

Administration and Use of Appropriations

Technical Guide for Departments

August 2013



THE TREASURY
Kaitohutohu Kaupapa Rawa

New Zealand Government

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ISBN: 978-0-478-40376-3 (Online)

The Treasury URL at September 2013 for this document is
<http://www.treasury.govt.nz/statesector/2013reform/>

The PURL for this document is <http://purl.oclc.org/nzt/g-aaa-d>

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About This Guidance

Purpose of This Document

This guidance document sets out the requirements and processes for:

- departments that administer an appropriation used by another department; and
- departments using an appropriation administered by another department.

This guidance document should be read by chief financial officers, finance teams, strategy and planning teams, and those responsible for preparation of budget and Estimates documents. This Guidance assumes that departments have knowledge of the existing appropriation system.

The requirements and guidance outlined in this document apply from the date of publication until this document is updated or replaced.

Questions and Feedback

You should use this guidance as your first port of call on how to apply the administration and use approach.

Further queries about the administration and use approach can, in the first instance, be directed to the Treasury analyst responsible for your department.

Any comments as to how we could improve this guidance can be directed to performanceinfo@treasury.govt.nz.

Overview

Section 7C of the Public Finance Act clarifies that one or more departments may incur expenses against any departmental expense or multi-category appropriation administered by another department. Using an appropriation administered by another department can be either at the direction of the appropriation Minister or with the agreement of the administering department.

This change to the Public Finance Act provides greater financial flexibility to support departments working together towards a common programme or initiative.

Transitional arrangements

Departments intending to apply the administration and use approach in the 2013/14 financial year are asked to consult their Treasury analyst in advance, in order that proper support can be provided in implementing this new approach.

1 What is Administration and Use of Appropriations?

1.1 Definition and Rationale

Section 7C(2)(c), Public Finance Act 1989

In the case of an appropriation made to the Crown, if the appropriation is an appropriation for departmental expenses or a multi-category appropriation, any other department may incur expenses against the appropriation

- (i) at the direction of the appropriation Minister; or
- (ii) with the agreement of the appropriation administrator

The practice has been for the department administering a departmental appropriation to be the only department that uses that appropriation.

Section 7C(2)(c) of the Public Finance Act 1989 aims to change this practice and clarify the administration and use approach: that any department can incur expenses against a departmental or multi-category appropriation administered by another department.

For most situations it is anticipated that department administering an appropriation (the appropriation “Administrator”) will determine which departments will use an appropriation (the “Users”). However, the legislation does allow for the Minister responsible for the appropriation (the “appropriation Minister”) to determine what other departments will use the appropriation.

The rationale behind the administration and use approach is that, as appropriations are to the Crown, only the ultimate expense incurred by the Crown needs an appropriation. As transfers or payments from one department to another are not additional expenses to the Crown, these do not require separate and additional Parliamentary authority or appropriations.

1.2 Application

The administration and use approach applies only to expenses incurred by a department against departmental expense appropriations, including multi-year departmental expense appropriations, or departmental categories of multi-category appropriations.

The administration and use approach does not apply to non-departmental expense appropriations or to non-departmental categories within a multi-category appropriation (s.2 of the Public Finance Act defines non-departmental expenses as those incurred on behalf of the Crown other than by a department or Office of Parliament) .

The administration and use approach applies only to appropriations to the Crown, not to appropriations to Offices of Parliament.

2 When can Administration and Use be applied?

2.1 Introduction

The administration and use approach is an option for departments to consider when looking at how to most efficiently and effectively finance activities that require cross-agency collaboration. It is not expected that it will be applicable to all such activities, or to every transaction.

2.2 Examples

The following lists some examples of when the administration and use approach may be applied:

1. *Collaborating on delivering outputs as part of joint work programmes*

Departments may be directed by the Minister, or come to an agreement amongst themselves, to collaborate on delivering outputs as part of a joint work programme. The department managing the work programme (the Administrator) could hold an appropriation which other department(s) (the Users) are given permission or directed to incur expenses against.

2. *Direct charge for delivering outputs on behalf of or contributing inputs to another department*

Instead of department A incurring the expenditure against an appropriation it administers for carrying out a service on behalf of another department B and then charging department B, department A (the User) could directly charge the costs against an appropriation administered by department B (the Administrator).

Another example is addressing the situation that arose with secondment of staff from several government departments to work on the Christchurch earthquake recovery. The administration and use approach enables the parent department to charge the salaries of those staff to an appropriation administered by the department to which those staff have been seconded, rather than needing to establish a new appropriation with a suitable scope administered by the parent department.

3. *Temporary transfer of functions from one department to another*

The administration and use approach may also be useful when a department (the Administrator) or minister wants to temporary transfer functions to another department (the User).

If functions are to be permanently transferred, at that point the appropriation may be permanently moved to the department(s) that will perform the functions in future (by way of fiscally neutrally transfer).

4. *Shared services arrangements*

For certain shared service arrangements, the shared service provider (a department) may have a separate appropriation for the shared service outputs it delivers.

An alternative approach is for the provider to charge the shared service costs directly against the appropriations of the department receiving the service (the Administrator) - a separate shared service appropriation would not be needed. This alternative approach may better support certain shared service arrangements, for example, where the value or size of the services is relatively minor.

5. *Contestable funds*

A department may be in charge of managing a fund to be allocated between departments. The department in charge of managing the fund (the Administrator) could hold a departmental appropriation and allow the departments that are allocated a part of the fund (the Users) to incur expenditure against that appropriation.

3 How to Apply the Administration and Use Approach?

3.1 Obtaining the Permission

Before expenditure is incurred against an appropriation administered by another department, the User must obtain authority through either:

- Receiving a direction from the appropriation Minister; or
- By way of agreement with the Administrator.

Obtaining the permission is an important requirement. For the User, the permission serves as the authority for, and establishes the conditions to, the use of the appropriation. For the Administrator, it is put on notice to monitor the use of the appropriation by the User and to control the overall appropriation.

The permission should include sufficient information to clearly outline the intended use of the appropriation by the User. The permission must be consistent with the appropriation constraints – i.e. it cannot be broader than the appropriation's scope statement, amount and period.

The onus will be on the appropriation Minister or the Administrator to set any conditions, restrictions or expectations for the User of the appropriation, where it may be necessary. For example, the permission could specify a narrower scope, shorter period or limit the amount of the appropriation for the User.

The User must be able to provide evidence of the permission. Although there is no legislatively prescribed form or process to obtaining the permission, the permission should be in writing for the purpose of providing clear accountability and to enable independent verification that they are being complied with appropriately. Examples of what a written permission may cover are in:

- Annex 1, where the appropriation Minister provides the permission.
- Annex 2, where the Administrator provides the permission.

The User and the Administrator will work together to finalise the terms and conditions associated with the permission.

3.2 What is the Role of the User?

The User is responsible and accountable for its use of an appropriation and the expenditure the User incurs under that appropriation. In cases where the use of the appropriation is directed by the appropriation Minister, the User (rather than the Administrator) is directly accountable to the Minister for what is achieved with the expenditure.

In cases where the use is by agreement with the Administrator, the User is responsible to the Administrator for what is achieved with the expenditure and the Administrator remains directly responsible to the Minister for this.

The agreement or the memorandum of understanding between the User and the appropriation Minister or the Administrator may include other conditions, restrictions or expectations. In such cases, it must outline the consequences and the remedial steps that

the User or the Administrator must take for any breach of these other conditions, restrictions or expectations.

The onus is on the User to seek further permission from the appropriation Minister or Administrator before incurring any expenditure that it suspects could constitute a breach of the current permission. Reporting of unappropriated expenditure is addressed in section 3.5.3 and Annex 3 .

3.3 What is the Role of the Administrator?

Section 2(1), Public Finance Act 1989

appropriation administrator,—

(a) in relation to an appropriation made to the Crown, means the department that administers the appropriation on behalf of the appropriation Minister; and

(b) in relation to an appropriation made to an Office of Parliament, means that Office of Parliament

For further details see "The responsibilities of an appropriation administrator":
<http://www.treasury.govt.nz/statesector/2013reform/pdfs/sspfr-respadmin.pdf>

For all appropriations, the Administrator has the responsibility for ensuring that:

- all expenditure against the appropriation is within the amount, scope and period specified; and
- financial and non-financial performance reporting against the appropriation as a whole is completed and consistent with the requirements for reporting at the beginning of the year (in the Estimates and Information Supporting the Estimates) and for year end (refer sections 14, 15A, 15B and 15C and sections 19A, 19B and 19C of the Public Finance Act 1989).

The above responsibilities of the Administrator will persist where another department uses the appropriation. However, the Administrator may need to do more monitoring and coordination with the User to ensure that the Administrator's responsibilities are met. In this regard the Administrator may consider including conditions in the permission granted, such as to require the User to provide information to the Administrator. Reporting of unappropriated expenditure is addressed in section 3.5.3 and Annex 3..

3.4 Changes to appropriations

Requests to amend appropriations

Requests to amend appropriations should be led by the Administrator and submitted by the appropriation Minister. Any requests will need to be in accordance with the requirements set out in CO(11)6.

Retention of underspends, front-loading of spending, expense and capital transfers, and technical adjustments

Any rules and processes for appropriations that cover retention of underspends, front-loading of spending, expense and capital transfers, and technical adjustments also apply under the administration and use approach.

Similarly, any surplus generated by the Administrator or User will be subject to the existing retention of surplus rules. Note that the agreement between the Administrator and User would influence whether surpluses may arise e.g., whether payment is provided in advance or in arrears of services being delivered; whether only costs incurred would be funded.

3.5 Financial Reporting

Where the administration and use approach is applied, the financial reporting of these arrangements by the Administrator and User depends on whether the administration and use arrangement is at the direction of the appropriation Minister or by agreement with the Administrator.

Where there are differences in the expenses incurred against the appropriation and the expenses reported in the financial statements of the Administrator and the User, these differences should be reported in the reconciliation schedule in CFISnet. Separate guidance will be provided on the CFISnet entries for reporting an administration and use approach.

3.5.1 At the Direction of the appropriation Minister

Who records?	Expense	Appropriation	Revenue
<i>Administrator</i>	x	✓	x
<i>User</i>	✓	x	✓

In this case, the Administrator is acting as an agent on behalf of the appropriation Minister, so does not report any revenues or expenses in its financial statements in relation to the User's activities. The administrator would still continue to report any revenues and expenses from its activities. In CFISnet, both the Administrator and the User will need to explain the difference between expenses reported in the financial statements and expenses charged against the appropriation in the reconciliation schedule.

3.5.2 With the Agreement of the Administrator

Who records?	Expense	Appropriation	Revenue
<i>Administrator</i>	✓	✓	✓
<i>User</i>	✓	x	✓

In this case, the Administrator is not acting as an agent; it is the Administrator that is deciding if and when another department may use the appropriation i.e., the Administrator has effectively contracted the User to assist in the delivery of outputs (the User is responsible to the Administrator in accordance with the agreement; the Administrator is responsible to the appropriation Minister for delivery against the whole appropriation).

Accordingly, the Administrator reports in its financial statements all expenses (and associated revenue) charged against the appropriation by the User. The flow of revenue mirrors the expenses in that the Administrator records the source of the revenue directly and

then passes the revenue to the User, which is recorded by the User in all instances as revenue Department.

3.5.3 Unappropriated expenditure

Annex 3 outlines the approach for reporting on overspends under an administration and use agreement.

In summary, if an appropriation is overspent due to failures attributable to the Administrator (e.g., allocating more than was available), then the Administrator reports the breach as spending in excess of appropriation. Otherwise, the onus is on the User to address any spending in excess of the permission granted, whether by seeking the Administrator's agreement to charge the overspend against the appropriation or by the User reporting unappropriated expenditure.

A similar approach applies where the User incurs expenditure that is outside the scope or time constraints of the permission granted. That is, the onus is on the User to address the issue, whether by seeking the Administrator's agreement to incur expenses on the activities against the appropriation (only possible if the activities are within the appropriation's scope and time constraints), or report unappropriated expenditure.

3.6 Cash Disbursements

The Administrator is responsible for making cash requests to the Treasury. The cash should go to the Administrator who is then responsible for ensuring the cash is disbursed to a User of the appropriation in accordance with the permission.

The cash always flows through the Administrator to the User, regardless of whether the Administrator or the appropriation Minister provides permission for use.

Annex 1: Template for Appropriation Minister's Direction

DIRECTION BY APPROPRIATION MINISTER REGARDING USE OF APPROPRIATION

Background

This direction is made under section 7C(2)(c)(i) of the Public Finance Act 1989. It gives the authority for the <Name of User Department> ("User Department") to incur expenses against <title of appropriation(s)> ("Appropriation") administered by the <Name of Administering Department> ("Appropriation Administrator"), subject to the conditions set out below.

Conditions

Use of Appropriation by User Department

1. The User Department will deliver <description of outputs> ("Outputs") OR provide <description of inputs> ("Inputs") for <description of result>.
2. The User Department must only incur expenses against the Appropriation:
 - a. for the purpose set out in clause 1 above;
 - b. up to an amount of <\$ million>; and
 - c. in the <20XX/20XX> financial year ("Financial Year").

Reporting to Appropriation Administrator

3. The User Department must provide to the Appropriation Administrator:
 - a. a description of what is intended to be achieved with the expenses to be incurred and how the performance will be measured ¹; and
 - b. provide updates on progress at the request of the Appropriation Administrator and
 - c. any other information requested by the Appropriation Administrator to fulfil its financial and non-financial reporting responsibilities
4. All parties must comply with all instructions and guidance provided by the Treasury in relation to presentation, recording and reporting of the expenses incurred by the User Department.

Breach of Conditions

5. Where the User Department has incurred expenses against the Appropriation that is outside the purpose, the amount or the period specified in clause 2, the User Department must:
 - a. report the breach in the User Department's annual report; and
 - b. explain how the breach occurred to:
 - i. the Appropriation Minister; and
 - ii. relevant select committee(s).

¹ This information will be required for the Estimates and Information supporting the Estimates, or the Supplementary Estimates

6. As soon as the User Department becomes aware that it is, or is likely to be in breach of any other condition of this direction the User department must:
 - a. notify the Appropriation Administrator;
 - b. explain how the breach occurred; and
 - c. outline the steps that the User Department intends to take to correct or mitigate the breach.

Term of Direction

7. This direction takes effect from the date it is signed and continues until the end of the Financial Year, unless revoked earlier or extended to apply to a subsequent financial year.

<Insert name>

Minister of/for <Portfolio>

Date _____

[Note: the direction may also cover other details, or these may be resolved separately, such as:

- details on the information to be provided by the User Department(e.g., timing, format, explanations)
- terms and processes for providing the cash disbursements, as well as ensuring revenue and expense recognition accounting policies are aligned for CFISnet and other reporting e.g., is payment provided in advance, in arrears, for costs incurred or some other basis?]

Annex 2: Template for Memorandum of Understanding between Departments regarding application of Administration and Use provisions

MEMORANDUM OF UNDERSTANDING

between
<Name of Administering Department> (Appropriation Administrator)
and the
<Name of User Department> (User Department)

Background

1. The Appropriation Administrator administers the **<title of appropriation(s)>** (“Appropriation”) for the [20xx/20xx] financial year (“Financial Year”).
2. The User Department intends to deliver **<description of outputs>** (“Outputs”) OR provide **<description of inputs>** (“Inputs”) for **<description of result>**.
3. The Appropriation Administrator and the User Department agree that the User Department may incur expenses against the Appropriation in accordance with section 7C(2)(c)(ii) of the Public Finance Act 1989 in order to deliver the Outputs OR provide the Inputs, subject to the terms of this Memorandum of Understanding (“Memorandum”).
1. **Terms** The User Department must only incur expenses against the Appropriation:
 - a. for the purpose of delivering the Outputs/providing the Inputs for **<description of result>**;
 - b. up to an amount of **<\$ million>**; and
 - c. in the **<20XX/20XX>** financial year.

Reporting to Appropriation Administrator

2. The User Department must provide to the Appropriation Administrator:
 - a. a description of what the User Department intends to achieve with the expenses to be incurred;
 - b. how the performance will be measured; and
 - c. updates on progress to the Appropriation Administrator.

Responsibility to Appropriation Minister

3. The Appropriation Administrator is responsible for completing the financial and non-financial performance reporting against the Appropriation as a whole, and for this purpose must:
 - a. prepare for the Appropriation Minister the information to be included in the Estimates and supporting information.
4. The User Department is responsible to the Appropriation Minister for what is achieved with departmental expenses or capital expenditure incurred by the User Department under the Appropriation.

Compliance with Public Finance Act and Treasury instructions

- 5. The Appropriation Administrator and the User Department must comply with the Public Finance Act 1989 and all instructions and guidance provided by the Treasury in relation to presentation, recording and reporting of the expenses incurred by the User Department.

Breach of Conditions

- 6. Where the User Department has incurred expenses against the Appropriation that is outside the purpose, the amount or the period specified in clause 2, the User Department must
 - a. reporting the breach in its annual report; and
 - b. explain how the breach occurred to:
 - i. the Appropriation Minister; and
 - ii. relevant select committee(s).
- 7. As soon as the User Department becomes aware that it is, or is likely to be in breach of any terms of this Memorandum the User department must:
 - a. notify the Appropriation Administrator immediately;
 - b. explain how the breach occurred; and
 - c. outline the steps that the User Department intends to take to correct or mitigate the breach.

Amendments and Terminations

- 8. Either party may, by giving the other party notice in writing (including by email):
 - a. terminate the Memorandum or
 - b. amend any provision of the Memorandum.
- 9. The termination of or amendment the Memorandum does not take effect unless and until the party being notified has agreed to the termination/amendment in writing (including by email). The parties agree that advance notice should be given of any intention to terminate or reduce funding or outputs required unless there are exceptional circumstances.

Term of Memorandum

- 10. This Memorandum and the permission it provides takes effect from the date signed by both Parties and will continue until the end of the Financial Year unless terminated earlier or extended in accordance with clause 8 .

Execution

Signed on behalf of <Name of Administering Department> by:

Signed on behalf of <Name of User Department> by:

Signature: _____

Signature: _____

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____

[Note: the agreement may also cover other details, or these may be resolved separately, such as:

- details on the information to be provided by the User (e.g., timing, format, explanations)
- key contacts or persons with authority to amend the agreement
- terms and processes for providing the cash disbursements, as well as ensuring revenue and expense recognition accounting policies are aligned for CFISnet and other reporting e.g., is payment provided in advance, in arrears, for costs incurred or some other basis?]

Annex 3: Who reports overspends?

