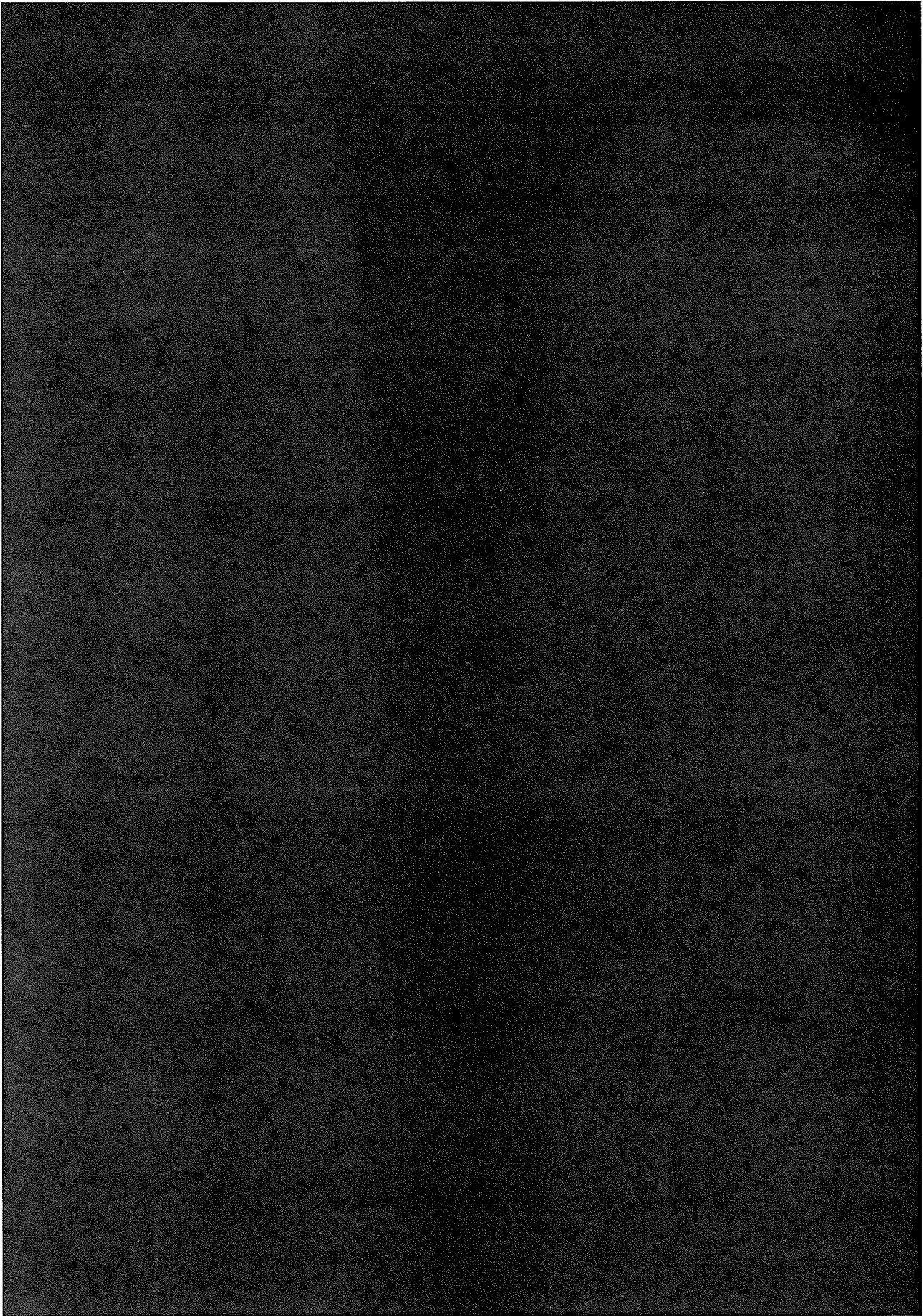


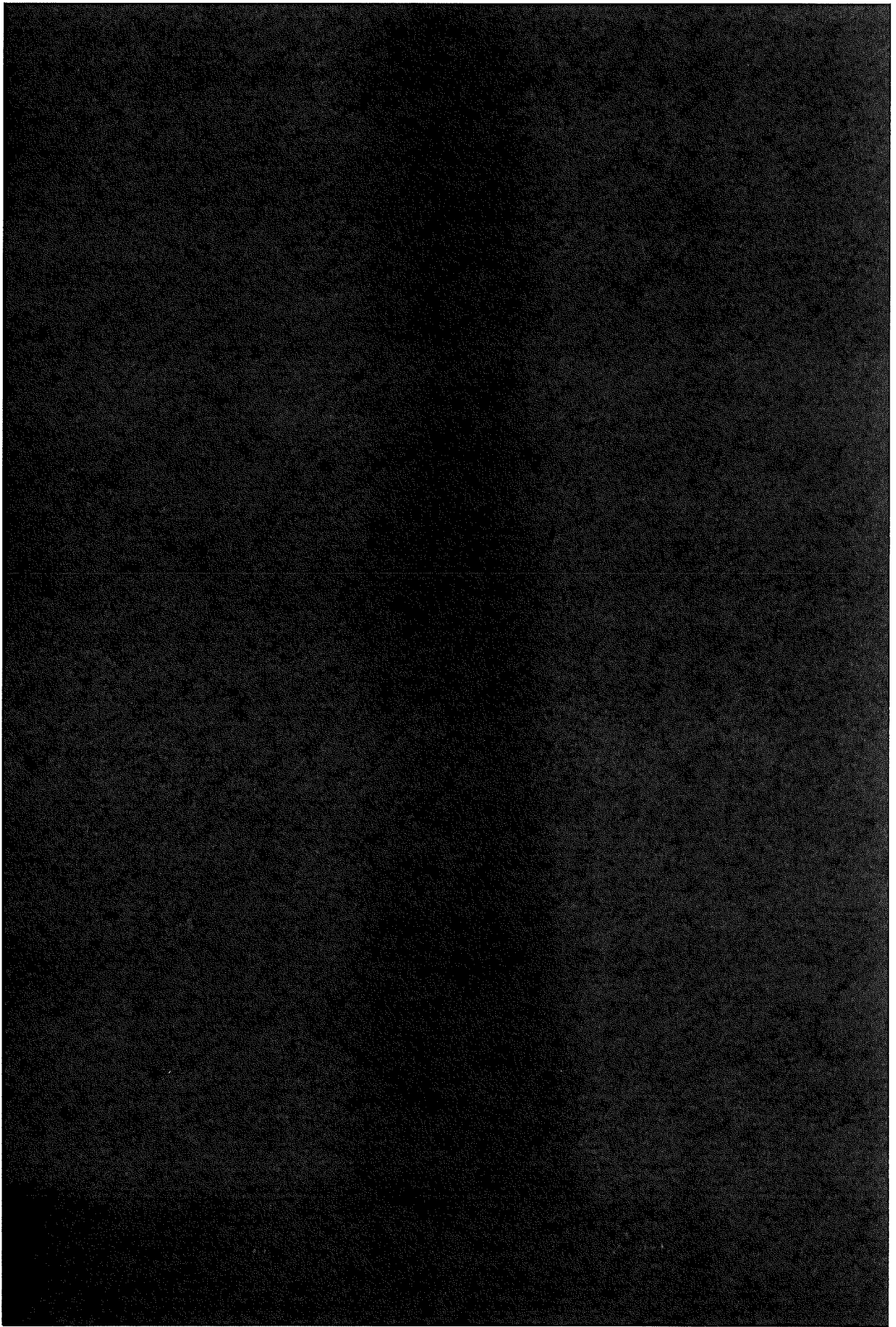
Government
of South Australia
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and Finance

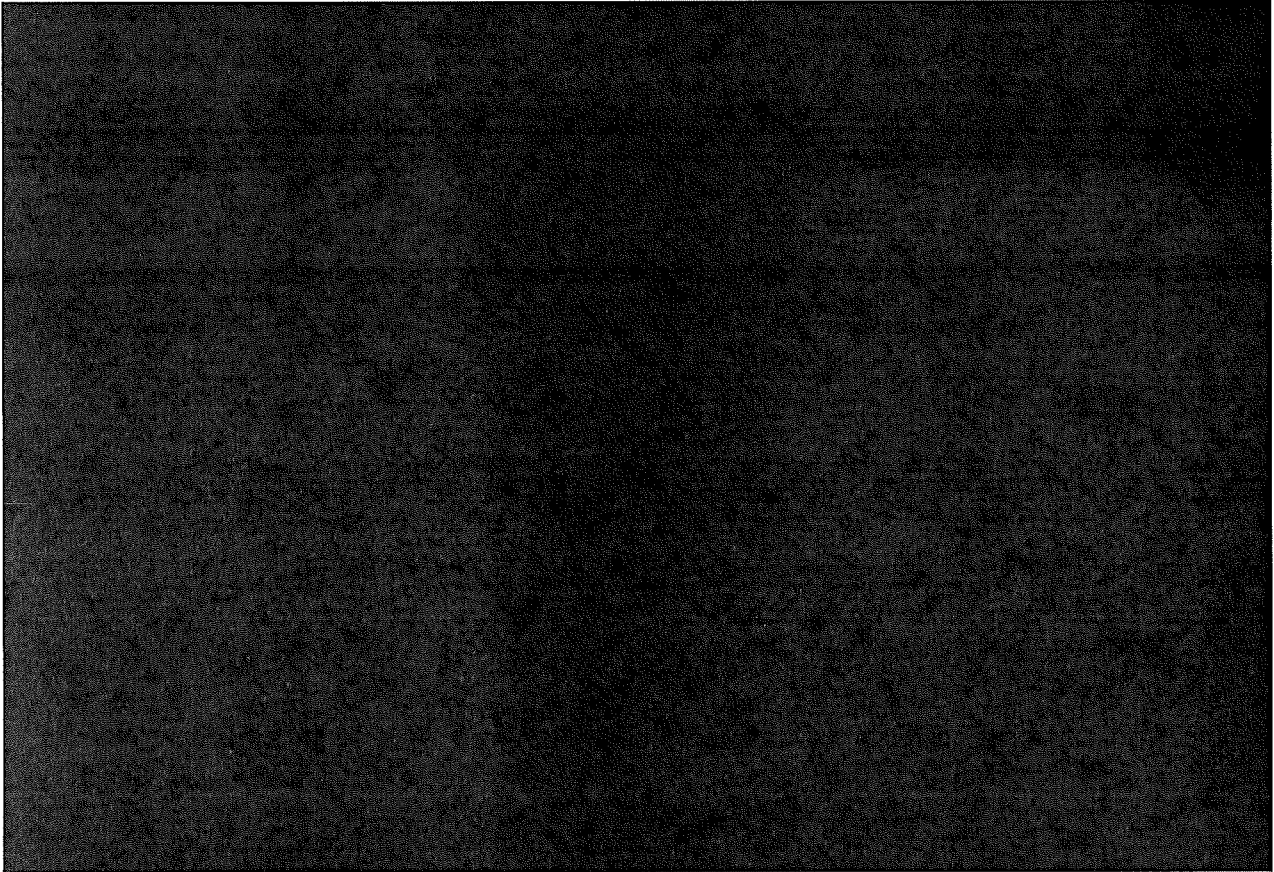
ATTACHMENT 2

FJF Grants and Loans that were awarded that did not proceed to contract.









ATTACHMENT 3

FJF Grants and Loans that have had terms varied or a variation request is being assessed or finalised.

