

COMMONWEALTH - STATE FUNDING AGREEMENTS FRAMEWORK

Summary

This circular provides guidance on the new processes for drafting, circulating and finalising Commonwealth-State funding agreements under the Federation Financial Funding Agreements (FFA) framework. It also outlines the Council on Federal Financial Relations (CFFR) operational process. This circular follows the decision of National Cabinet to delegate to CFFR responsibility for all funding agreements, including reviewing the agreements process.

This circular provides information on the following:

- I. Drafting a funding arrangement
- II. Circulation of drafts and finalisation of funding arrangements
- III. Publishing finalised funding arrangements

The development of new funding arrangements is guided by the Federation Funding Agreement (FFA) framework, which is supported by the funding agreement report process and the Federation Funding Agreements Rules (FFA rules) (see Circular No. 2021/02). All new funding arrangements must adhere to normal Commonwealth Government processes prior to being developed and offered to state counterparts.

I. Drafting a funding arrangement

i. Streamlining funding arrangements

All new funding arrangements, except for National Agreements, will be developed as schedules under the five Federation Funding Agreements (FFAs), which include Health, Environment, Infrastructure, Education and Skills, and Affordable Housing, Community Services and Other (see Circular No. 2021/01). The schedules will be streamlined and consistent with the standard terms and conditions in the FFAs. Further information, including FFA schedule templates, are available on the [CFFR website](#).

ii. Variations to funding arrangements

If a funding arrangement needs to be varied, including to amend milestones, the responsible Commonwealth portfolio agency should consult with the Department of Prime Minister and Cabinet (PM&C) and the Commonwealth Treasury as a first step and they can advise the appropriate steps to follow.

iii. Consistency with FFA rules

All funding arrangements, including variations to arrangements, will be consistent with the FFA rules. For further information see Circular No. 2021/02.

II. Circulation of drafts and finalisation of funding arrangements

The Commonwealth and the states should work together closely from the early stages of developing funding arrangements. It is important that Treasuries and portfolio agencies within jurisdictions work together to develop and provide comments on draft funding arrangements. However, draft funding arrangements should not be provided to states until the draft has been agreed between Commonwealth central and portfolio agencies for circulation to the states.

i. Commonwealth Agencies, Commonwealth Treasury and Prime Minister and Cabinet engagement

The responsible Commonwealth portfolio agency will circulate a draft funding arrangement to the Department of Prime Minister and Cabinet (PM&C) and Commonwealth Treasury. Once a draft has been agreed between Treasury, PM&C and the portfolio agency for circulation to the states, the portfolio agency will then circulate the draft to their state counterparts. The Commonwealth Treasury and PM&C will do likewise. States and territories will consolidate the jurisdiction's comments ahead of sending them back to the Commonwealth portfolio agency.

Once jurisdictions have provided comments, the portfolio agency will revise the funding arrangement for consideration by Treasury and PM&C, who will review the arrangement. Treasury and PM&C can also talk through state comments with the agency, and help resolve issues that may arise. If major revisions are required, the draft funding arrangement will be circulated to jurisdictions for final comments.

ii. State Agencies and State Treasuries engagement

As the funding arrangement nears finalisation, it will be the responsibility of the responsible state agency, possibly jointly with the state Treasury, to facilitate the progress of the funding arrangement through jurisdictional processes.

iii. Portfolio ministers and Treasurers role in finalising funding arrangements

If CFFR decides to ask portfolio ministers to finalise the funding arrangement, after the conclusion of negotiations, the responsible Commonwealth portfolio minister will sign and circulate the funding arrangement to his or her state counterparts for finalisation, with the finalised funding arrangement published on CFFR's website.

If Treasurers choose to finalise a funding arrangement, the responsible portfolio minister will transmit a final draft of the funding arrangement to the Commonwealth Treasurer, with a recommendation on next steps. In many instances, this will be to sign and circulate the funding arrangement to state Treasurers for finalisation.

Worked examples of different roles that CFFR can take in the development process for funding arrangements are in Circular No. 2021/04.

III. Publishing finalised funding arrangements

Public accountability and transparency are key principles of the Intergovernmental Agreement. For this reason, all finalised funding arrangements and schedules are published on the [CFFR website](#). Variations to funding arrangements, including a variation through an exchange of letters will also be published. Sensitive information that should not be publicly available may be withheld on request – including commercial-in-confidence information. However, schedules should be drafted in the knowledge that they are intended to be public documents.

Other Commonwealth or State agencies can link their website to the [CFFR website](#) to ensure consistent and up to date versions of documents are available to the public.

A copy of the complete, signed funding arrangements (and any subsequent variations) must be provided to the Commonwealth Treasury before payments can be made.

For a step-by-step guide of CFFR's operation process, see the process guide in Attachment A and the flow chart in Attachment B.

For reference: Circulars on the Federation Funding Agreements (FFA) framework:

Circular No. 2021/01 – The Federation Funding Agreements framework

Circular No. 2021/02 – Overview of FFA framework mechanisms

Circular No. 2021/03 – Drafting funding arrangements

Circular No. 2021/04 – Worked examples of CFFR's role in developing funding arrangements

Enquiries:

For questions relating to the circulars please contact Commonwealth-State Relations Division

Email: state.payments@treasury.gov.au

ATTACHMENT A

CFFR Operational Process

The initiation process

1. Proposed funding arrangements are initiated by Commonwealth portfolio ministers, CFFR, National Cabinet or the National Federation Reform Council.
2. Once a portfolio minister has authority to negotiate or vary a funding arrangement, they will seek CFFR's guidance on the appropriate mechanism for negotiating, developing and finalising funding arrangements through the funding agreements report.
3. In determining how a new funding arrangement should be pursued, CFFR will consider whether:
 - 3.1. the proposed funding arrangement deals with a matter of significance;
 - 3.2. it would suffice to modify an existing funding arrangement; and
 - 3.3. the proposed funding arrangement can be negotiated in a way that is consistent with the FFA rules.

The negotiation process

4. CFFR will decide on one of two pathways forward for the funding arrangement, which will be communicated by the Commonwealth Treasury to Commonwealth portfolio agencies. The negotiation process for funding arrangements can follow one of two pathways, depending on the type of funding arrangement.
 - 4.1. **Pathway A:** CFFR negotiates the economic and fiscal aspects of the funding arrangement, working closely with portfolio ministers.
 - 4.2. **Pathway B:** CFFR delegates the negotiation on the economic and fiscal aspects of the funding arrangement to portfolio ministers.
 - (1) Where a negotiation is conducted under Pathway B, the funding arrangement or schedule should respect the standard terms and conditions included in the relevant sectoral FFA and follow the FFA rules.
 - (2) Where a negotiation is conducted under Pathway B, CFFR may:
 - (a) provide and/or receive written guidance to the content of the funding arrangement (over and above what is already provided by the FFA rules);
 - (b) request oral or written updates on the progress of negotiations at future CFFR meetings;
 - (c) review the funding arrangement for consistency with the standard terms and conditions in templates and guidance, and the FFA rules;
 - (d) request to sign the funding arrangement; or
 - (e) choose no further involvement for the funding arrangement.

The finalisation process

5. CFFR will sign all funding arrangements following Pathway A.
 - 5.1. Treasuries will notify portfolio agencies once CFFR sign a funding arrangement.
6. Portfolio ministers will sign all funding arrangements following Pathway B, unless CFFR has determined otherwise.
 - 6.1. Portfolio agencies will notify Treasuries once their Minister signs a funding arrangement.
7. The funding arrangement is published on the [CFFR website](#).

The evaluation and renewal process

8. CFFR will evaluate all funding arrangements that followed Pathway A.
9. Portfolio ministers will evaluate all funding arrangements that followed Pathway B (if CFFR deems an evaluation is required), and provide a report to CFFR on the status of the progress.
10. For ongoing services, any evaluation will be tabled at a CFFR meeting at least 12 months prior to the expiration of the relevant funding arrangement in order to inform CFFR's decision-making on renewal of the existing funding arrangement or negotiation of a new funding arrangement.
11. Portfolio agencies notify Commonwealth Treasury about expiring funding arrangements and they are included in the funding agreement report for CFFR consideration. The decision regarding renewal is subject to Commonwealth Government Budget processes.

ATTACHMENT B

Flowchart of CFFR Operational Process

