Treasurer's approval process under the Pricing for Value Guide

Guidance for departments and agencies.

1. Purpose of this guidance document

This document provides departments and agencies (collectively referred to as agencies) with an overview of the process for seeking the Treasurer's approval, under the Pricing for Value Guide (PfV Guide), to change fees and charges prices.

This document should be read in conjunction with the PfV Guide, please see:

https://www.dtf.vic.gov.au/financial-management-government/pricing-value

2. Pricing for Value Guide

The *Financial Management Act 1994* (the Act) is used in Victoria to improve financial administration across the public sector, make better provision for public sector accountability and provide annual reporting to the Parliament by department and public sector bodies.

The Act contains standards for financial management that Victorian Government agencies are expected to adhere to, known as the Standing Directions 2018, please see:

https://www.dtf.vic.gov.au/financial-management-government/standing-directions-2018-under-financial-management-act-1994

The Standing Directions, issued by the Assistant Treasurer under section 8 of the Act require Victorian government agencies to apply the PfV Guide in the setting of fees and charges for government services (including regulatory services).

The PfV Guide is based on a set of 12 principles and a practical methodology for undertaking pricing reviews that collectively inform how agencies can design their fee structures and regimes. The PfV Guide principles provide considerable scope for judgement and policy discretion particularly where tensions exist between the principles. Ultimately, it is up to the responsible agency to apply these principles in the setting of their fees and charges.

The PfV Guide also helps agencies assess the need for a pricing review and, when a review is needed, determine the scale and scope of the review. Key triggers for a pricing review include:

- when fee and/or charge regulations are approaching expiry, or
- earlier if there have been significant changes in circumstances (such as changes in demand, technology and/or work practices).

3. Roles and responsibilities in setting fees and charges

Agencies are required to follow the PfV Guide when setting fees and charges including any other policies relating to the price change, for example, the regulatory impact statement (RIS) process.

DTF is available to work with agencies on general pricing queries in relation to fees and charges. In instances where the Treasurer's approval is needed, DTF works with agencies to provide advice on:

- the requirements under the PfV Guide
- the Treasurer's approval process, and
- what should be included in submissions to the Treasurer when seeking Treasurer's approval (Section 5 of this guide).

4. Treasurer's approval process

The PfV Guide establishes that agencies will need to seek approval from the Treasurer for any proposed new price or price change that has a revenue impact exceeding $2 million per year, in accordance with the RIS significant burden threshold set in the Subordinate Legislation Act 1994 Guidelines. Please note that if the RIS threshold changes, so will the Treasurer's approval process threshold.

The $2 million threshold is indicative only. Agencies should consider a range of factors to understand if they need to seek Treasurer's approval, including the level of the fee, the size of the fee change, the impact it may have on a particular group in the economy including First Peoples (see section 4.1), equity or distributional impacts and any significant stakeholder sensitivities.

There are some cases where the Treasurer's approval is not required, even if impact exceeds the monetary thresholds above:

(i) If the fee change is in line with, or less than the Treasurer's Annual Rate (unless your regulations specify a different method e.g. consumer price index)

(ii) If the fee change is part of a proposal that has been assessed as exempt from requiring a RIS.

(iii) If the fee is being remade or reimposed at the same level, unless the fees will also be updated and have a revenue impact exceeding the monetary threshold.

Please contact DTF to confirm if the Treasurer's approval process applies if:

- The proposed new price or price change is a result of a decision made by the Budget and Finance Committee.

- You are unsure whether your proposed new price or price change requires the Treasurer's approval.

The PfV Guide requires that you notify DTF at least six months before the price changes are scheduled to take effect, if you believe you will need to complete the Treasurer's approval process. This ensures sufficient time for both the agency and DTF to meet all the requirements.

4.1 Statewide Treaty and Treaty obligations

The Statewide Treaty places an obligation on the state to consult Gellung Warl on legislative and policy proposals that are directed at or impact on First Nations Victorians.

Agencies should actively, and at the earliest stage, identify if their proposal is specifically directed to First Peoples, may have a disproportionate impact on First Peoples, or may impact implementation of the first Statewide Treaty or negotiation of future treaties.

An agency should work with their Treaty lead as part of the policy development process to consider the fee proposal, confirm it is consistent with existing obligations under Statewide Treaty and ensure it is sufficiently flexible to accommodate any future Treaty agreements.

4.2 Notification of fees that do not need Treasurer's approval

The PfV Guide establishes that agencies will need to notify DTF of any new fees or fee changes, regardless of whether Treasurer's approval is required. If it is determined that Treasurer's approval is not required, departments should notify DTF of the fee change via email (Section 7) once the fees have been agreed by the relevant minister. The notification email should include information on:

- the relevant regulations and fees
- total change per year
- percentage of cost recovery that the fees achieve
- when the changes will come into effect.

5. Steps in seeking the Treasurer's approval

The key steps in the process include:

(a) An agency must contact and consult DTF on its fees or charges proposal at least six months before the proposed fees or charges come into effect, if they believe they need to seek the Treasurer's approval. Section 7 below contains DTF contact details.

(b) DTF will advise the agency whether the Treasurer's approval is required using the assessment guidelines – see Section 4.

(c) If Treasurer's approval is required, the agency prepares and shares a draft submission to the Treasurer with DTF – see Section 6.

(d) DTF will provide feedback to the agency on the draft submission to the Treasurer. Internally, DTF may also consult with the TPO on major or sensitive proposals.

(e) The agency is then required to brief its Minister seeking approval of the submission to the Treasurer.

(f) Once approved, the Minister sends the submission to the Treasurer.

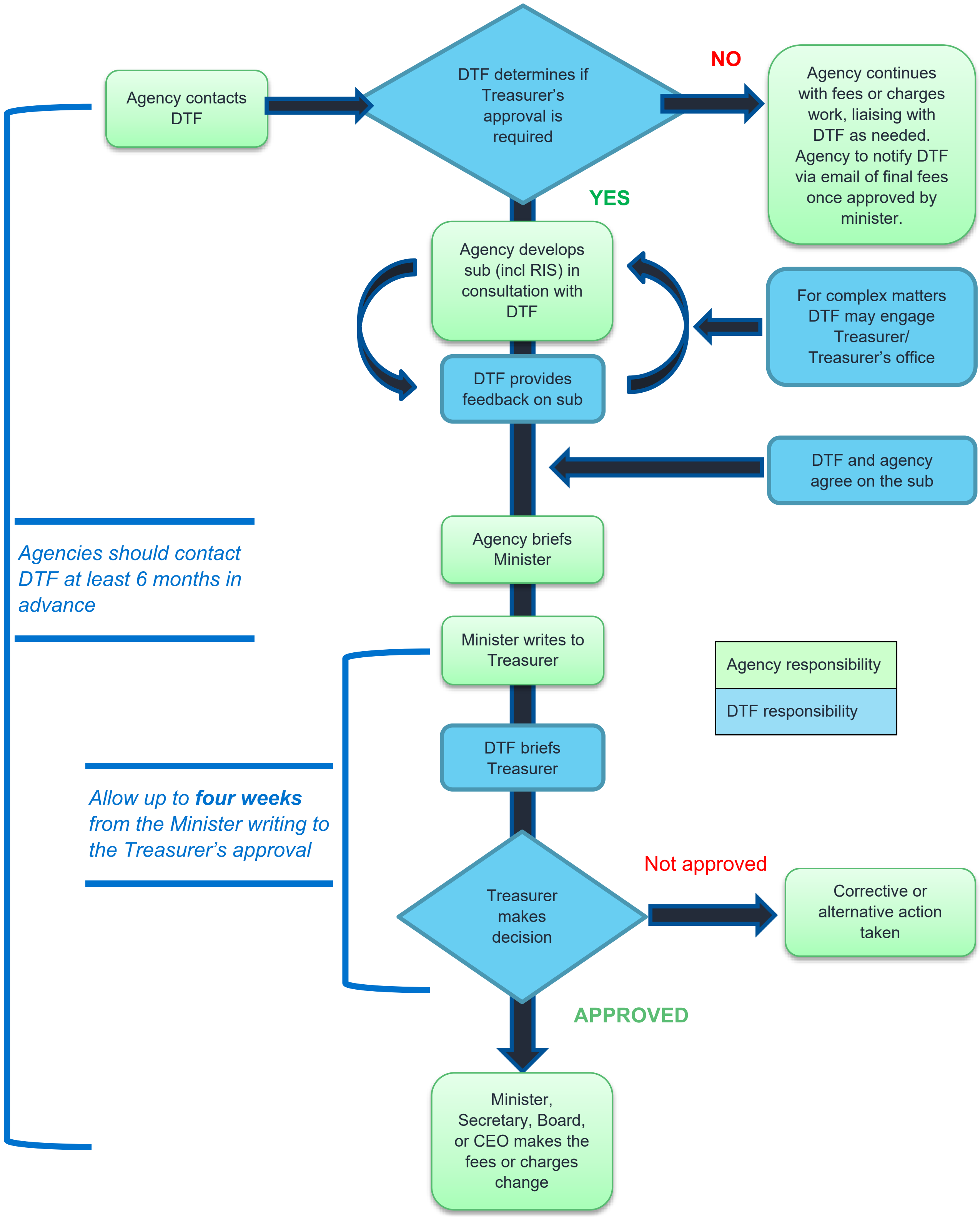
(g) DTF will brief the Treasurer on the submission.

(h) The Treasurer makes a decision and writes back to the Minister.

Recent experience indicates that it takes up to 4 weeks from step (f) to step (h).

If the determination of fees or charges is going through a RIS process, Ministerial approval of the submission to the Treasurer should be sought once the RIS process has concluded, and the Minister is ready to approve the proposed fees or charges.

Treasurer's Approval - Process chart



It is not always the Minister making the fee. For example, there are agencies where the Board of Directors can make decisions regarding the agency's fees and charges. In these cases, the requirement to seek the Treasurer's approval still applies if the agency is subject to the Standing Directions under the Act.

6. Submission – request for Treasurer's approval

If the Treasurer's approval is required for the new fees or charges, the responsible agency will need to prepare a submission to the Treasurer seeking approval for the proposal.

DTF can work together with departments and agencies in developing submissions to the Treasurer but does not share previous submissions with agencies.

A submission generally consists of:

- a short covering letter from the relevant Minister or Chairperson about the fee or charge proposal, and
- attachments (where appropriate):
  - authorising documentation – regulation, order and or schedule (current and proposed)
  - a Regulatory Impact Statement (RIS) and/or supporting information.

The supporting information gives the Treasurer assurance that they are approving the final set of fees or charges. This documentation could include a copy of the draft legislative instrument (including draft regulations from the Office of Chief Parliamentary Council, or the draft Ministerial Order) or the Minister's endorsement of the proposed fee or charge schedule, or board minutes.

The letter to the Treasurer should address the following items:

- requests approval of the fee or charge proposal and how it will be enacted, e.g. a new Act, delegated legislation or being set by a board
- details about the title of the regulations, orders, or schedule and when the proposed regulations, orders or schedule will come into effect
- describes the proposed fees or charges, highlighting key features or changes and their objectives or rationale (e.g., to promote the government's objectives, improve cost recovery, offer new services etc.)
- describes how the proposed fees or charges were assessed against the relevant pricing for value principles
- if the fees or charge are not set in fee units, the letter should address the rationale for that approach
- comments on the impacts of the proposed fees or charges, consultation on the proposed fees or charges, and fees or charges for equivalent services elsewhere (for example, in other Australian jurisdictions)
- notes that the proposed fees or charges require the Treasurer's approval, citing the PfV Guide, and
- includes contact officer details.

The appendixes below contain several generic template letters; one of which may be tailored to suit agencies’ specific circumstances.

7. Further information

For further information please contact the DTF Fees and Charges Policy team at pricing@dtf.vic.gov.au

Appendix A: Example letter for regulatory fees or charges (RIS required)

Note: This is a template letter for regulatory fees or charge for which a RIS is required. The text would need to be adjusted to fit the circumstances around the proposed fee changes.

Jaclyn Symes MP
Treasurer
Level 4, 1 Treasury Place
EAST MELBOURNE VIC 3002

Dear Treasurer

APPROVAL OF PROPOSED [INSERT NAME OF FEES OR CHARGE REGULATIONS]

I write to request your approval of the proposed fees and charges structure included in [insert full name of fees regulations] (the Proposed Regulations) as required by the Pricing for Value Guide.

The Proposed Regulations, to be made under [insert section number and full name of empowering Act], would determine the fees payable for the services provided by the [insert name of agency]. The fees will apply to [specify the services].

The Proposed Regulations are due to commence operation on [insert date], replacing the [insert full name of fees regulations] (the Current Fee Regulations), which expire on [insert date].

The Proposed Regulations contain the new/updated fee structure for the [insert name of agency] that [insert rationale, e.g. more closely reflects the agency's cost base]. A Regulatory Impact Statement (RIS) regarding the proposed fees was released for public consultation between [insert date] and [insert date]. I have enclosed a copy of the RIS and the Proposed Regulations for your information.

[Discussion about the alignment of the proposed fee structure with the Pricing for Value principles] The proposed fee structure aligns with Principles [1 -12] in the Pricing for value Guide. The proposed fee structure will [eg. ensure that those benefiting from the service are paying for the service, etc]

The [insert name of agency] has undertaken consultation with key stakeholders, including [insert stakeholders] as part of the RIS process. Most stakeholders are generally supportive of the proposed new fees/fee changes/increases. However, some stakeholders have expressed concern [e.g. that regulated parties will be paying more for registration and permits]. The [insert name of agency] is of the view that [e.g. regulated parties will be able to absorb the fee increases].

[e.g. The RIS notes that Victoria currently has the lowest fees for these regulatory services in Australia. The proposed fee increases will not change this ranking.]

Having carefully reviewed the submissions received in response to the RIS, I consider that the making of the Proposed Regulations (and the fee structure wherein) should proceed.

I am advised that the quantitative analysis that informed the RIS predicts that, if the Proposed Regulations are made, fee revenue could be expected to rise from approximately [$x million] a year to [$x million] a year — an increase of [$x million] a year. As a result, and consistent with the Pricing for Value Guide, your approval is required prior to the proposed fees being included in the Proposed Regulation.

The Current Regulations expire on [insert date]. To ensure that the [insert name of agency] can continue to charge fees, it is necessary to make new regulations that commence by that date. I would therefore appreciate your response by [insert date], if possible.

Questions regarding this matter can be directed to [insert name], [insert position], at the [insert department and contact details].

Yours sincerely

[Insert name]

Minister [insert portfolio]

Enc.

Attachment A: Regulatory Impact Statement

Attachment B: Proposed [insert name of fees regulation]

Appendix B: Example letter for non-regulatory fees or charges

Note: This is a template letter for non-regulatory fees, charges or prices The text would need to be adjusted to fit the circumstances around the proposed fee or charge change.

Jaclyn Symes MP
Treasurer
Level 4, 1 Treasury Place
EAST MELBOURNE VIC 3002

Dear Treasurer

APPROVAL OF PROPOSED PRICES FOR SERVICES PROVIDED BY [INSERT NAME OF AGENCY OR GOVERNMENT BUSINESS]

I'm writing to request your approval of the proposed prices for the services provided by [insert name of agency or government business] as required by the Pricing for Value Guide.

The proposed prices are to be made by the board of [insert name of agency or government business] and would come into effect on [insert date]. The prices will apply to [specify products and/or services].

The proposed price schedule has been updated to [e.g. reflect changes in operating costs and the commercial environment. In recent years, the costs of providing these services has increased due to the higher cost of inputs and IT upgrades. Also, some new services have been introduced to meet the needs of different customer groups]. These price changes are consistent with principles in the Pricing for Value Guide.

[Quantitative/Qualitative] analysis undertaken by [insert name of agency or government business] indicates that the proposed prices will [e.g. see some customers paying higher prices]. While public consultation was not undertaken, [e.g. confidential focus group analysis suggests that most customers are likely to value the new services and little leakage of customers is expected].

[e.g. The proposed prices for most services are broadly comparable with services provided by similar government entities in New South Wales, Queensland and Tasmania].

Further details on the proposed prices are contained in the attached paper.

The proposed fees are estimated to increase [insert name of agency or government business] revenue by [insert dollar amount] in 2023-24, which exceeds the current threshold in the Pricing for Value Guide. As a result, your approval is required prior to the proposed fees being made.

The proposed fees are scheduled to be made by the board of [insert name of agency or government business] on [insert date]. I would therefore appreciate your response by [insert date], if possible.

Questions regarding this matter can be directed to [insert name], [insert position], at the [insert department and contact details].

Yours sincerely

[Insert name]

Minister [insert portfolio]

Enc.

Attachment A: Price proposal paper [note: this could be based on a board paper]

Attachment B: Proposed price schedule