



New South Wales
TREASURY

Treasury Circular

NSW TC 99/4

18 May 1999

PRIVATE SECTOR FINANCING OF GOVERNMENT FACILITIES – BARTER TRANSACTIONS

Summary:

This Circular outlines the reporting and approval requirements for agencies intending in the course of providing Government facilities to enter barter transactions with the private sector.

This Circular applies to SOCs, GTEs and General Government agencies. It should be read in conjunction with previously issued circulars TC95/15, TC98/4 and TC 98/7.

John Pierce
Secretary

Further Information:

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PRIVATE SECTOR FINANCING OF GOVERNMENT FACILITIES – BARTER TRANSACTIONS

Background:

Private sector involvement in financing the provision of Government facilities may occur under:

- **"joint financing arrangement"**
contracts approved by the Treasurer under the provisions of the Public Authorities (Financial Arrangements) Act 1987 (PAFA Act) – BOO and BOOT schemes, the subject of:
 - TC 95/15 dealing with the provision of public infrastructure by the private sector; and
 - the associated "Guidelines for Private Sector Participation in the Provision of Public Infrastructure";
- **long term leases**, the subject of:
 - TC 98/4 dealing with the approval of property development projects on Crown land supported by a precommitment to a Government floor space lease; and
 - TC 98/7 dealing with Structured Finance Transactions (other than leasing office accommodation); and
- **barter transactions**, the subject of this Circular.

Barter transactions

are arrangements where the Government disposes of assets but does not receive a cash payment. Instead, it is provided with facilities or infrastructure of equivalent value. A barter transaction will generally place no long term obligation on the private sector party to service or maintain the asset exchanged. Therefore it is neither:

- a "joint financing arrangement" as defined in section 5A of the PAFA Act 1987; nor
- a long term operating or finance lease.

Examples of this type of transaction include the funding by a private sector party of the:

- construction of a new police station on a new site in return for title to the land upon which an existing old police station stands;
- refurbishment of a fire station on its current site with an area no longer needed for departmental purposes

- assigned to a private sector developer for commercial redevelopment; or,
- preservation of heritage assets together with the construction of parks and open space and a theatre arts complex at Walsh Bay in return for the granting of commercial and residential redevelopment opportunities.

Requirement to Report to Treasury:

Treasury has concerns about the legal, financial and accounting issues associated with barter transactions. Such transactions can involve complex contractual arrangements and the analysis of risk allocation between the parties often assumes a greater importance than it would in an outright disposal by sale or lease. It is important that the full ramifications of entry into a barter transaction are analysed in detail and well understood at an early stage.

Approval and Reporting Requirements:

SOCs and GTEs

For SOC and GTE barter transactions will be reported and approved by the Treasurer as part of the approval of the annual Statements of Financial Performance. The disclosure of the barter transaction information listed below is now required to be submitted to Treasury as part of the Statement of Financial Performance.

General Government Agencies

General Government agencies are to follow the reporting and approval process outlined below. Barter transactions are to be the subject of a competitive tender process. Direct negotiations will only be considered in exceptional circumstances.

Proposals for an agency to enter a barter transaction now require the Treasurer's approval at two key points.

1. Approval of the Treasurer before an agency seeks proposals from the private sector

The submissions to NSW Treasury for the Treasurer's approval must include the following information:

- evidence that the proposal is consistent with the agency's strategic plan;
- an economic and financial appraisal for all feasible options;
- an evaluation showing that there is value for money to Government from the proposal;
- a discussion of the probity issues, if any, associated with the proposal;
- fully developed performance specifications for the proposal;
- a draft Call for Proposals;
- an account of consultation undertaken on inter agency impacts; and
- assurance that adequate resourcing and a realistic implementation timetable is available for the contract.

2. Approval of the Treasurer to the final arrangements prior to signing a binding contract

In addition to a review of the previously supplied information in light of the negotiations and variations to the proposal resulting therefrom, the following additional information should accompany the request for final authority to close the deal:

- the identification of all substantial land use planning, environmental and regulatory issues;
- a review of contingent liabilities of the proposal;
- a report of the proposed accounting treatment;
- a risk allocation schedule accompanied by a risk management plan; and,
- a copy of the contract to be signed.

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APPROVAL PROCESS FOR BARTER TRANSACTIONS FOR GENERAL GOVERNMENT AGENCIES

