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**SECTION 15**

**LOANS AND GUARANTEES**

**15.02 LOANS FROM THE OPERATING FUND**

**AUTHORITY:** *FINANCIAL ADMINISTRATION ACT*

**ADMINISTRATION:** TREASURY BOARD SECRETARIAT AND  
DEPARTMENT OF FINANCE

**EFFECTIVE DATE:** JUNE 2024

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## 15.02 LOANS FROM THE OPERATING FUND

### (1) INTRODUCTION

Section 28 of the *Financial Administration Act* makes provision for Treasury Board to direct the Minister of Finance to make loans or advances from the Operating Fund.

Requests for such loans may originate from either “internal organizations” or from “external organizations”.

The ease of administration and procedural reference loans have been categorized into two types; loans to “internal organizations” and loans to “external organizations”. Internal and external organizations are defined in Section 15.01 of the Manual.

The procedures element of this subsection is divided into two parts; one part sets out the procedures for dealing with loans to internal organizations and the other part deals with external organizations.

This subsection relates to direct loans from the Operating Fund and is not intended to address loan programs implemented by Crown corporations.

### (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 and applies as follows:

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

### (3) POLICY

#### (a) Interest Rates/Fees

- (i) Interest rates on long term loans to “internal organizations” and short-term advances (under one year) to Crown corporations shall be determined by the Minister of Finance based on the Government cost of borrowing for a similar term plus up to 1/4% (25 basis points) per annum. Annual payments are required.
- (ii) Interest rates on long term loans to “external organizations” shall be determined by the Minister of Finance based on the Government cost of borrowing for a similar term plus up to 1% per annum. Annual payments are required.

- (b) The general intent and criteria for consideration of requests for financial support in the form of loans are as follows:
- (i) In the case of external organizations, loan requests will only be considered as a **last** resort in that adequate financial support is not available through conventional Lenders or other Government programs.
  - (ii) A request may be considered by Treasury Board in certain situations where there is evidence of significant economic development and/or social impact in the form of new jobs created and/or maintained, new technology introduced or similar considerations.
  - (iii) Normal lending criteria relevant to the 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.
  - (iv) 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 Finance PEI as referenced in section 15.04 of this Manual.
  - (v) Loans to corporations, partnerships, individuals or groups of individuals will only be considered upon the security of a first mortgage of real property in the Province.

#### (4) PROCEDURES - INTERNAL ORGANIZATIONS

##### (a) Review Process

- (i) The Borrower requesting a loan from the Operating Fund should approach a Sponsoring Agency. If the initial contact is Treasury Board or the Department of Finance, the request will be forwarded to the appropriate Sponsoring Agency.

In situations where a Crown corporation is the Borrower, this procedure should be read so that “Sponsoring Agency” and “Borrower” is synonymous.

- (ii) The Sponsoring Agency is responsible for analyzing the request and submitting it, with a recommendation, to Treasury Board. The submission to Treasury Board should include supporting information as outlined in the guidelines in Attachment 15.03-I.

- (iii) Treasury Board Secretariat staff of the Department of Finance will review the submission and provide further observations, with respect to loan policy and other Departmental administrative matters, as necessary to Treasury Board.
  - (iv) Treasury Board will review the submission and, if accepted, will direct the Minister of Finance to advance the loan.
  - (v) Pension and Capital Management staff will determine the terms and conditions of the loan.
- (b) Monitoring
- (i) The loan will be monitored by Pension and Capital Management staff in conjunction with the Sponsoring Agency consistent with the terms and conditions as set out in the Loan agreement.
  - (ii) The frequency of monitoring and the level of detail obtained will vary depending on the type and term of the loan and the security pledged in support of the loan. Normally the periodical status report and analysis of annual financial statements of the Borrower will be sufficient to identify problems that may require some action to be taken.
  - (iii) Pension and Capital Management staff will maintain a loan register for all loans as well as copies of all documents held in support of the loans issued under this policy.

## **(5) PROCEDURES - EXTERNAL ORGANIZATIONS**

- (a) Review Process
- (i) The Borrower requesting a loan from the Operating Fund should approach a Sponsoring Agency.  
  
If the initial contact is Treasury Board or the Department of Finance, the request will be forwarded to the appropriate Sponsoring Agency.
  - (ii) The Sponsoring Agency is responsible for analyzing the request and submitting it, with a recommendation, to Treasury Board. The submission to Treasury Board should include supporting information as outlined in Attachment 15.03-I.
  - (iii) Treasury Board Secretariat staff will review the submission and provide further observations, with respect to loan policy and other Departmental administrative matters as necessary, to the Treasury Board.

- (iv) Treasury Board will review the submission and, if approved, will direct the Minister of Finance to advance the loan.
  - (v) The Minister of Finance will determine the terms and conditions of the loan.
- (b) Document Execution
- (i) When required, Pension and Capital Management staff will prepare, in consultation with the Office of the Attorney General and the Sponsoring Agency, a formal Offer of Assistance for review and execution by the Minister of Finance.
  - (ii) Security for the loan may include, when deemed appropriate by the Minister of Finance, all or some combination of the following:
    - (A) A charge by way of debenture or other acceptable documents on the assets of the Borrower(s);
    - (B) A first mortgage of real property in the Province;
    - (C) Such other security as may be required.
  - (iii) If the offer is accepted by the Borrower in writing, Pension and Capital Management staff will forward instructions (if required) to the designated legal counsel requesting the legal work be performed by counsel on behalf of the Province. The transmittal should include a copy of the accepted offer;
  - (iv) Drawdown of funds will not be permitted until all security and conditions required in support of the loan are put in place unless otherwise approved by the Minister of Finance;
  - (v) Legal expenses will be the responsibility of the Borrower.
- (c) Monitoring
- (i) The loan will be monitored by Pension and Capital Management staff in conjunction with the Sponsoring Agency consistent with the terms and conditions as set out in the Offer of Assistance.
  - (ii) The frequency of monitoring and the level of detail required will vary depending on the type and term of the loan, the security pledged in support of the loan, the risk factor involved, the peak activity levels of the Borrower.
  - (iii) In addition to the above, discussions will be held with the Borrower regarding the present and future plans of the organization and any problems it may be experiencing.

- (iv) Pension and Capital Management staff will maintain a loan register for all loans as well as copies of all documents held in support of the loans issued under this policy.
- (d) Default
- (i) In the case of default by the Borrower, the approval of the Minister of Finance in writing will be required before any legal action is instituted to realize on the securities held in support of the loan.
  - (ii) When a default has occurred on the loan from the Operating Fund, Pension and Capital Management staff, in conjunction with the Sponsoring Agency, will be responsible for making a submission to Treasury Board outlining:
    - (A) the history respecting the loan including the purpose and use of the loan guarantee, performance of the Borrower and causes of the default;
    - (B) the present financial position of the Borrower including current financial statements, and the type, rank and value of security held in support of the loan;
    - (C) a recommendation of action to be taken including the impact of implementing the recommendation.
  - (iii) Pension and Capital Management, in conjunction with the Sponsoring Agency, will be responsible to implement the necessary recovery action to collect the outstanding account as directed by the Minister of Finance, Treasury Board or the Lieutenant Governor In Council.
  - (iv) **When it has been determined that a loan should be recorded as a bad debt, such costs will be charged to the budget appropriation of the Sponsoring Agency.**
  - (v) When it is deemed that further collection activities on the account will not be cost-effective or would create an unreasonable hardship to the Borrower, a recommendation may be made by Treasury Board to the Lieutenant Governor In Council that the debt to the Province by the Borrower be cancelled or written-off under either Section 26 or 26.1 of the *Financial Administration Act*.

## (6) 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.