

3.2 Developing and Submitting Your Proposal

WHO IS INVOLVED IN THE PROCESS?

Proposals may emanate from any branch or division within a department or government unit.

DEPARTMENTAL POLICY UNIT

Proposals should be prepared collaboratively with departmental policy staff. This ensures that submission procedures are properly followed, and all policy issues are identified.

EXECUTIVE COUNCIL OFFICE AND TREASURY BOARD STAFF

The process works best when there is a good working relationship between the department and their assigned Cabinet Advisor and Corporate Financial Advisor. The advisors should be kept informed of important issues on the horizon for the department. This could involve mechanisms such as periodic attendance at departmental senior management meetings and/or weekly meetings with policy unit and Finance and Treasury Board staff assigned to the department. It is also highly recommended that proposals to Executive Council and/or its committees on major issues are forwarded to the assigned Cabinet Advisor and Corporate Financial Advisor while in draft form. This helps to streamline the process.

DEPARTMENTAL COMMUNICATIONS STAFF

Department communications staff should be informed at the earliest possible stage of the possibility of submitting a proposal to Executive Council and/or its committees. These early discussions identify important issues and will help to ensure accuracy and timeliness in the preparation of the required communications documentation. The communications plan must accompany each submission to Executive Council and must be prepared by the department's communications staff. The department communications staff must also seek final approval of the communications plan from the appropriate Communications Nova Scotia Managing Director and minister.

Communications Plan

Communications plans are intended to provide ministers with information on the communications impact of the request to be considered and must accompany all submissions to Executive Council and/or its committees. The communications plan is prepared by department communications staff based on discussions with department staff and a review of the draft submission.

DEPARTMENT SOLICITOR

Department solicitor(s) review proposals to identify legal implications and, in the case of legislative and regulatory proposals, also confirm statutory form and authority. Solicitors will provide input for submissions for the Form of Order, the Legal Implications sections, and any required legal drafting (e.g., drafting instructions for legislation, draft regulatory amendments, a proposed draft agreement, etc.). Department solicitors sign each submission to Executive Council to attest to the legal review of the request.

FINANCE DIRECTOR

Proposals should be prepared in consultation with the Department of Finance and Treasury Board's Director of Finance assigned to the department to ensure that any financial implications and the source of funding are identified. Finance directors sign each submission to Executive Council to attest to the financial review of the request. Any proposal with financial impacts must include a completed Financial Impact Assessment Appendix which also must be signed by the assigned Executive Director or Director of Finance.

This will involve working with the associated Department of Finance and Treasury Board Corporate Financial Analyst on the following issues before submitting items to the Executive Council Office:

- ☐ capital items
- ☐ approval for transactions containing net debt obligations (see below)
- ☐ financial statements
- ☐ new department program spending
- ☐ lease arrangements
- ☐ loan arrangements/guarantees
- ☐ pension/Long Term Disability
- ☐ capital market activities
- ☐ investing activities

- ☐ cash management
- ☐ banking arrangements
- ☐ credit rating agencies
- ☐ analysts and investors
- ☐ tax policy
- ☐ revenue (including user fees)

APPROVAL FOR TRANSACTIONS CONTAINING NET DEBT OBLIGATIONS

Section 77 of the Finance Act requires Governor in Council approval to enter into a net debt obligation. Net debt obligations include liability (e.g., borrowing, capital lease, tangible capital asset acquisition, etc.) or a contingent liability, that may increase the net debt of the Province (e.g., guarantee, indemnity, comfort letter) incurred by a member of the Government Reporting Entity in relation to a third party that cannot be accommodated in the existing appropriation or other authority of the member.

When a request involves a net debt obligation, the Minister of Finance and Treasury Board must prepare a report outlining whether the cost of the proposed transaction is within authorized limits for the fiscal year, the effect of the proposed transaction on the consolidated financial statements of the Province, the reasonableness and prudence of the proposal to avoid undue risk of loss, and any other relevant items related to the proposal. This Section 77 report is a required appendix for any R&R requests involving a net debt obligation.

FTB officials will review the request and prepare the required Section 77 report which is then submitted by the Minister of Finance and Treasury Board directly to ECO. An R&R submission is not complete until the Section 77 report is received by ECO. Departments are strongly encouraged to engage the Executive Director of Government Accounting during the drafting stage when it is determined that approval for a net debt obligation is required to help expedite the development and submission of the report.

HUMAN RESOURCES (HR)

Proposals should be reviewed with your HR representative to determine whether there are HR implications and, where they exist, provide details as to what those implications are.

DIGITAL AND TECHNOLOGY

Any proposals with digital and technology components (e.g., digital service transformation, designing new services for citizens, technology modernization) should be reviewed and supported by the Nova Scotia Digital Service (Service Nova Scotia and Internal Services). Early engagement with the Nova Scotia Digital Service is recommended for their assessment of digital and technology component(s) involved in a proposal. Submissions also need to clearly note any financial implications of the recommended digital and technology components, including sustainment for investments made.

INTERGOVERNMENTAL AFFAIRS

A member of Executive Council must have Governor in Council approval before entering into an agreement with the Government of Canada, or the government of a province or agency thereof (See Public Service Act, s.6.).

This does not apply when legislation provides the Minister with specific authority to enter into specific agreements (e.g., Environment Act s.47(1) respecting authority to enter into agreement for joint environmental assessment processes).

Before submitting a proposal to Executive Council that has intergovernmental implications (federal or other provincial and territorial governments—not municipal or Aboriginal governments), departments should consult with the Department of Intergovernmental Affairs. The outcome of the consultation must be documented in the submission (R&R or Memorandum) to Executive Council. If the subject of the document does not affect or involve the relationships, responsibilities, programs, or policies of the federal or other provincial and territorial governments, please indicate. If the subject may have impacts on other levels of, please specify what these may be.

OFFICE OF REGULATORY AFFAIRS AND SERVICE EFFECTIVENESS

Before submitting a proposal to Executive Council that could impact business, departments and government must consult with the Office of Regulatory Affairs and Service Effectiveness (ORASE) determine if a Business Impact Assessment is required to assess alignment with the Premier's Charter of Governing Principles for Regulations. If it is determined that a Business Impact Assessment is required, the results of the assessment should be provided to ORASE for feedback well in advance of preparing the submission to Executive Council. Submissions with anticipated impacts to business must demonstrate:

1. How they align with and support the Premiers' Charter, including costs of compliance or savings to business; and
2. Feedback from ORASE.

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY (FOIPOP)

All government information is subject to the Freedom of Information and Protection of Privacy (FOIPOP) Act, including Cabinet records (i.e., submissions to Executive Council). FOIPOP grants the head of a public body authority to refuse to disclose information contained in a Cabinet record that would reveal the substance of deliberations of the Executive Council or any of its committees, with the following exceptions:

- information in a record that has been in existence for ten or more years;
- information in a record of a decision made by the Executive Council or any of its committees on an appeal pursuant to an Act; or
- background information in a record the purpose of which is to present explanations or analysis to the Executive Council or any of its committees for its consideration in making a decision if
 - (i) the decision has been made public,
 - (ii) the decision has been implemented, or
 - (iii) five or more years have passed since the decision was made or considered.

Departments should contact their Information Access and Privacy Administrator for assistance and interpretation.

SECURITY OF CABINET DOCUMENTS

Cabinet documents, including drafts, must be circulated strictly in accordance with the 'need-to-know' principle. The circulation of documents during drafting must be restricted to those officials who have a role in contributing to the submission, and senior executive(s) responsible for ensuring accuracy of the information provided. Departmental officials are not entitled to access the documents merely because it would be convenient for them to know the substance of a proposal by virtue of their status.

Once submitted formally by a minister, a submission becomes an official Cabinet record held by Executive Council Office. At this point, departments should purge all drafts associated with the submission. If a Cabinet record (in sum or part) is required by a department after a submission has been lodged as a Cabinet record, please consult with Executive Council Office.

General Formatting Rules for All R&Rs, Memoranda, Ministerial Appointment Forms, and Supporting Documents

- R&Rs, Memoranda, Ministerial Appointment forms, and all supporting documentation including Communications Plans must be on 8½ X14 paper (legal size). The exception to this rule is the Form “A”, Standing Committee on Human Resource Guidelines and Regulations, which should be on 8½ x 11 paper (letter size).
- Arial font should be used
- The titles of the proposals should be in Arial 11
- The main part of the proposals and related attachments should be in Arial 11
- Margins may be adjusted as required
- The overall length of the proposal is dependent on the complexity of the issue/action. The proposal should provide substantive information to clearly describe the issue/action to Executive Council, and allow Executive Council to make an informed decision. At the same time, information should be presented concisely.

Required Appendices

In addition to the communications plan and section 77 report, submissions may require additional appendices depending on the nature of the request. Please consult the transaction guide posted on the Executive Council Office website where you can also find the most up-to-date forms: <https://novascotia.ca/treasuryboard/manuals/100Forms.htm>

Enquiries

Executive Director, Executive Council Operations

Executive Council Office

(902) 424-2541

Approval date: **October 26, 2022**

Effective date: **February 21, 2023**

Approved by: **Treasury and Policy Board**
