# Treasurer’s Directions (mandatory)

| Purpose | To establish minimum standards for managing the risk, approval process, and accounting requirements of guarantees and indemnities undertaken by the Northern Territory (NT) Government. |
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| **Operative date** | December 2007 |
| **References** | * Treasurer’s Directions:   + A3.1 – Overview (liabilities)   + A3.7 – Contingent liabilities   + M2.1 – Insurance arrangements * Treasurer’s instruments of delegations and relevant guidance document * Australian Accounting Standards:   + AASB 7 – Financial instruments: Disclosures   + AASB 9 – Financial instruments   + AASB 13 – Fair value measurement   + AASB 132 – Financial instruments: Presentation   + AASB 137 – Provisions, contingent liabilities and contingent assets * *Financial Management Act 1995* (FMA) |

# Definitions

## Guarantee

1. A guarantee is an undertaking to assume responsibility for the debt of, or performance of obligations by another party should the party default.

### Financial Guarantee

1. A financial guarantee is an undertaking to make payments to reimburse a lender for a loss incurred should a specified borrower default.

### Default

1. Default refers to either:
2. non payment of a debt
3. or non performance of obligations.

## Indemnity

1. An indemnity is an undertaking to compensate, protect or insure another person or entity against future financial loss, damage or liability.

## Legal instrument

1. A legal instrument is a formally executed legal document that expresses a legally enforceable act, process or contractual duty, obligation or right, and can include but is not limited to agreements, contracts and deeds.

# Risk management

## Risk assessment

1. Prior to following the relevant approval process (see paragraphs 12 to 17), an accountable officer must conduct and document a risk assessment for a guarantee or indemnity, giving consideration to paragraphs 7 and 8.
2. The risks assumed for a guarantee or indemnity must:
3. be commensurate with the objectives, scope and benefits of providing the guarantee or indemnity
4. be limited to matters that are within the NT Government’s control
5. not present unacceptable risk exposure to the NT Government.
6. The accountable officer must consider if it is commercially appropriate to mitigate risks associated with a guarantee or indemnity through commercial insurance arrangements (see Treasurer’s Direction on insurance arrangements).

## Monitoring and evaluation

1. An accountable officer must:
2. monitor and evaluate risks arising over the life of each guarantee and indemnity at least once every financial year
3. assess if financial guarantees are impaired and, if applicable, recognise a loss allowance (see paragraph 27)
4. where possible, take action to mitigate or minimise identified risks within a reasonable timeframe.

## Subsequent events

1. Where there is a change in the circumstances of a guarantee or indemnity that results in a material increase in the level of risk, the accountable officer must recognise the change in liability (and de‑recognise a contingent liability where applicable, see Treasurer’s Direction on contingent liabilities).
2. Where there is a change in the circumstances of a guarantee or indemnity, which results in an increase in the level of risk, to the extent that it is likely the NT Government will be called upon to make financial compensation, the accountable officer must:
3. assess the likely demands that would be made by the beneficiaries of the guarantee or indemnity
4. develop contingency plans to mitigate against risks identified in the assessment
5. provide the Department of Treasury and Finance (DTF) with details of the changed circumstances and contingency plans, within a reasonable period after becoming aware of the change in circumstances.

# Approval process

1. A legal instrument containing a guarantee or indemnity can only be approved on behalf of the NT Government in accordance with section 34(1) of the FMA, by either:
2. the Treasurer
3. or a delegate authorised by section 39(1) of the FMA.
4. All requests seeking endorsement and approval relating to a guarantee or indemnity must be accompanied by a guarantee and indemnity approval form (see Appendix B).

## Delegate approval process

1. Pursuant to paragraph 12.b, an accountable officer may:
2. approve a guarantee or indemnity when each of the following criteria is satisfied:
3. the risks assumed for the guarantee or indemnity are considered appropriate, per the requirements in paragraphs 7 and 8
4. the guarantee or indemnity falls into a category listed in 1 to 5 of Appendix A
5. the liability is assessed as having a value, or likely to have a value of less than **$5 million**
6. the portfolio minister (or a delegate of the portfolio minister) forms a view that the Territory would benefit from the arrangement giving rise to the guarantee or indemnity, and provides his or her endorsement
7. subject to paragraph 14.a, on approval, execute a legal instrument containing a guarantee or indemnity on behalf of the NT Government.

## Treasurer’s approval process

1. Where the conditions in paragraph 14 are not met, an accountable officer must seek Treasurer’s approval for all other guarantees and indemnities, including those that either:
2. are considered high risk
3. are considered sensitive or unusual in nature
4. fall into a category listed in 6 to 9 of Appendix A
5. are assessed as having a value or likely to have a value of **$5 million** or more.
6. The portfolio minister (or a delegate of the portfolio minister) must endorse the submission to the Treasurer, confirming he or she has formed the view, in accordance with section 34(1) of the FMA, that the Territory would benefit from the arrangement giving rise to the guarantee or indemnity.
7. On approval by the Treasurer, a legal instrument giving effect to a guarantee or indemnity must be executed on behalf of the NT Government by either:
8. the Treasurer
9. or subject to the Treasurer’s approval: the portfolio minister or some other person.

# Standing approval process

1. The Treasurer may provide standing approval for a particular guarantee or indemnity clause, being used consistently in a particular type of agreement.
2. An accountable officer seeking standing approval from the Treasurer must use the Treasurer’s approval process (see paragraphs 15 to 17).
3. For each guarantee or indemnity with a standing approval from the Treasurer, prior to executing the legal instrument the accountable officer must seek endorsement from the portfolio minister (or a delegate of the portfolio minister) in accordance with paragraph 16, unless the portfolio minister has provided a standing endorsement (see paragraph 21).
4. An accountable officer may seek standing endorsement from the portfolio minister for a particular guarantee or indemnity clause, being used consistently in a particular type of agreement.
5. A guarantee or indemnity subject to a standing approval must be similar in intent, effect and overall risk exposure to that which was approved.

# Recognition and measurement

## Guarantees and indemnities (excluding financial guarantees)

1. Guarantees (excluding financial guarantees) and indemnities are classified as contingent liabilities and must be recognised and measured in accordance with the Treasurer’s Direction on contingent liabilities and the Australian accounting standards.

## Financial guarantees

1. Financial guarantees are classified as financial liabilities.
2. A financial guarantee must be recognised and measured in accordance with Australian accounting standards on financial instruments when the total loan value being guaranteed is greater than **$1 million**.
3. Pursuant to paragraph 25, a financial guarantee that does not meet the recognition criteria shall be treated as a contingent liability in accordance with paragraph 23.

### Impairment

1. An accountable officer must ensure at each reporting date:
2. the credit risk for financial guarantees is assessed for impairment and the outcome documented
3. a loss allowance is measured and recognised (if applicable).

## Disclosures

1. An accountable officer must classify and present guarantees and indemnities in accordance with the Treasurer’s Direction on agency (or government business division) financial statements.

# Recordkeeping

1. An accountable officer is responsible for keeping records relating to the agency’s guarantees and indemnities and, at a minimum, must:
2. ensure records are maintained in a register of contingent liabilities (including records on financial guarantees), in accordance with the Treasurer’s Direction on contingent liabilities
3. establish processes to collect and manage records, including documenting assumptions and calculations used for the valuation and impairment of guarantees and indemnities.
4. Pursuant to paragraph 29, an accountable officer must retain records for the specified minimum period, in accordance with the agency’s records disposal schedule.

# Reporting

1. Upon request, an accountable officer must provide DTF with a copy of the register of contingent liabilities (if applicable) and any other relevant information as necessary.

| Table | Table |
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| Appendix A | Categories of instruments |
| Appendix B | Guarantee and indemnity approval form |

# Change history

| Version | Date | Author | Change details |
| --- | --- | --- | --- |
| 1.0 | December 2007 | DTF | Issue of new Treasurer’s Direction – refer Treasury Circular L03/07 |
| 1.1 | December 2010 | DTF | Clarify description of category 4 indemnities – refer Treasury Circular L05/10 |
| 1.2 | September 2011 | DTF | Expand examples of instruments that may contain a guarantee or indemnity – refer Treasury Circular L04/11 |
| 1.3 | June 2019 | DTF Financial Policy | Clarify which category relates to venue hire; minor formatting edits; address recognition and measurement requirements for financial guarantees – refer Treasury Circular L06-19 |
| 1.4 | June 2021 | DTF Financial policy | Clarify that standing approval process can only be approved by the Treasurer – refer to Treasury Circular L08-21 |
| 1.5 | May 2024 | DTF | Clarify Appendix A - category 4 to include venue hire agreements used for electoral purposes |