

CPPM 4.3.14 - Transfer Payments Appendix 3 - Transfer under Agreement Terms and Conditions

The following is a list of basic provisions that should be considered in establishing the terms and conditions of a Transfer under Agreement. It is not intended as an all-inclusive list. Individual circumstances may require other additional, appropriate considerations. Basic Provisions should include:

1. An identification of the recipient (legal name and contact information).
2. The purpose of the transfer payment and the expected results to be achieved.
3. The effective date, the date of signing, and the duration of the agreement.
4. The reporting requirements expected of the recipient.
5. The obligations and accountabilities of the parties involved, and the financial and/or non-financial conditions and the consequences of failing to adhere to these conditions.
6. For a transfer payment of significant amounts, a requirement for the recipient to declare any and all sources of proposed funding for the project before or shortly after the commencement of the agreement, as well as upon completion of the project.
7. A provision for repayment where the total government assistance exceeds the amounts spent for a specified purpose.
8. Where it is applicable, the allowable costs, the types or classes of expenditures eligible for reimbursement.
9. The conditions to be met before a payment is made and the schedule or basis of payment.
10. The maximum amount payable and appropriate provisions for the ministry to terminate the agreement and withdraw from the project if the original objectives are not being met.
11. A clause to limit the liability of the government in the case where the recipient is entering into a loan, a capital lease or other long term obligation in relation to the project for which the transfer payment is provided.
12. The Province's right to conduct an audit, even though an audit may not always be undertaken.
13. Provision for cancellation or reduction of transfer payments in the event that ministry appropriation or funding levels are changed.
14. A requirement that any payment under the agreement is subject to there being an appropriation for the fiscal year in which the payment is to be made.
15. An indemnification clause for the benefit of the Crown and an insurance provision.

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16. A clause that requires the recipient not to represent itself, including in any agreement with a third party, as a partner or agent of the Crown, unless this is agreed to by the Province.
17. Provision defining rights (whole or in part) to assets acquired or intangible property created in the process of carrying out the requirements of the transfer agreement.
18. A requirement for the recipient to declare any amounts owing to the government under legislation or an agreement and recognition that amounts due to the recipient may be set-off against amounts owing to the government.
19. A requirement for the recipient to repay advances, overpayments, interest on overdue amounts, unexpended balances and disallowed expenses, and a declaration that such amounts constitute debts due to the Province.
20. Provision to recover payments should the recipient be in default of the transfer agreement.
21. Provision for the confidential treatment of all information or material supplied to or obtained by the recipient as a result of the transfer agreement with the Province.