

## Commonwealth-NSW Funding Agreements

This Treasury Circular provides information for NSW Ministers and agencies on processes for negotiating and approval to enter into new or extended funding agreements with the Commonwealth. This Circular replaces the former Premiers Memorandum M2011-19 NSW Protocol for the Intergovernmental Agreement on Federal Financial Relations.

### **The Council on Federal Financial Relations (CFFR) is responsible for all Commonwealth-state funding agreements under the Intergovernmental Agreement on Federal Financial Relations (IGAFFR)**

In May 2020, National Cabinet determined CFFR is responsible for all Commonwealth-state funding agreements under the IGAFFR (see background section for the types of funding agreements in scope for this Circular).

The IGAFFR provides a framework for Commonwealth payments to be made to states to support service delivery, infrastructure provision and reform.

The NSW Treasurer represents the NSW Government in CFFR, supported by NSW Treasury.

Consistent with national arrangements, the NSW Treasurer is responsible for all Commonwealth-state funding agreements on behalf of NSW Government.

### **NSW Treasury is responsible for providing guidance to NSW agencies regarding approval processes for NSW Ministers to enter into funding agreements with the Commonwealth**

Generally, the NSW Treasurer will negotiate and sign the most significant funding agreements and all those within his or her portfolio.

In practice, NSW Ministers will have responsibility for the negotiation and signing of most funding agreements related to their respective portfolios. The level of responsibility conferred upon NSW Ministers will be agreed between the Treasurer and the responsible Minister, based on a case-by-case assessment of policy, budgetary, precedent and other potential risks, in consultation with the Premier, or their respective departments.

### ***CFFR's Consideration of New Funding Agreements Standing Report***

Commonwealth Treasury is responsible for the preparation of a standing report to CFFR listing all new or renewing funding agreements to be negotiated between the Commonwealth and states.

This report is prepared in consultation with all state and territory Treasuries. The report recommends to CFFR who is best placed to sign the agreement – Treasurers or Portfolio Ministers.

NSW Treasury will be informed of new agreements through consultation on the standing report.

Once CFFR has agreed on the responsible Minister, the responsible Commonwealth department will commence formal drafting of the agreement. The agreement generally will be in the form of a Federation Funding Agreement Schedule.

### **NSW Government roles and responsibilities – NSW Treasury and cluster agencies**

The responsible Commonwealth department will provide the draft funding agreement to the responsible portfolio agency within NSW Government. The portfolio agency will work with NSW Treasury's Policy and Budget (Treasury P&B) to negotiate the funding agreement, including addressing relevant policy and budget impacts.

NSW Treasury's Federal Financial Relations (Treasury FFR) will work with Treasury P&B and the portfolio agency as required, including to help ensure agreement terms are consistent with Federation Funding Agreement principles (summarised below), and non-standard clauses or terms are avoided. Treasury FFR must be kept up to date and informed of the progress of negotiations (including the provision of key drafts).

Consultation between Department of Premier and Cabinet (DPC), Treasury FFR, P&B and the portfolio agency will take place at this time to agree relevant Cabinet (or other) approval requirements.

### **NSW Cabinet and Ministerial approval of Commonwealth-state funding agreements**

NSW Cabinet has overall responsibility for approving Commonwealth-state funding agreements on behalf of NSW Government. For some agreements, authority may be delegated by Cabinet to the Treasurer or the responsible portfolio minister who is authorised to negotiate and sign an agreement on behalf of the NSW Government. However, such delegation will depend upon key considerations including policy operational or budgetary impacts. This may necessitate consideration by one or more Cabinet Committees, including the Expenditure Review Committee (ERC) where there are budget implications.

Approval from NSW Cabinet (or where appropriate, Cabinet Committee) is required for negotiation parameters for those funding agreements (new or renewed/extended) identified at the outset by NSW Treasury in consultation with DPC as high value and/or high risk. These agreements would typically return to NSW Cabinet (or where appropriate, Cabinet Committee) for approval before signing by the authorised NSW Minister.

Most funding agreements negotiated with the Commonwealth are low-value and low-risk. The NSW Treasurer would generally delegate the responsibility to negotiate these agreements (through decision via CFFR) to the responsible Minister.

### **Budget impact**

Specific ERC approval must be sought for new or renewing Commonwealth-state funding agreements that have budget impacts, including where earlier in principle agreement may have been considered by Cabinet.

Through consultation, the agency needs to confirm with Treasury P&B whether an agreement has a budget impact. For example, there is no budget impact if the agreement includes Commonwealth revenue funding only (i.e., no NSW funding contribution) offset by associated expenditure by NSW recognised in the same financial year. Similarly, further ERC approvals may not be required if ERC has previously agreed associated funding (including NSW contribution) under the agreement

Where there is no budget impact, approval to enter into the agreement may be obtained by an exchange of letters between the portfolio minister and the Treasurer, except for the instances below where Portfolio Ministers can enter into an agreement without pre-approval:

- Commonwealth-State funding agreements which are low-value and low-risk, with Commonwealth funding to NSW up to \$5 million per annum (or \$20 million over the life of the agreement), and
- Where a matched or co-contribution is required from NSW by the Commonwealth the portfolio agency proposes to meet any additional NSW Government funding requirement (s) from its existing budget, or it has been pre-approved by ERC.

These circumstances should be discussed with Treasury P&B, including provision of Treasury's evidence requirements, such as business case requirements (TPGXXX) [TBD].

Exceptions to the above must be agreed between the Treasurer and responsible Minister in consultation with the Premier. These exceptions must be first raised with Treasury P&B for consultation with Treasury FFR and DPC.

Agencies will work with Treasury P&B to determine appropriate adjustments to budget controls (Net Cost of Services / Labour Expense Cap / Capital Expenditure Authorisation Limit) through the annual budget process. In addition, authorisations and/or adjustments under the *Government Sector Finance Act 2018* (s. 4.11) may also be required.

## Background

On 29 May 2020, National Cabinet tasked Council on Federal Financial Relations (CFFR) with responsibility for all Commonwealth-state funding agreements, and in August 2020, endorsed a new framework to streamline and manage all funding agreements.

There are three broad types of agreements:

- **National Agreements** are long term policy agreements and may be supported by National Specific Purpose Payments.
- **Federation Funding Agreements (FFA's)** – five new sector-based umbrella agreements which were created to consolidate the previous structure of National Partnership Agreements, Project Agreements, and other payments. Accordingly, payments to the States (other than National Agreements) are now facilitated through schedules to the FFAs.
- **FFA Schedules** – the most common form of funding agreement which supplant the previously known National Partnership Agreements and Project Agreements. These schedules sit under the five sector-based agreements above.

The following Federation Funding Agreements Principles were agreed by CFFR to guide the development of funding agreements:

### Agreement content

- Strong economic, social and fiscal outcomes
- Limit the number of low value agreements to ensure value for money
- Balance government priorities
- Budget autonomy and greater flexibility
- Funding certainty

### Agreement process

- CFFR will retain oversight over agreements
- CFFR will involve portfolio Ministers
- Accountability and transparency

**Paul Grimes**  
Secretary

### **Further Information:**

Treasury FFR: [ffr@treasury.nsw.gov.au](mailto:ffr@treasury.nsw.gov.au)

NSW Treasury website: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

Commonwealth Treasury guidance and Federation Funding Agreement Schedules:  
[www.federalfinancialrelations.gov.au](http://www.federalfinancialrelations.gov.au)

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# Commonwealth / NSW Funding Agreements

## Includes National Agreements, FFA's and FFA schedules

### Process Map

1



**CFFR initiates new and extended agreements**  
CTH agency begins drafting and provides to NSW agency.

2



Treasury/ DPC/ agency assess risk and discuss approval pathways (Cabinet/ ERC).

3



**Negotiation phase**  
Agencies will liaise with P&B and FFR teams as required, and provide copies of significant drafts to Treasury.

4



**Finalising and approval to sign**  
Cabinet/ERC/exchange of letters approval obtained or meets low risk agreement threshold.

5



**Portfolio Minister or Treasurer signs agreement**  
Agency to provide Treasury with copy of final signed agreement and prepare relevant budget approvals.

6



**Ongoing Monitoring**  
Advise Treasury of proposed variations to agreement or significant issues. e.g. non-payment by the CTH, non-achieved performance.