

**TREASURER'S INSTRUCTION**  
**GOVERNMENT BUSINESS ENTERPRISES ACT 1995**

**GBE 11-78-04**

**GUARANTEE FEES**

**BACKGROUND**

Section 78 of the *Government Business Enterprise Act 1995* (GBE Act) provides that a Government Business Enterprise (GBE) must pay an annual guarantee fee into the Consolidated Fund. Schedule 3 of the GBE Act lists those GBEs that are liable to pay guarantee fees.

GBEs are required to pay a guarantee fee to the Government based on their amount of financial accommodation, so that, like the private sector, they are exposed to the full risk-related cost of the debt they hold. This is required to fulfil Tasmania's competitive neutrality commitments under the National Competition Policy.

GBEs must calculate the guarantee fee payable to the Consolidated Fund. The guarantee fee calculation, and payment, should be provided to the Treasurer in accordance with this Treasurer's Instruction and the attached *Guarantee Fee Policy for Government Businesses*.

Section 79 of the GBE act provides that if the Treasurer is satisfied that the guarantee fee has been calculated incorrectly, the Treasurer may vary it.

The Portfolio Minister may request, in accordance with Section 81 of the GBE Act, the Treasurer to defer or waive the payment by a GBE of the whole or any part of the guarantee fee payment due.

**DEFINITIONS**

The terms "guarantee fee", "financial accommodation", "financial year", and "security" are defined in Section 3 of the GBE Act.

The term "Government business" is defined as meaning any Government Business Enterprise (GBE) or State Owned Company (SOC).

**TREASURER'S INSTRUCTION**

The board of a Government business is to ensure that it pays guarantee fees consistent with the *Guarantee Fee Policy for Government Businesses* attached to this instruction.

**COMMENCEMENT DATE**

This Treasurer's Instruction applies to the calculation of all guarantee fees payable in respect of the 2009-10 financial year and the financial years thereafter.

Guarantee fees payable in respect of the 2008-09 financial year are to be determined in accordance with:

- Treasurer's Instruction GBE-TI-11-78-03; and
- the transitional arrangements contained in the attached policy.

**ATTACHMENT**

- *Guarantee Fee Policy for Government Businesses*

# Guarantee Fee Policy for Government Businesses

Policy and Guidelines Paper

July 2009



**Tasmania**  
Explore the possibilities

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## Executive Summary

The *Guarantee Fee Policy for Government Businesses* represents an important aspect of the State's commitment to competitive neutrality. Government businesses have a financial advantage over private sector businesses by being able to borrow at interest rates based on the credit rating of the State.

Guarantee fees are payable on all financial accommodation, whether or not they are explicitly guaranteed by the State, and expose Government businesses to the risk-related cost of debt they would have faced if they were required to borrow funds based on a stand-alone credit rating. This encourages Government businesses to operate in a commercial manner without any support from the State and in a similar manner to private-sector businesses with similar risk.

The guarantee fee rate for a particular loan is intended to reflect the difference between the cost of funds that would apply to the Government business if it was required to borrow on a stand alone basis and the actual cost of funds under State-ownership.

For each Government business with debt, an annual stand-alone credit rating is required in order to assess the ability of the business to meet its future debt obligations without any benefit of State-ownership.

Guarantee fees are based on the amount of debt a business has outstanding in a financial year and credit margins associated with its particular credit rating. These margins are revised annually ahead of the forthcoming financial year and reflect spreads in credit markets after Tascorp lending margins.

Guarantee fee rates set for a particular year apply to all new or refinanced loans taken out by the business in that year and are fixed for the life of each loan. Accordingly, a Government business' loan portfolio may be subject to several different guarantee fee rates. The guarantee fees are calculated on a daily basis on actual loans outstanding and the guarantee fee payable by Government businesses each year is calculated as the sum of the guarantee fee payable on each individual loan.

Guarantee fee rates on forward start loans will be set at the applicable rate of the year in which the contract to enter the loan was agreed.

# 1. Introduction

The terms "guarantee fee", "financial accommodation", "financial year", and "security" are defined in Section 3 of the *Government Business Enterprises Act 1995* (GBE Act).

For the purposes of this policy statement the terms "debt", "borrowings" and "financial accommodation" are used interchangeably. Accordingly, any other forms of financial accommodation such as finance leases are subject to guarantee fees under this policy statement.

Government businesses (including wholly-owned subsidiaries) are required to source all debt from Tascorp, other than overdraft facilities associated with transactional banking services. Such borrowings are at interest rates based on the credit rating of the State of Tasmania. This allows Government businesses to borrow at lower interest rates than they would be able to if they were required to raise the same funds in the private sector based on their own credit rating.

The *Guarantee Fee Policy for Government Businesses* is designed to ensure competitive neutrality between Government businesses and their private sector counterparts.

The policy requires Government businesses to borrow at a cost that reflects their individual credit worthiness. This approach encourages businesses to realise the full cost of debt and therefore develop appropriate debt management practices.

## 2. Application of Guarantee Fees

The GBE Act provides the legislative basis for levying and administering guarantee fees.

Section 78 of the GBE Act requires guarantee fees to be levied on all outstanding financial accommodation of the GBEs listed in Schedule 3 of the Act. State-owned companies are also liable to pay guarantee fees as directed by their portfolio acts. The guarantee fee liability arises whether or not the financial accommodation is explicitly guaranteed by the State.

Government businesses are liable to pay guarantee fees on any debt held by subsidiaries subject to the terms included in Section 4.3 of this policy.

Guarantee fees are paid to the Consolidated Fund, in accordance with Part 11 of the GBE Act or the enabling Act of each State-owned company.

### 2.1 Exemptions

The Tasmanian Public Finance Corporation (Tascorp) raises funds in global markets on behalf of the State and uses these funds to lend to clients. In the case of Government businesses these borrowings are subject to guarantee fees, whereas Tascorp is an intermediary and, as such, is exempt from paying guarantee fees.

## 3. Guarantee Fee Methodology

Guarantee fee rates are determined by the Treasurer prior to each financial year commencing. These rates apply to all new or refinanced loans taken out by the business in that year and are fixed for the life of each loan. Accordingly, a Government business' loan portfolio may be subject to several different guarantee fee rates.

The calculation of guarantee fee rates is based on the following variables:

- the stand-alone credit rating of a Government business;
- the credit margins relative to BBSW/Swap applicable for a typical corporate borrower with that credit rating;
- the margins above Tascorp's lending curve that apply to new borrowings of that Government business from Tascorp;
- the current margins between Tascorp's lending curve and the BBSW/Swap curve; and
- the term of the loan.

### 3.1 Credit rating

On behalf of Treasury, Tascorp will undertake credit analysis on every Government business with outstanding financial accommodation. Tascorp's analysis will be summarised in a report for Treasury and will include a stand-alone credit rating for each of the relevant businesses.

Government businesses with financial accommodation exceeding (or expected to exceed) \$50 million, will be subject to detailed credit rating analysis while all other businesses will have their credit ratings provided on the basis of desktop analysis.

In determining stand alone credit ratings, Tascorp will adopt a forward looking stance. Government businesses have a responsibility to ensure that Treasury is provided with up to date information on:

- expected future business conditions;
- financial projections;
- new business initiatives;
- significant capital expenditure plans; and
- likely future borrowing levels.

Treasury will then provide this information to Tascorp so it can be used to determine the relevant Government business' credit rating.

Any Government business will be able to obtain an external credit rating from an appropriate party, in place of Tascorp's rating or if it disagrees with Tascorp's assessment.

For the purposes of this policy statement an appropriate party is defined as a recognised credit rating agency or other professional adviser using a similar methodology. These parties must provide the advice independently from the Government businesses they are rating.

The cost of seeking an external credit rating will be met by the Government business and the rating must be conducted on a stand-alone basis. This means the external assessment cannot use the State's credit rating as the basis for determining the rating for the Government business i.e. any implied support due to State-ownership is to be disregarded.

In principle, Treasury will support the external rating if these conditions are met.

### **3.2 Guarantee fee rate**

The Guarantee fee rate levied on the outstanding debt of Government businesses reflects the difference between the following two items:

- 1) the cost of funds that would apply to the Government business if it were required to borrow funds in its own right, without the benefit of State-ownership; and
- 2) the actual cost of funds applying to the Government business on the basis of State-ownership.

The credit margin for businesses rated at BBB or above is based on spreads contained in CBA Spectrum and is calculated as the average rate for the 21 business days to 30 April of the previous financial year.

If Treasury and Tascorp determine in any particular year that it is inappropriate to use CBA Spectrum to determine market credit margins then they will arrange for an alternative data source to be used. If an alternative data source is required, Treasury and Tascorp will discuss this source with the businesses and explain why it is more appropriate than CBA Spectrum.

CBA Spectrum does not provide credit spreads for ratings of BBB-and below. Tascorp will obtain appropriate credit spreads for these ratings from an alternative data source and will make this source available to Government businesses subject to any confidentiality constraints.

Tascorp will calculate for each Government business the guarantee fee rate applicable for each of the time bands contained in Section 3.3. Each rate will reflect:

- BBSW/Swap;
- plus the credit margin; and
- less an assumed transaction cost (including Tascorp's lending margin and administration costs) of that Government business taking out a new loan from Tascorp for the relevant term.

### **3.3 Borrowing period**

To maintain flexibility in debt portfolio management, the Treasurer will determine guarantee fee rates across a range of maturities which will be applied in accordance with the specific loan's maturity.

The guarantee fee rate is fixed for the life of each loan and guarantee fees are calculated on a daily basis from the outstanding face value of each loan.

In effect the Treasurer will determine a ‘margin matrix’ to be applied for all new and refinanced borrowings for each individual Government business.

**Table 1: Guarantee Fee Rates**

[Business Name]	Overnight	Short term advance	1 year	2 years	3 years	4 years	5 years
[Rating]							

Borrowings that are for a period of greater than five years will attract the five year guarantee fee rate.

Where borrowings are taken out with a term greater than one year, but not exactly in line with the above margin matrix, the guarantee fee is to be applied as the rate applicable to the next nearest full year. For example, borrowings with terms of two years and five months will attract the two year guarantee fee rate while, borrowings of two years and seven months will attract the three year guarantee fee rate.

All loans undertaken with a term of less than one year, and not borrowed overnight or as a short term advance, will be subject to the one year guarantee fee rate applicable to the Government business.

All overnight borrowings and short term advances will attract guarantee fees levied on the basis of average daily balances. Tascorp will recommend a relevant rate to apply to all over night borrowings and short term advances for the forthcoming year.

For the purposes of this policy statement the term “overnight borrowings” refers to any borrowings of an overnight nature and the term “short term advances” refers to borrowings with a term longer than overnight and less than one year.

**3.4 Calculating guarantee fees**

In any given year, guarantee fees payable will reflect the following formula, where the guarantee fee rate is that applicable in the financial year in which the specific loan was committed:

$$GF = \sum \left[ A_i \left( \frac{N_i}{365} \times R_i \right) \right] + \left[ B \times \left( \frac{D}{365} \times R \right) \right] + \left[ C \times \left( \frac{D}{365} \right) \times R \right]$$

Where:

- GF= guarantee fee payable
- C = average daily balance of short term advances (\$)
- A = outstanding principal on term loan (\$)
- D = number of days in payment period
- N = number of days the loan was outstanding in relevant financial year
- R = relevant guarantee fee rate
- B = average daily balance on overnight borrowings (\$)

## 4. Other Conditions

### 4.1 Major events of disruption

The guarantee fee policy does not contemplate specific adjustments for 'major events' that may disrupt markets during the period when credit margins are determined. However, alternative data sources may be required if credit margins do not reflect the borrowing cost advantage of State-ownership. (See above 3.2)

Tascorp may recommend to Treasury that guarantee fee rates for the current year be altered if, in the current year after guarantee fee rates have been set, external events lead to a material and sustained change in the assumed transaction cost incorporated in the guarantee fee rates, relative to Tascorp's client pricing,

### 4.2 Adjustments to the guarantee fee rates

The Treasurer may review the guarantee fee rates applicable to any business at any time during the year if there is a material change in the business' level of financial accommodation. A guarantee fee rate review may be initiated by Treasury or a Government business and may occur where a Government business undertakes unanticipated borrowings (eg. a major acquisition, capital investment) or a divestment which leads to the credit rating and guarantee fee rates unfairly reflecting the business' risk profile.

If the Treasurer alters guarantee fee rates during the year the altered rates may be applied retrospectively from the start date of any loan. In this situation Treasury will provide advice to businesses at the earliest opportunity.

### 4.3 Repaying or refinancing loans prior to maturity

A Government business can repay any loan prior to maturity, whether or not it is refinanced. This is a commercial matter between Tascorp and its clients. However, the Government business is also required to ensure that:

- Treasury is notified of its intention to repay the loan prior to maturity; and
- guarantee fees are paid for the period until the early repayment date, at the time of the next guarantee fee payment;

To ensure competitive neutrality, the Government business is also liable to pay an early repayment fee at the time of its next due payment, reflecting the opportunity value of guarantee fees avoided on the repaid debt for the term from the early repayment date to the original maturity date (ie. the early repayment period).

The early repayment fee will be:

- the present value of the guarantee fees avoided that otherwise would have been payable on that loan for the early repayment period; less
- the present value of value of the guarantee fees that would be paid on a hypothetical loan, as if it was a new loan (of the same amount) for the early repayment period.

The present values will be calculated using the same discount rate comprising the Tascorp lending rate (including semi-government, lending and administration margins) plus the guarantee fee rate applicable to the hypothetical loan.

If the early repayment fee is positive, it will be added to other guarantee fees payable.

If the early repayment fee is negative, the credit amount may be carried forward (without interest) to future scheduled guarantee fee payments until extinguished. Government businesses will not receive a refund for any credit amount.

The relevant Government business, with support from Tascorp as necessary, is responsible for calculating the early repayment fees, and must provide sufficient information (including the present value calculations) to allow Treasury to fulfil its audit requirements.

Any debt refinancing or early repayment should not be for the sole purpose of reducing the guarantee fee associated with that debt. If this is the case, Treasury has the discretion to disallow the offsetting credit for the hypothetical loan.

Treasury has the discretion to make additional adjustments to the early repayment fees to ensure competitive neutrality, which will be considered on a case-by-case basis.

#### **4.4 Forward start loans**

Guarantee fee rates on forward start loans will be set at the applicable rate of the year in which the contract to enter into the loan agreement was signed.

#### **4.5 Investments with Tascorp**

While Government businesses may hold investments with Tascorp, guarantee fees will apply to gross debt unless otherwise approved by the Treasurer.

#### **4.6 Borrowings by related parties**

If an entity that is related to a Government business (such as a joint venture) obtains financial accommodation from a party other than Tascorp, the Government business must provide a written statement that either:

- confirms that the funding has been provided on a fully stand-alone basis with no recourse to the State, the relevant Government business, another Government business or any of the State's other entities (scenario 1); or
- provides a detailed statement from the funding provider that identifies the implied sovereign support and the associated credit margin (scenario 2).

In scenario 1, no guarantee fee will be payable on the external funding as there should be no borrowing cost advantage.

In scenario 2, the guarantee fee rate will be consistent with the credit margin associated with the implied sovereign support. This will be applied to the Government business' share of funding to the related entity. If the credit margin materially understates the value of the implied sovereign support, an alternative guarantee fee rate may be considered.

Any parent guarantees that confer a borrowing cost advantage to a related entity will also attract guarantee fees. The Government business should obtain a statement from the funding provider in a similar manner to scenario 2.

## 5. Administration

Guarantee fees are payable by Government businesses to the Consolidated Fund in two payments for the financial year to which they relate. The guarantee fee instalments are payable on or before 15 January for the six months to 31 December and 15 July for the six months to 30 June in each financial year.

When paying Guarantee Fees, the Government business must submit a copy of the Guarantee Fee Calculation. (refer to attachment 1)

The following table is a guide where relevant, to the annual timing of events in the determination of the guarantee fee rates. Treasury will endeavour to provide information to Government businesses ahead of these dates.

**Table 2: Administrative Arrangements**

Action	Key Date
Tascorp provides credit assessments to Treasury.	28 February
Treasury advises Government businesses of their credit rating.	7 March
Tascorp recommends credit margins to Treasury.	7 May
Treasury provides the Treasurer with advice to enable guarantee fee rates to be determined.	15 May
Treasury advises Government businesses of the fees determined by the Treasurer for the forthcoming year.	15 June
Guarantee fee payment for six months to 30 June payable to the Consolidated Fund.	15 July
Tascorp provides data enabling Treasury to audit guarantee fee payments.	31 July
Guarantee fee payments for six months to 31 December payable to the Consolidated Fund.	15 January
Tascorp provides data enabling Treasury to audit guarantee fee payments.	31 January

### 5.1 Guarantee fee administration fee

Tascorp will seek compensation from Treasury for the cost associated with providing advice on guarantee fees (including its credit rating service). Treasury will then recover these costs from the relevant Government businesses.

### 5.2 Audit of guarantee fee payments

Treasury may obtain from Tascorp any information necessary to undertake an audit of Government businesses guarantee fee payments.

### 5.3 Penalties for late payment of guarantee fees

Section 80(2) of the GBE Act lists the penalties that may be applied to Government businesses for the late payment of guarantee fees.

## 6. Roles and Responsibilities

Treasury is responsible for developing the *Guarantee Fee Policy for Government Businesses*, including updating and revising the policy when necessary.

Treasury administers guarantee fees, involving:

- ensuring that data sources that underpin guarantee fee rates are appropriate;
- facilitating the transfer of information to Tascorp to allow it to conduct a stand-alone credit rating of Government businesses;
- advising Government businesses of their guarantee fee rates;
- providing Government businesses with guarantee fee rate calculations if requested;
- processing the receipt of the guarantee fee payments; and
- auditing guarantee fee payments.

Tascorp is responsible for:

- providing funds for the borrowing programs of Government businesses;
- providing advice to Treasury on stand-alone credit ratings and credit margins;
- providing information on businesses borrowings with Tascorp to allow Treasury to audit guarantee fee payments; and
- offering technical advice to Treasury where required.

Boards and management of Government businesses are responsible for:

- providing information to allow credit rating analysis;
- ensuring guarantee fees are paid in accordance with this policy statement; and
- providing any data necessary for Treasury to audit the guarantee fee payments.

## 7. Transitional Arrangements

The transitional arrangements associated with this guarantee fee policy are:

- any loans outstanding as at 30 June 2008 will incur the guarantee fee rates that applied in the 2007-08 financial year.
- any loans that were new or refinanced in 2008-09 will incur guarantee fee rates that were determined by the Treasurer in July 2008.

The respective Government businesses have already received formal advice from Treasury regarding these rates.

A timetable outlining the payment schedule under the transitional arrangements is included below.

**Table 3: Timetable for Transitional Arrangements**

	Type of Payment	Payment period	Payment due
2009-10	Payment 1	1 <sup>st</sup> July – 31 <sup>st</sup> Dec	15 Jan 2010
	Payment 2	1 <sup>st</sup> Jan – 31 <sup>st</sup> May	15 June 2010
	Payment 3	1 <sup>st</sup> June – 30 <sup>th</sup> June	15 July 2010
2010-11	Payment 1	1 <sup>st</sup> July - 31 <sup>st</sup> Dec	15 Jan 2011
	Payment 2	1 <sup>st</sup> Jan – 31 <sup>st</sup> May	15 June 2011
	Payment 3	1 <sup>st</sup> June – 30 <sup>th</sup> June	15 July 2011

The transitional schedule is required to ensure that, for the foreseeable future, the State receives most of the liabilities accruing in a financial year during that year. The schedule will be reviewed at a later date. Tascorp will review the 2009-10 guarantee fee rates (but not credit ratings) in the transitional arrangements by September 2009. This is required due to the uncertainty surrounding the market pricing impact of the Australian Governments' guarantee on State borrowings.

## Further Information

General enquiries concerning this document should be initially directed to:

Shareholder Policy and Markets Branch

Department of Treasury and Finance

Telephone: (03) 6233 2470

Internet: [www.treasury.tas.gov.au](http://www.treasury.tas.gov.au)

## Appendix Guarantee Fee Return Calculation – An Example

### Tascorp long term loans

Guarantee fee period details		Transaction number	Transaction date	Financial year of transaction	Guarantee fee rate (%)	Drawdown date for loan	Maturity date	Days outstanding in payment period	Amount drawn	Guarantee fee payable
Date due	15/01/2010	A1	15/06/2008	2007-08	0.50	15/06/2008	15/06/2010	183	10,000,000	25,068
Payment period		A2	15/06/2009	2008-09	1.50	15/08/2009	15/08/2012	138	10,000,000	56,712
Start	1/07/2009	A3	15/10/2009	2009-10	3.40	15/10/2009	15/11/2013	77	10,000,000	44,475
End	31/12/2009									
Financial year	2009-10									
Days in period	184									
Days in year	365									

### Tascorp short term Loans

Transaction number	Guarantee fee rate (%)	Days in payment period	Average amount drawn	Guarantee fee payable
O1	0.20	184	5,000,000	5,041

Payment details  
 Guarantee fees 131,297  
 Adjustments  
 Amount due  
 Reason for adjustments:

Authorisation  
 Name

Signature  
 Position

Contact details	Guarantee fee rates (basis points)	Short Term	1 Year	2 years	3 years	4 years	5 years
Name	Pre 30 June 2008	20	50	50	50	50	50
Position	2008-09	20	150	150	150	150	150
Email	2009-10	20	300	320	335	340	340
Phone	2010-11						
	2011-12						

