Guidelines for Tasmanian Government Businesses

Borrowing Arrangements

November 2015

Department of Treasury and Finance

Tasmania
Explore the possibilities

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Introduction

Government businesses (including wholly-owned subsidiaries) are required to source all debt from the Tasmanian Public Finance Corporation (TASCORP), other than for certain excluded finance facilities. Borrowings that are sourced through TASCORP, are obtained from debt capital markets 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 access if they were required to raise the same funds in the private sector based on a standalone credit rating.

Under the competitive neutrality requirements of the National Competition Policy Agreements, Government-owned businesses should face similar commercial and regulatory obligations to those faced by competing private businesses. As a result, Government businesses are required to pay guarantee fees on borrowings to offset the competitive advantages provided by government guarantee.

Borrowing is defined by section 3 of the *Government Business Enterprises Act 1995* (GBE Act) as "any borrowing, loan, temporary accommodation, advance or other form of raising funds in relation to which the principal is repayable". Furthermore, the terms "debt", "borrowings" and "financial accommodation" are used interchangeably. Accordingly, other forms of financial accommodation, such as finance leases, are generally subject to guarantee fees under this policy.

1. Government Business Borrowing

A Treasurer's direction has been issued under section 16(1) of the *Tasmanian Public Finance Corporation Act 1985* requiring all Government businesses to borrow exclusively from TASCORP. The direction was published in the Gazette on 15 July 2009, a copy of which is attached to this Guideline, and was effective from 30 June 2009. The direction applies to all new or refinanced borrowings, other than those identified as exclusions in these Guidelines.

In addition to borrowings by Government businesses, the direction applies to all wholly-owned subsidiaries, which must borrow either directly or indirectly from TASCORP.

In the event a parent company acquires a new wholly owned subsidiary – including acquiring the remaining shares of a joint venture – all debt at the time of acquisition is required to be refinanced with TASCORP, unless it can be demonstrated that early refinancing fees and other related costs are prohibitive. Post-acquisition, all new or refinanced debt should subsequently be with TASCORP.

1.1 Exclusions

Transactional banking facilities are excluded from the direction. For the purpose of these Guidelines, transactional banking facilities are defined as "banking facilities required to manage the day to day transactions of the business other than debt financing activities". Transactional banking facilities would include overdrafts, corporate credit cards, day to day banking accounts, derivative settlement accounts, and standard credit terms on business transactions.

All **intercompany loans** between a parent company and its wholly-owned subsidiaries and joint ventures are excluded from the direction to the extent that the loan is made using equity or funds previously borrowing from TASCORP.

If a Government business holds at least 50 per cent of the equity in a joint venture, TASCORP may consider lending directly to the joint venture on commercial terms, subject to appropriate conditions being in place. However, TASCORP is unlikely to be involved in project finance structures. Accordingly, **joint venture borrowings** are excluded from the direction if:

- the relevant Government business holds less than 50 per cent of the joint venture;
- TASCORP is not willing to lend to the joint venture on commercial terms; or
- the funding is for a particular asset or economic unit, which is used as collateral and provides the cash flow and earnings that support the principal and interest repayments without recourse to the assets, cash flow or earnings of the Government business.

Bank guarantees (such as those supporting capital projects or financial settlements) are excluded from the conditions of the direction. However, if a guarantee is drawn down, a Government business must seek to refinance the drawing with TASCORP as a regular short term borrowing or other loan facility, within a reasonable period.

Finance leases are a form of borrowing and are covered by these Guidelines. However, those relating to vehicle fleets, information technology infrastructure and office equipment are excluded from the direction.

1.2 Compliance

In complying with the Treasurer's direction, Government businesses must not enter into agreements to access financial accommodation that are akin to borrowings, or borrow from a joint venture, for the purposes of avoiding the conditions of the direction.

If there is doubt as to whether a proposed facility is in breach of the guideline, the onus will be on the business to consult Treasury prior to entering into any agreement.

1.3 Transitional Arrangements

All existing borrowing facilities that were established prior to 30 June 2009, but would normally be covered by the Treasurer's direction will be grandfathered under the previous arrangements until they expire or are subject to review in accordance with their terms.

Any non-TASCORP borrowings and facilities previously approved by the Treasurer will be grandfathered under the existing arrangements. However, these facilities, and TASCORP's capacity to provide a comparable service, should be regularly reviewed.

1.4 Maturity Profile

All Government businesses are expected to ensure that their debt management objectives and strategies are aligned with those of Government, to mitigate the potential for the State to be exposed to significant refinancing risks.

Government businesses should structure debt portfolios in a manner that would be appropriate for a comparable private sector entity which must access debt through the capital markets on its own behalf. Government businesses should therefore generally aim for an even spread of maturities out to ten years with a bias towards the maturity date of TASCORP's long term debt issues. Consequently new or refinanced borrowings should generally be in the range between 5 and 10 years.

Debt maturity is to be explicitly addressed in Board treasury policies. In particular, Board policies will reflect an assumption that the business faces refinance risks and cannot implicitly assume that

TASCORP is able to offer liquidity unless such an arrangement has been specifically contracted with TASCORP.

1.5 Disclosure

Subject to any commercial-in-confidence information, a high level summary of the Board's treasury policy is to be published on the Government business's website and be subject to internal audit.

Debt maturity profiles should be included in quarterly performance reports and annual reports in a format agreed with Treasury. Quarterly reporting should include any funding obtained under a transactional bank facility, project finance facilities and information on any indirect exposures such as joint ventures project finance facilities.

2 Government Guarantee Fee Policy

2.1 Application

The GBE Act provides the legislative basis for levying and administering guarantee fees, which are intended to ensure competitive neutrality between Government businesses and their private sector counterparts.

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 2.3 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.

As an intermediary in providing debt funding for government businesses TASCORP is exempt from paying guarantee fees.

2.2 Guarantee Fee Methodology

Guarantee fees rates are determined by the Treasurer prior to the beginning of each financial year. 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. As a result a loan portfolio is likely to be subject to several different guarantee fee rates.

Assessment of Financial Support

The guarantee fee rate applicable to a business will be determined according to whether or not the business is operating under a form of financial support, as determined by the Treasurer. For example, financial support would include where TASCORP requires a Letter of Comfort from the Treasurer, where a business requires an equity injection to improve is financial position, or some other form of financial support. Financial support does not include community service obligations, or other similar transfers.

Businesses will be assessed as to whether they require financial support for the upcoming financial year, and depending on the assessment one of two guarantee fee rates will apply. The guarantee fee rates will be based on the weighted average term to maturity of State long term debt.

The guarantee fee rates will apply to new or refinanced borrowings of all loan terms including net overnight borrowings (overnight deposits may be offset against overnight borrowings).

Treasury will request that TASCORP calculate guarantee fee margins annually based on the best available market-based data source for the 21 business days to 30 November of each year with the margins to apply for the following financial year. It should be noted that the Government expects that businesses will not delay the refinancing of maturing debt for the sole purpose of reducing the guarantee fee associated with that debt.

Calculating Guarantee Fees

The guarantee fee applicable for each individual loan is:

$$\frac{\text{outstanding principal}^{1} \times \text{guarantee fee rate} \times \text{no. of days outstanding in payment period}^{2}}{\text{total number of days in the financial year}^{3}}$$

[1] Or average daily balance for overnight borrowings or short term advances.
[2] Or number of days in payment period for overnight borrowings or short term advances.
[3] 366 days during a leap year.

The total guarantee fee payable by the business in each payment period is equal to the sum of the guarantee fees to be paid on each individual loan.

When calculating the guarantee fee payable, balances should include the first or last day of a period. Either approach is acceptable provided the approach taken is transparent in the guarantee fee return and consistent from year to year.

2.3 Other Conditions

Major disruptive events

To take account of major events that may disrupt financial markets, the guarantee fee policy may change depending on the severity of the event and when credit margins are determined. Alternative data sources may be required if credit margins are not reflective of the borrowing cost advantage of state-ownership.

TASCORP may recommend to Treasury that guarantee fee rates for the current year be altered if 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.

Adjustments to the guarantee fee rates

The Treasurer may review the guarantee fee rates applicable to a business, for example, where there is a change in the financial assistance arrangements of the business.

If the Treasurer alters guarantee fee rates during the year, Treasury will provide advice to the business at the earliest opportunity as to the altered rates and how they may be applied.

Repaying or refinancing 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 up to the early repayment date, at the time of the 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 (i.e. the early repayment period).

If paying out a loan prior to its maturity date then 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.

If refinancing a loan prior to its maturity date 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 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 will 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 calculation) 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 waive early repayment fees which will be considered on a case-by-case basis.

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 the loan agreement was signed. The term of the forward start loan will be calculated from the date the loan is drawn down.

Investments with TASCORP

While Government businesses may hold investments with TASCORP, guarantee fees will apply to gross debt unless otherwise approved by the Treasurer. However, overnight deposits may be offset against overnight borrowings in the guarantee fee calculations.

Borrowings by related parties

If an entity 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 to the related parties.

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 share of funding of the Government business to that of 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.

2.4 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.

When paying guarantee fees, the Government business must submit a copy of a Guarantee Fee Calculation, an example of which can be found in the Appendix.

Key Dates

15 July	• Guarantee fee payment (January-June)
15 December	• TASCORP recommends credit margins to Treasury for forthcoming financial year and Treasury advises Government businesses of the applicable rates
15 January	• Guarantee fee payment (July-December)

Review of guarantee fee payments

Treasury may obtain from TASCORP any information necessary to undertake a review of Government businesses guarantee fee payments. In undertaking reviews of the guarantee fee payments, Treasury will among other things ensure that:

- payments are made by the correct date;
- the return has been signed off with appropriate authorisation;
- the return covers the appropriate period;
- all borrowings are listed (including overnight/short term advances & finance leases; and
- the correct guarantee fee rates have been used.

Penalties for late payment

Section 80 of the GBE Act lists the penalties that may be applied for late payment of guarantee fees.

In accordance with section 80(1), if a Government business does not pay the whole or part of a guarantee fee into the Consolidated Fund by the day on which that payment is required to be made, the Government business must pay a penalty in the form of interest at 1.5 time the prescribed rate on the amount which is due and unpaid from that day to and including the day in which it is paid.

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Government Notice

TASMANIAN PUBLIC FINANCE CORPORATION ACT 1985

Section 16(1)(a)

NOTICE of direction to borrow money from the Tasmanian Public Finance Corporation and not from any other person. In accordance with the provisions of section 16(1)(a) of the *Tasmanian Public Finance Corporation Act 1985*, I, the Honourable Michael Anthony Aird, MP, Treasurer, do hereby give notice that any Government business that borrows money must borrow from the Tasmanian Public Finance Corporation (the Corporation) and not from any other person.

1. **Definitions**

   Borrowing is defined by section 3 of the GBE Act.

2. **Date of effect**

   This notice takes effect on 30 June 2009.

3. **Application**

   This notice does not apply to the Corporation.

   This notice applies to any other State authority that is also:

   - a Government Business Enterprise specified in Schedule 1 of the *Government Business Enterprises Act 1995* (GBE Act); or
   - a corporation incorporated under the Corporations Act, all the shares of which are beneficially owned by the Crown in Right of Tasmania.

   This notice applies to subsidiaries of these authorities, whether established under the GBE Act or Corporations Act.

4. **Conditions**

   The Treasurer may, in writing, exempt Government businesses from this notice, subject to any conditions imposed on that Government business.

Dated this fifteenth day of July 2009.

MICHAEL AIRD, Treasurer.

Appendix Guarantee Fee Return Calculation - Example

Business Name

Guarantee fee period details

Date due	15/01/2017
Payment period	
Start	1/07/2016
End	31/12/2016
Financial Year	2016-17
Days in period	184
Days in year	365

Tascorp long term loans

Transaction number	Transaction date	Financial year of transaction	Guarantee Fee rate (%)	Drawdown date for [illegible]	Maturity date	Days outstanding in payment period	Amount drawn	Guarantee fee payable
A1	15/06/2014	2013-14	0.50%	[illegible]	15/06/2018	184	10 000 000	25 205
A2	15/06/2015	2014-15	1.50%	[illegible]	[illegible]5/08/2019	184	10 000 000	75 616
A3	15/10/2015	2015-16	[illegible]40%	[illegible]	15/11/2020	184	10 000 000	171 397
								272 219

Tascorp short term loans

Transaction number	Guarantee Fee rate (%)	Days in payment period	Average amount drawn	Guarantee fee payable
O1	[illegible]	184	5 000 000	75 616

Payment Details

Guarantee fees	$ 347,836
Adjustments	
Amount Due	
Reason for adjustments	

Authorisation

Name

Signature

Position

Guarantee Fee rates (basis points)	1 Year	2 Years	3 Years	4 Years	5 Years
2013-14	50	50	50	50	50
2014-15	150	150	150	150	150
2015-16	300	320	335	340	340
2016-17			300		

Contact Details

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Position

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