

Transfer Payment Accountability

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TABLE OF CONTENTS

- Purpose
- Application and Scope
- Principles
- Mandatory Requirements
- Responsibilities
- Definitions

Effective Date

This directive is to be effective immediately for all new transfer payment programs established after its release. All current programs are expected to comply with this directive by April 1, 2008, or as existing transfer payment contracts expire should that occur after April 1, 2008.

PURPOSE

Transfer payment programs are a key method for delivering services to the public.

This directive:

- establishes the principles and requirements for implementing controllership practices to achieve accountability for transfer payments; and
- supports the efficient and effective delivery of services provided through transfer payment programs.

APPLICATION AND SCOPE

This directive governs the administration of transfer payments and applies to ministries and those classified agencies that provide and administer transfer payments.

There are three types of transfer payments:

- entitlements;
- shared cost agreements; and
- grants.

This directive is part of a framework of directives and policies, and is particularly supported by the *Accountability Directive*, 1997, and the Ministry of Finance Risk Policy.

Transfer payments that do not meet the requirements of this directive require Treasury Board / Management Board of Cabinet approval.

PRINCIPLES

Respect for multiple roles and responsibilities is required to deliver public services through transfer payment recipients. Transfer payment recipients are responsible to deliver provincially funded services and are accountable to ministries and classified agencies for the funds they receive and the results achieved. At all times the government is held accountable for protecting the public interest.

Risk assessment is used in the design of transfer payment programs, the selection of eligible transfer payment recipients to deliver programs, and the choice of appropriate accountability requirements for transfer payment recipients.

Value for money is expected in the expenditure of government funds.

Transparency guides good governance and accountability practices for ministries, classified agencies, and transfer payment recipients.

MANDATORY REQUIREMENTS

Key to the management of transfer payment programs is the overlay of a risk-based approach. Risk management practices provide the opportunity to establish the optimum level of oversight, control and discipline enabling ministries and classified agencies to manage risk in changing environments and help provide the proper level of assessment that program / service delivery objectives are being met.

Based on a risk management approach, the following mandatory requirements must be in place:

Defining expectations

Ministries and classified agencies must define the objectives, functions, eligibility criteria, and recipient obligations for all transfer payment programs. Transfer payments must only be made under a specific transfer payment program.

Ministries and classified agencies must ensure that transfer payments are given only to legal entities (for example, those that are established by or under legislation; are federally or provincially incorporated; are band councils established under the *Indian Act*, Canada; or are other Aboriginal organizations that are incorporated). This requirement does not apply to transfer payments made to individuals.

Treasury Board / Management Board of Cabinet must approve the establishment of all new transfer payment programs, changes to and the termination of any existing program.

Transfer payments may only be provided:

- according to program criteria approved by Treasury Board / Management Board of Cabinet;
- in amounts not exceeding requirements for the fulfillment of approved program objectives; and
- in accordance with commitments made in ministry results-based plans.

Agreements

An agreement must be in place between the Province and a recipient before transfer payments are made. This can be a negotiated agreement that is signed by the parties after the Province decides to provide funding to the recipient (but before it flows the money), or it can consist of various documents exchanged between the parties (including an application form, a letter approving the transfer payment and any follow-up correspondence from the Province containing further terms and conditions).

For entitlement programs, the agreement includes written representations on the part of the recipients that they meet eligibility criteria, supported by whatever proofs are required by particular programs.

In providing transfer payments under shared cost agreements and grants, ministries and classified agencies must ensure that recipients receiving transfer payments have governance structures and accountability processes to properly administer and manage public funds and to provide the services for which transfer payments are made. Ministries and classified agencies must consider transfer payment recipient's capacity regarding:

- expertise and experience necessary to discharge its responsibilities in compliance with ministry requirements;
- appropriate governance and control structure in place that is in accordance with any statutory and / or regulatory provisions that apply to the recipient;
- reliable financial reporting (relevant, accurate, and timely financial reporting);
- establishment of a Canadian bank account; and
- compliance with applicable laws and regulations.

Also, signed agreements between ministries or classified agencies and transfer payment recipients must be in place which:

- set out expectations, terms and conditions of funding to support good governance, value for money, and transparency in the administration of transfer payment funds;
- document the respective rights, responsibilities, and obligations of the ministry or classified agency and the transfer payment recipient;
- include specific, measurable results for the money received, reporting requirements, and any corrective action the government is entitled to take if agreed upon results are not achieved; and
- subject to FIPPA and other legislation, allow independent verification of reported program and financial information by independent professionals and the Auditor-General of Ontario.

Ministries and classified agencies must strive for a balance between public service accountability and the transfer payment recipient's responsibilities and capacity to deliver service. Risk management is the mechanism that enables this balance.

Monitoring and Reporting

Ministries and classified agencies must have the oversight capacity to ensure that recipients receiving transfer payments are providing the services for which funds have been received. Oversight includes the ability to administer a program, assess risk, communicate with transfer payment recipients on a regular basis, monitor the results for

contracted projects and services arising from transfer payments, and take corrective action when necessary.

Ministries and classified agencies must establish risk criteria that are tailored to all transfer payment programs and transfer payment recipients in order to ensure that service delivery objectives are achieved and risks are consistently and comprehensively identified and addressed.

Treasury Board / Management Board of Cabinet and the Ministry of Finance can require reports as necessary from the ministry.

Ministries and classified agencies must undertake risk-based reviews of transfer payment programs and a report may be requested by Treasury Board / Management Board of Cabinet.

Reporting requirements for transfer payment recipients should be as straightforward and efficient as possible, building on existing processes and exploring opportunities to coordinate and integrate multi-ministry reporting requirements.

- Transfer payment recipients' reports must focus on the results achieved for the funds provided. Ministries are to determine outcome reporting expectations.
- Specific reporting requirements must be in proportion to the needs of the ministry, the capacity of the recipient, and the risks related to the program.
- The minimum reporting requirement is an annual report or, for short-term projects completed within a fiscal year, a final report. Where multi-year contracts are developed an annual report is required.

Corrective Action

The objective of corrective action in all cases is to ensure that provincial funds are either used as specified in agreements or returned to the provincial treasury.

Where there is non-compliance with the obligations of the transfer payment program or where a transfer payment recipient has failed to meet contractual obligations, corrective action must be initiated in proportion to the risk associated with the degree of non-compliance. The corrective action will be progressive in nature.

RESPONSIBILITIES

Cabinet

Cabinet is accountable to the Crown and the electorate for:

- recommending transfer payment expenditures to the Legislative Assembly.

Treasury Board / Management Board of Cabinet

Treasury Board and Management Board of Cabinet are accountable to the Cabinet for:

- approving the establishment of transfer payment programs, changes to or termination of an existing program;
- establishing a framework to govern transfer payments;
- approving funding for transfer payment programs; and
- directing that appropriate actions be taken for the improvement of transfer payment program delivery and risk-based review.

Secretary of Treasury Board / Secretary of Management Board of Cabinet

The Secretary of Treasury Board and the Secretary of Management Board of Cabinet are accountable to the Chair of Treasury Board / Management Board of Cabinet for:

- providing advice to the Chair of Treasury Board / Management Board of Cabinet; and
- recommending to the Treasury Board / Management Board of Cabinet a policy framework for sound transfer payment management and administration.

Minister or Chair (Agency Head)

The Minister is accountable to the public and the Legislative Assembly and the Chair is accountable to the responsible Minister for:

- authorising transfer payments under Treasury Board / Management Board of Cabinet-approved program criteria; and
- recommending approval to Treasury Board / Management Board of Cabinet or, in case of the Chair, recommending approval to the Minister, of a proposal to establish a new transfer payment program or to change or terminate an existing program.

Deputy Head (Deputy Minister or Executive Director / Chief Executive Officer of a classified agency)

The Deputy Minister is accountable to the Secretary of the Cabinet and the Minister while the Executive Director / Chief Executive Office of an agency is accountable to the Chair for:

- advising the Minister or Chair on the requirements of this Directive;
- ensuring that ministry or agency transfer payment programs meet the requirements of this Directive;
- recommending to the Minister or Chair the establishment of a new transfer payment program, changes to or termination of an existing program;

- ensuring that the ministry or agency has the oversight capacity for monitoring the results from transfer payments including the assessment and management of related risk;
- designating responsibility for this directive to either a Program Assistant Deputy Minister or to a Chief Administrative Officer; and
- undertaking timely risk-based reviews of transfer payment programs.

Assistant Deputy Minister (Program)

The Assistant Deputy Minister is accountable to the Deputy Minister for:

- ensuring staff compliance with this directive;
- ensuring effective administration of specific transfer payment programs including the assessment and management of related risk; and
- implementing risk-based reviews of transfer payment programs with regard to their administration, results, and relevance to the public policy agenda.

Chief Administrative Officer / Director of Finance

The Chief Administrative Officer and Director of Finance are accountable to the Deputy Minister for:

- ensuring compliance with this directive and Ministry of Finance controllership policies;
- establishing a process to assess and manage risk; and
- assisting with the application of risk assessment as well as financial management and control policies.

Program Head (Director or Manager)

The Program Head is accountable to the Assistant Deputy Minister or Deputy Minister for:

- administering the transfer payment program while meeting the mandatory requirements of this Directive;
- maintaining satisfactory records in keeping with applicable legislation, directives and policies;
- monitoring transfer payments made under the transfer payment program;
- assisting with transfer payment program financial reconciliation and risk-based reviews as required;
- developing a business case for new transfer payment programs; and
- undertaking risk-based reviews of transfer payment programs regularly.

DEFINITIONS

Accountability

The obligation to answer for results and the manner in which responsibilities are discharged. Accountability cannot be delegated.

Classified Agencies

Recipients to which the government delegates program or service delivery, functioning at arms-length from the ongoing operations of government, but accountable to the minister and governed by the *Agency Establishment and Accountability Directive*, 2000.

Governance

Governance refers to the processes and structures through which power and authority are exercised, including the decision-making processes.

Responsibility

The obligation to assume a role or take specific action(s). Responsibility may be delegated or conferred by mutual agreement, depending on the relationship.

Risk

The chance of something happening that will affect the achievement of objectives. Risk can represent an opportunity or threat to the achievement of objectives.

Risk Assessment

Risk assessment is the identification and analysis of relevant risks to the achievement of assigned objectives. Risk assessment is a prerequisite for determining how risks should be managed.

Risk Management

Risk management is the active process of systematically identifying risks, assessing exposures, and developing appropriate action plans so that risks are managed in a way that will enable a recipient to meet its business objectives.

Transfer Payments

One way that the government meets its objectives and carries out its programs is through transfers to individuals, organisations or other governments. Government transfers are transfers of money from a government to an individual, an organisation or another government for which the government making the transfer does not:

- a) receive goods or services directly in return, as would occur in a purchase or sales transaction;
- b) expect to be repaid in the future, as would be expected in a loan; or

- c) expect a financial return, as would be expected in an investment.

Major types of transfers include entitlements, transfers under shared cost agreements, and grants. (Footnote 1)

Entitlements

Entitlements are transfers that a government must make if the recipient meets specified eligibility criteria. Such entitlements are non-discretionary in the sense that both:

- a) "who" is eligible to receive the transfer; and
- b) "how much" is transferred

are prescribed by legislation and/or regulations.

Under programs establishing entitlements of individuals, the government normally sets no criteria for how the funds transferred must be used. (Footnote 2)

Transfers under Shared Cost Agreements

Transfers under shared cost agreements and cost reimbursement agreements are a reimbursement of eligible expenditures pursuant to an agreement between the transferring government and the recipient. (Footnote 3)

Grants

Grants are transfers that are made at the discretion of a government. The government making the transfer has discretion in deciding whether or not to

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1. These definitions are adapted from the Canadian Institute of Chartered Accountants PSSAB Standard 3410 (1995) on "Government Transfers".
CICA PS 3410.41 notes that "Some transfer may have characteristics of more than one of the major types of transfers. Some provincial transfer to hospitals and universities may have characteristics of both entitlements and grants."
 2. Entitlements paid to individuals include payments provided through social assistance programs where government may be committed to making a series of payments over some future period. (CICA PS 3410.17)
 3. Transfers under shared cost agreements are similar to entitlements as the recipient is "entitled" to the transfer once it has incurred eligible expenditures. The transferring government may agree to pay for all or only a portion of the eligible expenditures. There may also be a ceiling on the amount that will be transferred. (CICA PS 3410.29)

make a transfer; the conditions to be complied with, if any; how much will be transferred; and to whom. (Footnote 4)

Value for Money

Use of public resources with due regard for economy, efficiency, and effectiveness.

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4. Grant recipients usually have to meet some eligibility criteria, but meeting eligibility criteria does not guarantee that the recipient will receive the money. Government has discretion to decide whether or not to make the transfer. There is usually a ceiling on the total amount that may be transferred under a particular grant program and some grant recipients are subject to performance or reporting requirements. (CICA PS 3410.34)