

TREASURER'S INSTRUCTION 8

FINANCIAL AUTHORISATIONS

Reissued: 30 September 2019

Effective: 30 September 2019

Scope

- 8.1 This instruction applies to:
- 8.1.1 all public authorities unless otherwise stated;
 - 8.1.2 any dealing whereby a public authority enters into a contract involving expenditure or potential expenditure, including purchases of goods and services, provision of grant funding, or lease or rental of property, plant or equipment (including intangible property); and
 - 8.1.3 any payment made by a public authority.

Objective

- 8.2 To establish a governance regime to apply to all public authorities such that prior approval is required, by a person authorised pursuant to this instruction, before the public authority can:
- 8.2.1 incur expenditure through contractual arrangements, including purchases;
 - 8.2.2 enter into an agreement with the potential to lead to expenditure; and
 - 8.2.3 make a payment or disbursement.

Interpretation and Definitions

- 8.3 This instruction should be interpreted and applied in accordance with Treasurer's Instruction 1 *Interpretation and Application*.
- 8.4 This instruction is to be read in conjunction with other relevant Treasurer's instructions and with any policies issued pursuant to the Treasurer's instructions. In addition, there may be Premier and Cabinet Circulars¹, and State Procurement Board Policies issued pursuant to the *State Procurement Act 2004*, applicable to the public authority. If a public authority identifies a conflict between any of these instruments, or between Treasurer's instructions and any other legislative obligations, it should seek advice on the matter².

1 Eg, Premier and Cabinet Circular 114 Government Real Property Management (including Crown Land); Premier and Cabinet Circular 015 Procedures for submissions seeking the review of Public Works by the Public Works Committee; and Premier and Cabinet Circular 018 Government Office Accommodation Framework.

2 See the contact details for queries in the box at the end of this instruction.

8.5 For the purposes of this instruction:

- 8.5.1 “financial authorisation” means the approval given by Cabinet, a Minister, a governing authority, Chief Executive or nominated employee for a public authority to enter into a contract, including a purchase, subject to the authority’s procurement policies, or to make a payment or disbursement, including a payment between public authorities, up to a specified monetary limit.
- 8.5.2 “employee” has the same meaning as defined in Treasurer’s Instruction 1 *Interpretation and Application*.
- 8.5.3 a “contract authorisation” is a financial authorisation that relates to the approval for a public authority to enter into a contract, including for the purchase of goods and services, subject to the public authority’s procurement policies. An instrument empowering an employee or the occupant of a position to grant a contract authorisation may distinguish different types of contracts (and/or purchases) that the employee or the occupant of a position is permitted to approve.
- 8.5.4 a “payment authorisation” is a financial authorisation that relates to the approval of a public authority making a payment or disbursement, including, through a direct debit arrangement.
- 8.5.5 a “contract” refers to an arrangement¹, including for the purchase of goods and services, whereby a public authority commits to or incurs expenditure, or where there is the potential for expenditure to be incurred, where the terms and conditions are contained in a document signed by the parties, or where the terms and conditions are recorded in some other document or documents such as a purchase order or an exchange of letters, or terms and conditions are agreed in an oral exchange, but does not include an employment contract pursuant to the *Public Sector Act 2009* or the authority’s enabling legislation.
- 8.5.5.1 Where it is intended to contract for goods or services to be supplied by a panel of providers, for the purposes of this instruction in determining the approvals required, the potential total value of services that may be acquired is the contract consideration.
- 8.5.5.2 Where it is intended to enter into a “head agreement” or similar, with specific agreements to be entered into by individual public authorities under the head agreement, for the purpose of this instruction, the potential total value of goods or services that may be acquired by public authorities under the head agreement is the contract consideration for that contract.
- 8.5.6 “incurs expenditure” refers to a dealing which results, or will result, in an obligation on the public authority, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits. Economic benefits can take various forms such as the payment of cash, transfer of assets, provision of services, replacement of an obligation with another obligation or the conversion of the obligation to equity.
- 8.5.7 any reference to a monetary sum is inclusive of GST.

¹ Including a memorandum of understanding/memorandum of administrative arrangement or similar.

Instruction

General

- 8.6 In any dealing to which this instruction applies a Chief Executive must ensure compliance with the public authority's enabling legislation.
- 8.7 No dealing to which this instruction applies must be approved unless:
- 8.7.1 the expenditure is necessary for the conduct of the public authority, and the requirements of the *Public Finance and Audit Act 1987* and any other relevant Act or instruction have been observed in all respects, and
- 8.7.2 the Chief Executive has a reasonable expectation that sufficient financial resources will be available to meet commitments as they fall due.
- 8.8 The Chief Executive must:
- 8.8.1 ensure a register is established and maintained of specified persons and the holders of positions authorised or nominated under clause 8.11.1 and clause 8.15 to give particular financial authorisations, and any conditions applying to the giving of a financial authorisation by the specified person or holder of a position;
- 8.8.2 review the register at least annually; and
- 8.8.3 if the holder of a position within the public authority, rather than a specific employee, is empowered to give the financial authorisation, ensure that only a South Australian government employee occupies that position¹.
- 8.9 A Chief Executive will remain responsible for all purchases, contracts, payments and disbursements notwithstanding that an employee or the holder of a position within the public authority has been empowered to give a financial authorisation pursuant to this instruction.
- 8.10 Instances may arise where a contract and payment authorisation may be provided by the same employee, possibly at the same time. In these instances it is necessary for the employee to be empowered to provide both types of authorisations.

¹ A Chief Executive can only provide financial authorisations to the employees of the Chief Executives' own administrative unit or statutory authority.

Contracts (including purchases)

8.11.1 Unless the public authority's enabling legislation has alternative specific arrangements that are inconsistent with this clause, a contract, including for the purchase of goods and services, can only be executed if approved as follows:

<i>Purchase or Contract consideration</i>	<i>To be approved by</i>
< \$1,500,000	<ul style="list-style-type: none"> • Cabinet, or • the Minister; or • the Chief Executive or governing authority; or • an employee nominated by a Chief Executive or governing authority; or • an employee nominated by an authorised employee pursuant to clause 8.11.2.
\$1,500,000 to < \$15,000,000	<ul style="list-style-type: none"> • Cabinet, or • the Minister; or • the Chief Executive or governing authority; or • an employee nominated by the Minister in writing by specific Ministerial delegation that specifies the employee, the amount and the nature of the contract including the parties.
\$15,000,000 and over	<ul style="list-style-type: none"> • Cabinet, or • the Minister acting under clause 8.11AA

8.11AA The Minister may act under this clause to approve a contract if the Minister has taken into account advice from the Department of Treasury and Finance on the budget impact, and other relevant budgetary aspects, associated with the contract.

8.11A Where an amendment would increase the total value of a contract, a contract that has been approved under clause 8.11.1 may only be amended as follows –

8.11A.1 for an amendment which, when aggregated with any previous amendments, does **not** increase the total value of the contract by more than 5% of the total value originally approved under clause 8.11.1 – the amendment must first be approved by the relevant person or body as if the value of the amendment, taken by itself, was a contract of that value required to be approved under clause 8.11.1; or

8.11A.2 for an amendment which, when aggregated with any previous amendments, increases the total value of the contract by more than 5% of the total value originally approved under clause 8.11.1 – the amendment must first be approved by the relevant person or body as if the total value of the amendment **and** the original contract was a new contract requiring approval under clause 8.11.1

8.11.2 Contract authorisations in respect of the use of government purchase cards (pursuant to Treasurer's Instruction 12 *Government Purchase Cards and Stored Value Cards*) may be provided by an employee who has been authorised in writing by the Chief Executive or governing authority to provide these authorisations.

- 8.12 An instrument empowering an employee or the occupant of a position to provide a contract authorisation pursuant to clauses 8.11.1 and 8.11.2 must:
- 8.12.1 be in writing;
 - 8.12.2 specify the employee, or the position (subject to clause 8.8.3);
 - 8.12.3 specify the monetary limit (to be less than \$1,500,000) and any other relevant terms and conditions (such as the type of contract or purchase for which the contract authorisation may be provided); and
 - 8.12.4 specify that it immediately ceases upon the employee ceasing employment or materially changing duties, or in relation to a position, a material change in the nature of the duties assigned to that particular position.
- 8.13 In addition to any other requirement:
- 8.13.1 Cabinet approval must be obtained for a contract for the purchase of land where the expenditure involved exceeds \$6,000,000¹; and
 - 8.13.2 The following approvals must be obtained for an office accommodation project where the cost of the project is:
 - 8.13.2.1 Less than \$1.5 million: the contract is to be approved by the Chief Executive of the Department of Planning, Transport and Infrastructure or an employee nominated by the Chief Executive of the Department of Planning, Transport and Infrastructure.
 - 8.13.2.2 \$1.5 million to less than \$15 million: the contract is to be approved by the Minister for Transport and Infrastructure.
 - 8.13.2.3 \$15 million and over: the contract is to be approved by Cabinet.
- 8.14 A purchase of goods or services through a purchase card may only be made by an employee with the authority, pursuant to Treasurer's Instruction 12 *Government Purchase Cards and Stored Value Cards*, to use the purchase card.

¹ This value refers to the amount to be included in the contract to purchase the land. It does not include on-costs such as stamp duty.

Payments and disbursements

8.15 Unless the public authority's enabling legislation has alternative specific arrangements that are inconsistent with this clause, a payment or disbursement can only be made with the prior approval of an employee where the employee is empowered as follows:

8.15.1 by an instrument in writing;

8.15.2 specifying the employee, or the position (subject to clause 8.8.3), monetary limits (consistent with clauses 8.16 and 8.17) and other conditions, determined as follows:

<i>public authority</i>	<i>to be determined by</i>
administrative unit	<ul style="list-style-type: none"> • the Minister, or • any employee nominated by the Minister, or • any employee nominated by a Chief Executive, where the Minister has authorised the Chief Executive to grant payment authorisations
public authority that is not an administrative unit	<ul style="list-style-type: none"> • the Minister, or • any employee or governing authority nominated by the Minister, or • any employee nominated by a Chief Executive or governing authority, where the Minister has authorised the Chief Executive or governing authority to grant payment authorisations

8.15.3 specifying that it immediately ceases upon the employee ceasing employment or materially changing duties.

Administrative units

8.16 A Minister may:

8.16.1 nominate the Chief Executive, or an employee of an administrative unit (including an employee for the time being holding a specified position) to give a payment authorisation subject to any conditions and for a monetary sum that does not exceed the greater of:

8.16.1.1 the annual appropriation from Consolidated Account to the administrative unit, or

8.16.1.2 the amount held in a Special Deposit Account, Deposit Account or any other relevant accounts administered by the administrative unit; and

8.16.2 authorise the Chief Executive to nominate an employee (including an employee for the time being holding a specified position) to give payment authorisations subject to conditions and not exceeding the monetary limits contained in clause 8.16.1.

Public authorities that are not administrative units

- 8.17 Where, pursuant to clause 8.15.2, the Minister has determined that a Chief Executive or a governing authority of a public authority that is not an administrative unit may grant payment authorisations, and the Chief Executive or governing authority has nominated an employee to grant the payment authorisations, the employee's monetary limit must not exceed the monetary limit determined, respectively, for the Chief Executive or the governing authority.

Financial Arrangements

- 8.18 An administrative unit must not lend monies to (or borrow monies from) any other administrative unit without the approval of the Treasurer or the Treasurer's delegate.

Special provision relating to interest payments

- 8.19 The approval of the payment of interest by a public authority in accordance with the *Late Payment of Government Debts (Interest) Act 2013* or a relevant policy of the State Government may be given by an authorised employee of another public authority providing accounts payable services (the service provider public authority) to the public authority.
- 8.20 The Chief Executive of the service provider public authority must:
- 8.20.1 ensure a register is established and maintained of specified persons and the holders of positions authorised or nominated under clause 8.19 to give particular financial authorisations, and any conditions applying to the giving of a financial authorisation by the specified person or holder of a position;
 - 8.20.2 review the register at least annually; and
 - 8.20.3 if the holder of a position within the public authority, rather than a specific employee, is empowered to give the financial authorisation, ensure that only a South Australian government employee occupies that position.

Transitional Arrangements

8.21 The previous version of clause 8.11AA and 8.11AB effective from 1 November 2018 were:

8.11AA The Minister may act under this clause to approve a contract if –

- (a) the contract forms part of a public sector initiative that has been approved by Cabinet; and*
- (b) the scope of the contract is consistent with the Cabinet approval; and*
- (c) the consideration for the contract, when aggregated with any other money to be applied for the purposes of the public sector initiative, does not exceed any estimated cost provided to Cabinet in connection with obtaining the Cabinet approval.*

8.11AB For the purposes of clauses 8.11.1 and 8.11AA, a reference to Cabinet will be taken to include a reference to a Cabinet Committee.

8.22 A Minister may act in accordance with the previous version of clause 8.11AA and 8.11AB as set out in clause 8.21 to approve a contract with consideration of \$15 million or greater until 31 December 2019.

For queries contact the Department of Treasury and Finance:
Account Manager - Budget, Analysis and Performance Branch
or
Advisory and Professional Development
Telephone No. (08) 8207 1865