
SECTION 15

LOANS AND GUARANTEES

15.01 GENERAL

AUTHORITY:

FINANCIAL ADMINISTRATION ACT

ADMINISTRATION:

TREASURY BOARD SECRETARIAT AND
DEPARTMENT OF FINANCE

EFFECTIVE DATE:

JUNE 2024

15.01 GENERAL

(1) INTRODUCTION

The purpose of this policy is to provide an overview on the following matters related to loans and guarantees:

- (a) Legislative authority;
- (b) Definitions of common terms;
- (c) Government policy; and
- (d) Common procedures

The subsequent sections explain in detail the procedures and specific policies related to various types of loans and guarantees.

(2) APPLICATION

The application of this policy is referenced to the Schedules of the *Financial Administration Act* (FAA) for which funds are appropriated directly or within a department unit and applies as follows:

- Schedule “A” - Departments
- Schedule “B” - Crown corporations
- Schedule “C” - Education Authorities
- Schedule “D” - Commissions

(3) AUTHORITY

(a) Loans or Advances

- (i) Section 28 of the FAA makes provision for Treasury Board to direct the Minister of Finance to make loans or advances from the Operating Fund to:
 - (A) a municipality in Prince Edward Island;
 - (B) a reporting entity;
 - (C) any educational institution in Prince Edward Island;
 - (D) any authority responsible for the funding of a sewerage, water or waste management system in Prince Edward Island;
 - (E) any person upon the security of a first mortgage of real property in the Province; and
 - (F) such other entities as the Board may determine.
- (ii) Section 28 of the FAA also provides that the interest rate, term and repayment schedules on loans or advances made shall be determined by the Minister of Finance in accordance with prevailing market conditions but in no case shall
 - (A) the interest rate be less than that at which the Minister of Finance may borrow for the purpose of the Operating Fund, or

(B) the repayment period exceeds thirty years.

(b) Guarantees

Section 32 of the FAA makes provision for the Lieutenant Governor in Council to, upon the recommendation of Treasury Board, guarantee the payment of a debt or obligation.

Where under the FAA or any other Act a guarantee has been given by the Province for the payment of any debt or obligation and default in payment on the due date is made by the primary debtor, the Minister of Finance may pay the amount that has been guaranteed out of the Operating Fund.

When the Minister of Finance considers that a loss is likely on a guarantee, they may establish a provision for loss and shall review the provision at the end of each fiscal year, or more frequently, if they consider it necessary.

(4) **DEFINITIONS**

For the purpose of this policy, the following definitions shall apply:

- (a) **“Crown corporation”** means a corporation as defined by clause 1(h) of the FAA;
- (b) **“Department(s)”** means a department or division of the public service included in Schedule “A” to the FAA;
- (c) **“Deputy Head”** means the Deputy Minister of a department or the Chief Executive Officer of a Crown corporation or reporting entity;
- (d) **“Direct Loan”** means funds loaned from the Operating Fund under the authority of section 28 of the FAA;
- (e) **“Educational Institution”** means a public post-secondary educational institution in Prince Edward Island;
- (f) An **“External Organization”**, also referred to as the Borrower, is defined as a corporation, partnership, individual, groups of individuals, an authority responsible for the funding of a sewage, water or waste management system, or a municipality and excludes Internal Organizations;
- (g) **“FAA”** means the *Financial Administration Act*;
- (h) **“Guarantee”** means a guarantee by the Province to a financial institution on behalf of a Borrower guaranteeing repayment of money loaned by the Lender to the Borrower in the case of default by the Borrower. Where applicable “Guarantee” is also intended to mean guarantee of a contractual performance obligation commonly

referred to as a “Performance Guarantee”;

- (i) An “**Internal Organization**”, also referred to as the Borrower, is defined as a Government or quasi-Government organization, and includes:
 - (i) any “reporting entity” as defined by FAA;
 - (ii) any educational institution in Prince Edward Island.
- (j) “**Pension and Capital Management**” means the Pension and Capital Management Division of the Department of Finance;
- (k) “**Lender**” means any financial institution that may make financial assistance available to the Borrower with the guarantee of the Province;
- (l) “**Reporting Entity**” means an organization as defined in the FAA, that is accountable for the administration of its financial affairs and resources to a Minister or through a Minister to the Legislative Assembly and includes those listed in Schedules B, C or D to the FAA;
- (m) “**Sponsoring Agency**” means a Government department which has particular interest in the external organization and supports its request for a loan or loan guarantee. The Sponsoring Agency will normally be the agency whose mandate is directly related to the section in which the external organization functions. For ease of interpretation, a Crown corporation may be read as “Sponsoring Agency” when it supports a loan or loan guarantee from Government for itself or on behalf of a third party.

(5) POLICY

- (a) Where loans and guarantees are made under the authority of the FAA, Pension and Capital Management is responsible for the overall administration of direct loans and the Treasury Board Operations section is responsible for the overall administration of guarantees.
- (b) Requests for loans and guarantees from external organizations should only be considered as a **last resort** in that adequate financial support is not available to the organization through conventional Lenders or other government programs, on reasonable terms and conditions.
- (c) A request may be considered in certain situations where there is evidence of significant economic development and/or social impacts in the form of new jobs created and/or maintained, new technology introduced or similar considerations.
- (d) Normal lending criteria relevant to type of request will form part of the consideration for approval by Treasury Board. This may include management ability, equity investment, security availability, ability to repay, an assessment of marketing plans, operation and capital cost estimates, production projections and financial plans.

- (e) Applications will not be entertained from individuals or corporations who have defaulted and are still obligated to the Province, or its Crown corporations, as a result of previous transactions on their behalf unless compensatory arrangements suitable to the Minister of Finance have been made. A “Loans in Default Central Registry” is maintained at the Finance PEI as referenced in Section 15.04 Loans in Default/Central Registry of the Treasury Board Policy and Procedures Manual.
- (f) **Administration Fee/Interest Rate: Direct loans and/or guarantees to “external organizations” may be assessed an administration fee or interest rate of up to one percent (1%) per annum to offset provincial administration costs involved as follows:**
 - (i) In the case of a direct loan the interest rate charged is to be the Province’s borrowing cost for similar terms plus up to 1% per annum.
 - (ii) In the case of the guarantee of a debt or obligation under subsection 32(1) of the FAA, and only as the Minister of Finance sees fit, the borrower may be subject to an administration fee of up to 1% per annum. The administration fee is based on the **full** principal amount of the guarantee authorized.
- (g) Legal expenses will be the responsibility of the borrower.

(6) PROCEDURES

- (a) A request for a loan or guarantee normally originates with the Borrower.
- (b) In the case of an external organization or educational institution, the Borrower should direct the request to the Sponsoring Agency.
- (c) The Sponsoring Agency is responsible to analyse and evaluate the request and determine if it is prepared to support the request.
- (d) If the “Sponsoring Agency” agrees to submit the request to Treasury Board for consideration a submission will be prepared by the Sponsoring Agency.
- (e) Monitoring of approved loans and guarantees will be the responsibility of the Sponsoring Agency in conjunction with staff of the Pension and Capital Management Division and/or Treasury Board Operations as appropriate.

(7) INTERPRETATION

In cases where an interpretation is required, such should be referred to the Secretary to Treasury Board, or their delegated officer, who will make the interpretation or refer the matter to Treasury Board, if a Board decision is deemed necessary.