TE TAI ŌHANGA
THE TREASURY

Public Finance Act: Guidance for Specified Agencies (interdepartmental executive boards, interdepartmental ventures, and departmental agencies)

Guidance for the Treasury, Public Service Commission, and participating agencies

March 2023

Te Kāwanatanga o Aotearoa
New Zealand Government

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Section 1 About this guidance

1.1 Who this guidance is for and introductory points

This guidance is to help anyone involved in establishing and administering a specified agency understand Public Finance Act 1989 (PFA) requirements that apply to specified agencies. “Specified agencies” is a collective term in the PFA for interdepartmental executive boards (IEBs), interdepartmental ventures (IVs), and departmental agencies.

Specified agencies are included within the definition of a “department” in the PFA. The Public Service Act 2020 (the Public Service Act) includes IEBs, IVs and departmental agencies alongside departments in the definition of “public service agencies”.

This is the first version of the guidance. It will be updated in light of government decisions or refreshed general guidance relevant to specified agencies; for example, prompts for improved performance reporting. Feedback and questions about the guidance can be addressed to: boardsandventures@treasury.govt.nz

Introductory points:

- The scope of this guidance is funding and financial arrangements, strategic intentions, and other accountability documents of specified agencies under the PFA.
- The form and functions of the specified agencies are governed by the Public Service Act, and detail is provided in Public Service Commission guidance about specified agencies (see section 1.2 Links of this document).
- Specified agencies are listed in the Public Service Act Schedule 2 Parts 2-4. There are five IEBs, six departmental agencies, and no IVs as of March 2023.
- IEBs and IVs are new entity types introduced in the Public Service Act. IEBs and IVs should operate within the same accountability framework as government departments. One difference is that are possible waivers from a specified agency’s requirements to provide strategic intentions and / or annual financial statements. Waivers enable a host or relevant departments to report about a specified agency and are intended to lighten the reporting burden for small entities. The Treasury publishes information about waivers (see Section 1.2 Links - of this document).
- Departmental agencies have some differences from IEBs and IVs (and departments). The departmental agencies usually operate within the strategic and policy framework of a host department and rely on a host department to manage assets and liabilities on their behalf. However, Cabinet can agree that a departmental agency: 1) may operate within their own strategic and policy framework and / or 2) manage assets and liabilities.
- Some of this guidance is only relevant for IEBs, IVs, and “departmental agencies that have permission to operate within their own strategic and policy framework and / or manage assets and liabilities”. If a departmental agency does not have this permission, then a host department will manage their financial arrangements, strategic intentions, and other accountability documents (and several parts of this guidance will not be pertinent).

When a new specified agency is being considered, the Treasury will:

- ensure that there is the correct authority from Parliament to incur expenditure on whatever the specified agency is incurring expenditure on
- consider timing - ideally new financial management, reporting and accountability arrangements will start at the beginning of a financial year
- check on the planning of reporting requirements that may apply – these will usually start from establishment, and
- assess the costs and benefits of different funding and appropriation management options.

The appropriation, governance, and management frameworks should all be considered prior to seeking Cabinet agreement to establish a specified agency. Arrangements should be described in the establishing Cabinet paper/s.

1.2 Links

This guidance should be read alongside:

Legislation (www.legislation.govt.nz)

- The Public Finance Act 1989 and Public Service Act 2020.

The Office of the Auditor-General (www.oag.parliament.nz)

- Performance Reporting: Good practice in reporting about performance

Public Service Commission (www.publicservice.govt.nz)

- Guidance: Advising on organisational form
- Supplementary guidance note – interdepartmental executive board
- Supplementary guidance note – interdepartmental ventures
- Supplementary guidance note – departmental agencies

Treasury (www.treasury.govt.nz)

- Interdepartmental executive boards (a general page about specified agencies)
- Reporting: Financial
- Reporting: Performance
- Public Finance Act Strategic Intentions Guidance
- Annual Reports and other End-of-Year Performance Reporting
- A guide to appropriations
- The responsibilities of an appropriation administrator
- Administration and use of appropriations: Technical Guidance for Departments

1.3 Abbreviations and key terms

Abbreviations

PFA	Public Finance Act 1989
IEB	Interdepartmental Executive Board
IV	Interdepartmental Venture
CFISnet	Crown Financial Information System

Administration and use agreements: agreements under section 7C of the PFA for a department to incur expenses against an appropriation for departmental expenses or a multi-category appropriation administered by another department.

Appropriation Minister: in relation to any appropriation, means the Minister responsible for that appropriation.

Appropriation administrator: means the department that administers an appropriation on behalf of the appropriation Minister – the administrator has responsibilities to report monthly on the appropriation in CFISnet, and to include in its annual report statements of expenses and capital expenditure for the appropriation (see sections 45(2)(d) and 45A of the PFA).

Appropriation user: a department using an appropriation administered by another department under an administration and use arrangement. Authority to use the appropriation is provided under section 7C of the PFA either at the direction of the appropriation Minister or with the agreement of the department administering the appropriation.

Host department: in relation to a departmental agency, means the host department of a departmental agency, to be identified as part of the establishing (or amending) Order in Council and published in the Public Service Act Schedule 2 Part 2.

Relevant department: in the PFA, in relation to IEBs and IVs, each department listed in the establishing Order in Council and published in the Public Service Act Schedule 2 Part 3 and Part 4. Of note, in the Public Service Act a ‘relevant department’ refers only to a participating department in an IV, so the term has a different use. Also in the Public Service Act, an IEB has ‘departments in the Board’s remit’, which is the list of all departments whose chief executives may be in the IEB.

Servicing department: this term is used in the Public Service Act, the servicing department facilitates the administration of an IEB, the servicing department is to be identified as part of the establishing Order in Council and published in the Public Service Act Schedule 2, Part 3. An IEB can delegate administrative tasks to its servicing department.

Specified agency means any of the following:

(a) a departmental agency

(b) an interdepartmental executive board (IEB)

(c) an interdepartmental venture (IV)

The specified agencies and their host, servicing and relevant departments are listed in the Public Service Act Schedule 2, Parts 2-4.

Section 2 Introduction

2.1 What are specified agencies

The Public Service Act 2020 introduced new types of public service organisation, IEBs and IVs, to support having a more flexible, adaptable, and collaborative public service. Amendments also enabled departmental agencies to be created that could 1) operate outside the strategic and policy framework of its host department and / or 2) manage assets and liabilities. Departmental agencies predated the Public Service Act – but were not able to do either of these things.

The PFA was amended to apply its financial and accountability requirements to these new entities. It enables IEBs, IVs and departmental agencies (that have been empowered to operate outside the strategic and policy framework of its host department and / or manage assets and liabilities), to administer appropriations, and sets out how they are expected to provide information on their strategic intentions, and to report annually on their performance, including their financial performance.

In the PFA the IEBs, IVs and departmental agencies are called specified agencies. They are also 'departments' for the purposes of the PFA.

2.2 Key features of each type of specified agency

The Public Service Commission is the lead agency for advice on organisational types and on establishing a specified agency. The following is a synopsis of key features of each specified agency type. See Section 1.2 Links – of this document, for links to Public Service Commission guidance.

Interdepartmental Executive Board (IEB)

Refer also *Supplementary guidance note – interdepartmental executive board,* Public Service Commission

An IEB is an executive board of public service chief executives, brought together to deal with complex issues that have impacts and policy levers that sit across a wide range of portfolio areas, eg, Border Executive Board.

Administration of an IEB

IEBs can administer appropriations or use appropriations administered by another department. Provided it either has an appropriation or can use another department's appropriation, it can do things like hold assets and enter into contracts. An IEB can employ staff to a dedicated unit, who would be supported by a servicing department. The servicing department can also carry out administrative and reporting activities under delegation from the board.

The board of the IEB is responsible for ensuring that it complies with the reporting requirements under the PFA. An IEB is required to provide its responsible Minister with information on its strategic intentions and prepare annual reports for each financial year (subject to any waivers, see Section 5 Waivers – of this document).

Interdepartmental venture (IV)

Refer also *Supplementary guidance note – interdepartmental ventures*, Public Service Commission.

An IV is a public service agency, governed by a small board of Public Service chief executives, used to make collective decisions on the delivery of a specific activity, or the investment in an asset relevant to two or more portfolio areas.

It operates like a separate department, though governed by a board made up of existing chief executives. The purpose of an IV is determined by the functions allocated to it by Cabinet. A Minister designated by the Prime Minister is assigned responsibility for the IV.

Administration of an IV

An IV can hold assets, employ staff, enter contracts, and administer appropriations in the same way as a department. A new investment may be needed to fund this venture, or venture staff, assets and appropriations could be transferred from departments alongside any related functions being drawn into the venture.

The IV can either administer its own appropriation, or the chief executives on the board can allow the venture to use appropriations administered by their own department, via administration and use agreements. If the IV administers its own appropriation, it will be accountable to the appropriation Minister for what is achieved with that appropriation.

The board of the IV is responsible for ensuring it complies with the reporting requirements under the PFA. An IV is required to provide information on its strategic intentions unless there is a waiver agreement and prepare annual reports for each financial year including financial statements (subject to any waivers, see Section 5 Waivers – of this document).

Departmental Agency

Refer also *Supplementary guidance note – departmental agencies*, Public Service Commission.

A departmental agency is an operationally autonomous agency hosted by a public service department. It is legally considered part of its host department. A departmental agency can support clarity of purpose, eg, Cancer Control Agency.

Administration of a departmental agency

A departmental agency is headed by its own chief executive who is directly responsible to an appropriate Minister (under the Public Service Act) for its clearly identified, ring-fenced activities and performance. The host department provides corporate services to departmental agencies but is not responsible for the performance of functions or duties, or the exercise of powers by the departmental agency.

A departmental agency chief executive has the same general responsibilities and powers as a departmental chief executive (Public Service Act section 50 and Schedule 6).
A departmental agency and its host department may, or may not, have the same Minister; depending on ministerial portfolio(s) determined by the Prime Minister.

Flexible arrangements allowed for a departmental agency

The Public Service Act provides flexible options, and PFA amendments support:

- allowing the departmental agency to operate within its own strategic and policy framework (instead of within its host department's framework), and/or
- allowing a departmental agency to manage assets and liabilities (this means they may administer appropriations or use another department's appropriation under an administration and use arrangement – as for IEBs and IVs).

This decision is to be made through its establishing Order in Council. As at March 2023 the flexible arrangements had not yet been used; any changes will be noted in the Public Service Act Schedule 2, Part 2.

Section 3 Funding and financial arrangements

3.1 Overview of options

There are several options for funding and financial arrangements for IEBs, IVs, and departmental agencies (that have agreement to manage assets and liabilities). This section does not apply to departmental agencies that do not have this agreement – so where it says ‘specified agencies’ in this section it excludes the departmental agencies that do not have agreement to manage assets and liabilities.

A series of decisions needs to be made about their funding and financial arrangements, including:

- should they administer a Vote?
- should/could they be funded from a discrete appropriation, or should/could they be funded from existing appropriations?
- if there is a discrete appropriation, should they be the appropriation administrator, or can a department administer the appropriation for them (and they operate under administration and use agreements)?

This section sets out the options and some of the considerations but is not exhaustive across all options. It is important that agencies considering the establishment of a specified agency discuss options as early as possible in the process with the Treasury to ensure that the Treasury is able to contribute advice on the most practical and cost-effective ways of setting up the funding and financial arrangements for the specified agency. An overall structure should be considered and outlined in the first Cabinet paper to establish a specified agency.

3.2 Should a specified agency administer a Vote?

Given the typically small scale and typically discrete functions of specified agencies Vote administration is unlikely to be required, subject to consideration on a case-by-case basis.

The Treasury would only recommend a separate Vote if it would reduce administrative work or complexity (eg, if funding were otherwise proposed to come from multiple Votes and appropriations). If recommended, it requires agreement from the Minister of Finance (section 2(2) of the PFA). The intent of this requirement is to prevent a proliferation of Votes.

3.3 Should there be a distinct appropriation for a specified agency?

A distinct appropriation for a specified agency is recommended to support clarity and transparency and accountability for use of public money. Considerations include that:

- end-of-year performance reporters can be identified only for discrete appropriations, and
- if a specified agency was exclusively funded from an existing appropriation the chief executive of the department administering the existing appropriation would usually be responsible for reporting on what the specified agency has achieved.

Under the PFA it is technically possible to establish a specified agency without a distinct appropriation, in this case the specified agency would rely on using part of existing appropriation (or two or more) under administration and use agreements (see Sections 3.4 and Section 3.5 below).

Agencies and the Treasury Vote analysts would need to consider how well the functions of the proposed specified agency matched the scope of the existing appropriation/s, as well as consider transparency and accountability risks. If the agencies considering a specified agency think this option should be explored, they should start discussions with Treasury Vote analysts as early as possible in the process to consider the scope, fit, and capacity within existing appropriations.

3.4 Should a specified agency be the appropriation administrator (or operate under administration and use agreements)?

If there is only one relatively small discrete appropriation, it is likely to be more cost-effective for a host, or a relevant department (usually the servicing department) to be the appropriation administrator, and for the specified agency to operate under an administration and use agreement to use the appropriation (see Section 3.5 Administration and use agreements – of this document).

The Treasury should be consulted on appropriation administration at an early stage of the set-up process and if it is proposed that a specified agency will administer an appropriation this should be set out in the Cabinet paper that sets out the purpose and working arrangements of the new entity.

The Treasury will consider if the specified agency is likely to have the capacity to administer an appropriation and consider costs and benefits of the specified agency being the administrator instead of the host or servicing department.

For more information refer, *The responsibilities of an appropriation administrator*[1]. Responsibilities include:

- ensuring expenses or capital expenditure incurred against each appropriation administered by the department remain within the amount, scope and period of that appropriation (PFA sections 8, 9, and 10)
- providing the information prepared by a performance reporter under section 19C and the audit report to the appropriation Minister (PFA section 19A(3)(b))
- including in its annual report a statement of expenses and capital expenditure for appropriations administered by the department (PFA sections 45(2)(d) and 45A), and
- providing information for the monthly financial statements of Government (PFA section 31A).

Appropriation administration also involves becoming a new reporting entity for CFISnet. This requires a set of financial statements to be produced monthly and annually in line with the requirements on a department (eg, statement of financial performance, statement of financial position, statement of cash flows, and appropriation statements). This may be efficient for a department that already administers appropriations to do – relative to a smaller agency with no other appropriations to administer.

See Table 1 – for a summary of considerations.

Table 1: Considering if a specified agency should administer an appropriation

Yes – Treasury could recommend	No – Treasury unlikely to recommend
The agency has a role in implementing policy or has an operational aspect as part of its functions.	The agency performs an advisory or policy function only.
The agency faces high levels of public scrutiny or has a strong public facing element.	The agency work is part of broader government work.
Funding level is significant enough to warrant dedicated financial resource and extra administrative work.	Funding levels are relatively small and have little complexity.
Appropriation administration would help assure the funding necessary to achieve the purpose of the specified agency enough to warrant the extra administrative work.	Appropriation administration does not justify the extra administrative work.

1 www.treasury.govt.nz/sites/default/files/2013-09/sspfr-respadmin.pdf

3.5 Administration and use agreements

Section 7C(2)(c) of the PFA provides that one or more departments can incur expenses against an appropriation for departmental expenses or multi-category appropriation administered by another department either 1) at the direction of the appropriation Minister, or 2) with the agreement of the department that is the appropriation administrator. This is referred to as the administration and use approach and can be the most cost-effective and practical way to authorise expenditure on activities that require cross-agency collaboration. The administration and use approach was introduced by amendment to the PFA in 2013 to support cross-agency work.

Refer *Administration and Use of Appropriations:Technical Guidance for Departments* for more detail and templates for a ministerial direction or agreement of a chief executive of a department that is an appropriation administrator. The method will have implications for how the expenditure is reported in CFISnet.

When there is an administration and use agreement:

- the appropriation administrator is responsible for “tidiness” (sometimes referred to as “hygiene factors”); including ensuring the amount of the appropriation is not exceeded, ensuring expenditure is within the scope of the appropriation, ensuring that end-of-year performance reporting is provided on what has been achieved with the appropriation

- the appropriation user will have managed assets and liabilities during the financial year (which will be the case if it either has an appropriation, or used another department’s appropriation), and will need to prepare financial statements (unless there is a waiver agreement, see Section 5 Waivers – of this document).

See Appendix 1 Q&A for more information on administration and use agreements and specified agencies.

Section 4 Accountability documents

4.1 Strategic intentions

Section 38 of the PFA requires all departments to provide information on their strategic intentions to their responsible Minister as soon as practicable and no later than six months after establishment and then at least once every three years. These requirements also apply to specified agencies - apart from departmental agencies that must operate within the strategic and policy framework of its host department and are excluded by section 38(6) of the PFA.

Anyone preparing the strategic intentions for a specified agency should follow general guidance on strategic intentions for departments. *Public Finance Act Strategic Intentions Guidance (2015)*.[2]

Section 41 of the PFA sets out scenarios where the Minister of Finance can grant an extension of time to provide the information, or waive the requirement to provide the information. Waiver provisions that apply to specified agencies under section 41(3A) of the PFA are discussed in the next section, Part 5: Waivers – of this document.

Other points of note for specified agencies are:

- Section 38 (1)(b) requires the information on strategic intentions to include a statement of responsibility signed by the department's chief executive. In the case of an IEB or IV, the chief executive is all members of the board. In the case of a departmental agency, it is the chief executive of the departmental agency.

Box 1: Who signs the statement of responsibility required by section 38(1)(b)

The statement of responsibility in the strategic intentions document must be signed by the chief executive – for an IEB or IV this means all members of the board.

Points of note for hosts and relevant departments are:

- Section 38(4)(c) requires a department to update its strategic intentions if there has been a significant change in the nature or scope of the department's functions - this means relevant departments need to consider if the nature and scale of participation in the specified agency is a significant change in the nature or scope of the department's functions. If it is considered a significant change, the department should update their strategic intentions.
- Section 40(2)(b) requires a department to identify any specified agencies for which they are a host or relevant department in their information on strategic intentions. A department will need to consider when to include this information in its strategic intentions (which are only required to be updated three-yearly or if there has been a significant change under section 38(4)(c)). If the department is not due to update its strategic intentions and it considers section 38(4)(c) has not been triggered, its status as host or relevant department will be noted in its annual report under section 45(4) of the PFA.

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2 Public Finance Act: Strategic Intentions Guidance - December 2015 (treasury.govt.nz)

- Under section 40(3) of the PFA, if a specified agency is not required to provide information on its own strategic intentions, either because it is a departmental agency that does not have permission to operate outside the strategic intentions of its host, or it has a waiver (see Section 5 Waivers – of this document) – then the host or relevant departments should provide this information.

4.2 Annual reporting

Guidance for annual reporting and other end of year reporting has been updated for specified agencies and should be the primary guide. Refer *Annual Reports and other End-of-Year Performance Reporting*[3].

This section provides a brief overview and notes some key points of difference that apply to specified agencies.

Section 43 of the PFA requires all departments, including specified agencies to prepare an annual report. The content of the annual report to be prepared by specified agencies is set out in section 45AA of the PFA. The content requirements of the annual report will vary depending on the operations of the specified agency

- If the specified agency has administered an appropriation during the financial year, then the annual report will need to include statements of expenses and capital expenditure for that appropriation.

- If the specified agency has managed assets and liabilities during the financial year (which will be the case if it either has an appropriation, or used another department's appropriation), then it will need to prepare financial statements.

- A statement of responsibility with the contents specified in section 45CA of the PFA must also be included in the annual report. As with the statement of intent, the chief executives who are the members of the board of an IEB or IV and in the case of a departmental agency, the chief executive of that agency must sign that statement of responsibility.

- The annual report of a specified agency must be a separate report from the annual report of its host or relevant departments. It can however be published in the same document.

Section 45I of the PFA enables the Minister of Finance to exempt an entity that is established during the last four months of a financial year from the obligation to provide an annual report for that financial year. If this type of exemption applies, then the annual report prepared for the next full financial year must cover the previous part-year despite such an exemption being granted, if an entity administers an appropriation, then statements of expenses and capital expenditure, and the associated audit report would still need to be prepared for the part financial year.

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3 www.treasury.govt.nz/publications/guide/year-end-reporting-depts

End-of-year performance reporting is an additional consideration. If the specified agency has been identified as a performance reporter in the supporting information for an Appropriation Act (in Budget documents) it will need to provide the information required by the PFA sections 19A and 19C on what has been achieved with the appropriation. This should be wherever stated in Budget documents - typically in an annual report.

Box 2: Who signs the statement of responsibility in the annual report

The statement of responsibility in an annual report must be signed by the chief executive – for an IEB or IV this means all members of the board.

4.3 Statements of expenses and capital expenditure and financial statements

Section 45AA of the PFA provides that if a specified agency has managed assets or liabilities during the financial year, then it must include annual financial statements and forecast financial statements in its annual report.

Annual financial statements

The content of the annual financial statements is specified in section 45B of the PFA, and the content of the forecast financial statements in section 45BA of the PFA.

As discussed further below (see Section 5: Waivers – of this document), the Minister of Finance can waive the requirement for the specified agency to include financial statements in its annual report. Where that power is exercised, then the host department or relevant departments must include in their financial statements and separately disclose their share of the assets, liabilities, expenditure, and revenue of the specified agency. The annual report of the specified agency should state where this financial information can be found.

Statements of expenses and capital expenditure

If the specified agency has administered an appropriation, then it will need to include in its annual report statements of expenses and capital expenditure – see section 45AA(2)(d) of the PFA. If the host or relevant department is the appropriation administrator, then the obligation to include these statements in its annual report sits with them. The content of the statements of expenses and capital expenditure are specified in section 45A of the PFA.

4.4 Intelligence and security agencies

Where a specified agency has a host or relevant department that is an intelligence or security department, in certain circumstances its reporting requirements can be treated in the same way as for an intelligence or security department currently.

If the host department of a departmental agency is an intelligence or security department, or where all of the IEB or IV's relevant departments are intelligence or security agencies, then the provisions of the PFA apply to the specified agency in the same way as they do to an intelligence and security department. If the new entity is made up solely of intelligence and security departments, then it will not be required to publish its strategic intentions, nor will the responsible Minister be required to present them to the House. The Minister will still be required to forward the strategic intentions information to the members of the Intelligence and Security Committee (refer section 82A of the PFA).

Section 5 Waivers

The Minister of Finance may grant a waiver to specified agencies from producing information on strategic intentions under section 41(3A) of the PFA), or from including annual financial statements and forecast financial statements in their annual report (under section 45AB of the PFA), subject to certain criteria being met.

Any waivers granted are to be presented to the House of Parliament as soon as practicable after being granted and will usually be published on the Parliament website. The Treasury also publishes information about any waivers that have been granted (see Section 1.2 Links – of this document).

5.1 Waiver from providing information on strategic intentions

Section 41(3A) of the PFA provides that the:

> Minister of Finance may grant a specified agency a waiver of the requirements of section 38 [to provide information on its strategic intentions] if the Minister of Finance is satisfied that, having regard to the functions and operations of the specified agency, it is appropriate for the information required under that section in relation to the specified agency to be provided by the specified agency's host or relevant departments (section 41(3A) of the PFA).

The policy behind this strategic intentions waiver provision is to enable the Minister to waive the requirement where it would otherwise create an unreasonable administrative burden for a specified agency to provide this information, in particular, where a specified agency is small and has a relatively discrete function that is well aligned to the strategic intentions of relevant departments.

The Treasury should be involved in discussions about whether a waiver will be sought as the Minister of Finance will need to agree the waiver. Strategic intentions are an important accountability document that set out what the agency is proposing to do and enables the public and parliament to hold the specified agency to account. The Treasury considers these waivers should be relatively rare – and care should be taken not to create any accountability gaps.

Box 3: Where strategic intentions should be published

Under section 40(3) of the PFA:

> **If a specified agency has received a waiver of the requirement to provide information on its strategic intentions , then the strategic intentions information, required under the section 40(1) and 40(2) of the PFA, must be provided by its host or relevant departments. Relevant departments in the PFA means all the departments in an IEB or IV (see section 1.3 Abbreviations and key terms – of this document).**
>
> **If a departmental agency does not have permission to operate outside the policy and strategic framework of its host department (section 38(6), the host department should provide the information required under sections 40(1) and 40(2).**

5.2 Waiver from the requirement to include annual financial statements and forecast financial statements in the annual report

As noted above (Section 4.2) annual reports prepared by a specified agency are required to include annual financial statements and forecast financial statements if the specified agency managed assets or liabilities during the financial year.

However, the Minister of Finance can waive the requirement for a specified agency to include annual and forecast financial statements in its annual report.

Section 45AB of the PFA provides that:

> The Minister may grant a waiver from the requirements to include the financial statements described in section 45AA(2)(e) and (3) if the Minister is satisfied that the preparation of separate financial statements is not justified having regard to -
>
> - the functions and operations of the specified agency; and
> - the materiality of the assets, liabilities, expenditure, and revenue of the specified agency.

Also in section 45AB of the PFA, before granting the waiver the Minister of Finance must consult with the specified agency's responsible Minister, and where the specified agency is a departmental agency, with the host department's responsible Minister.

The policy rationale behind the waiver power in section 45AB is to enable the Minister to waive the requirement for a specified agency to include financial statements in its annual report, where the assets and liabilities managed by that specified agency are of sufficiently low value that the expense of undertaking their production and audit would outweigh the value of producing them.

Questions to consider a waiver from producing financial statements are whether the specified agency is an appropriation administrator (in which case they should complete all the financial reporting) – and if not:

- are the functions and operations of the specified agency relatively simple and easy to be defined and included into the specified agency's host or relevant department's annual report?
- is the materiality of the assets, liabilities, expenditure, and revenue of the specified agency small and specific enough to easily be included in the annual report of the host or relevant department?

If the answer is yes to both questions, the specified agency may apply to the Minister of Finance for a waiver under the PFA section 45AB. If the answer is yes to the second question alone the specified agency will still be able to apply for a waiver, but this consideration will need to be explained in the application for a waiver from the Minister of Finance.

'Materiality' is not defined in the PFA or in this guidance, as it should be considered on a case-by-case basis, for example, more than $5 million but with a very discrete function and related expenditure could be appropriate, around $5 million with complex functions and related expenditure might not be.

A waiver can apply for a period of up to 3 years (PFA section 45AB (3)) after which a renewal application will need to be prepared.

Box 4: If a financial waiver has been granted

If a financial waiver has been granted:

- **<u>The annual report of the specified agency</u> must state where the annual financial statements (financial information about the agency's assets, liabilities, expenditure and revenue) can be found (section 45AA(2)(f) of the PFA).**
- **<u>The annual report of the host or relevant departments</u> must "disclose separately from the assets, liabilities, expenditure, and revenue of the department, the department's <u>share</u> (determined in accordance with generally accepted accounting practice) of the assets, liabilities, expenditure, and revenue of the specified agency" (section 45B(3) of the PFA).**

5.3 Applying for waivers

Waiver applications need to be granted by the Minister of Finance, and there should be consultation with the appropriation Minister. There are a few process options for seeking the waiver, if the appropriation Minister would like to seek a waiver:

- the appropriation Minister can write to the Minister of Finance to seek the waiver (servicing department manages briefings and consultation with the Treasury)
- a joint briefing to the Minister of Finance can be prepared, the Treasury can manage the briefing and interaction with the Minister of Finance's Office – this approach can be helpful because as soon as practicable after granting a waiver, the Minister of Finance must present to the House of Representatives notice of the waiver and the Minister's reasons for granting it (PFA section 45AB(4)) – if the Treasury can manage the briefing, it can ensure this happens.

The covering briefing or letter should include detailed information about the functions and operations and materiality (of the assets, liabilities, expenditure, and revenue – for the financial statements waiver) to enable the Minister to make an informed decision.

Information should also be in the covering briefing or letter about where the financial information will be provided (for example, if the servicing department will report an IEB's share of assets, liabilities, expenditure, and revenue, and which relevant departments are likely to report a share). This information will not be part of the notice of the waiver presented to the House of Representatives but it should be clearly considered, and the Treasury will publish the information to support transparency.

To discuss practicalities and consult on draft content, please contact the relevant Treasury Vote analyst and/or boardsandventures@treasury.govt.nz

Appendix 2 has draft waiver recommendations (to include in a briefing/letter) and Appendix 3 is a draft for presenting notice of a waiver to the House (this should be appended to a briefing/letter).

Appendices

Appendix 1 Financial Q&A

Can a specified agency with an administration and use agreement or Ministerial direction employ staff?

If a specified agency has a direction from the appropriation Minister to use an appropriation, it will need to agree to the employment expenses of personnel working on its outputs that will be charged to the new appropriation. This will apply whether the personnel concerned are employed by the specified agency or are employed by a relevant department and seconded to work for the specified agency.

The matter of who has authority to charge employment expenses against the new appropriation (the specified agency) is a separate issue from who is the employer. Therefore, there is no requirement that the appropriation administrator be the employer of staff whose employment expenses are charged to the appropriation.

For other questions regarding employment refer to the Public Service Commission guidance (see section 1.2 Links - of this document).

Q&A to be added at each review of this guidance, and / or published online.

Appendix 2 Draft waiver recommendations

These are for an IEB. Amend the text in (brackets), and or, adjust the text as required, and/or for an IV:

Strategic intentions (model)

Agree to waive under section 41(3A) of the Public Finance Act 1989 the requirement for the (name the IEB) to provide information on its strategic intentions under section 38 of the Act for (amount of time, up to a three-year period), because having regard to the functions and operations of the Board, it is appropriate that they are covered by the strategic intentions of the relevant departments and are better suited there because (briefly describe why, usually will note the main function and if it is a relatively discrete task).

YES/NO

Financial statements (model)

Agree to waive under section 45AB of the Public Finance Act 1989 the requirement for the (name the IEB) to include financial statements in its annual report. This is because the function of the Board, [describe function], is [easily defined with simple operations], and the [relative immateriality] of the assets, liabilities, expenditure, and revenue of the Board.

YES/NO

Presentation to the House

Agree to **sign** and present to the House of Representatives notice of the waiver/s that you have granted the (name the IEB) (see attached)

YES/NO

Appendix 3 Draft notice to the House that a waiver has been granted

These are for an IEB. Adjust the text in (brackets), and or, adjust the notice text as required to align with the agreement recommendation, and/or for an IV:

NOTICE OF WAIVER OF THE REQUIREMENT TO PROVIDE INFORMATION ON STRATEGIC INTENTIONS FOR THE (NAME of IEB)

Strategic intentions

On ______________________I (name), Minister of Finance, granted a waiver of the requirement to provide information on its strategic intentions to the (name the IEB) for (amount of time), in accordance with section 41(3A) of the Public Finance Act 1989. My reasons for granting this waiver are because the function of the Board is (describe function) which is a relatively discrete task, and it is more appropriate that the information on strategic intentions is provided by its relevant departments.

Dated at Wellington this ______ day of _____ 202x

NOTICE OF WAIVER OF THE REQUIREMENT TO INCLUDE FINANCIAL STATEMENTS IN ITS ANNUAL REPORT FOR THE (NAME of IEB)

Financial statements

On ___________________ I, (name), Minister of Finance, granted a waiver of the requirement to include financial statements in its annual report for (amount of time, up to three years) to the (name the IEB) under section 45AB of the Public Finance Act 1989. This is because the function of the Board, [describe function], is [easily defined with simple operations], and the [relative immateriality] of the assets, liabilities, expenditure, and revenue of the Board.

Hon (name)

Minister of Finance

This notice will be published on the New Zealand Parliament website.