

**Disclaimer: This is guidance material only and does not replace reading the legislation. For further information refer to the legislation. Please check the website for updates and other information.**

## Accountable Authority: Roles and Responsibilities

### At a glance

- The Government Sector Finance Bill 2018 (GSF Bill) introduces the role of an 'Accountable Authority' replacing similar roles in previous Acts.
- All GSF Agencies have an Accountable Authority.
- An Accountable Authority for a GSF Agency is generally the head of the agency.
- An Accountable Authority is responsible to the Minister for the performance and financial management of the GSF Agency. This is a new underlying theme compared to previous legislation.
- The GSF Bill grants an Accountable Authority power to delegate certain functions conferred on them or, in some cases, to subdelegate functions conferred on the Accountable Authority by the Minister.

### Who is an Accountable Authority?

The GSF Bill requires that each GSF agency has an Accountable Authority. The Accountable Authority is generally the head of an agency (e.g. the Secretary or CEO of an executive agency), and includes:

- The Secretary of a Department
- The head of a Public Service Agency other than a Department
- The governing body for an agency that is not a Public Service agency
- The head of an agency that is not a Public Service agency, if the agency does not have a governing board
- The board of a State owned corporation
- Anyone designated by the regulations to be an accountable authority for a specified GSF Agency.



#### Tip

To confirm who your Accountable Authority is, see section 2.7 of the GSF Bill.

### Main roles and responsibilities

Some of the main roles and responsibilities of an Accountable Authority include to:

1. **Give notice of a new GSF Agency and facilitate auditing** within one month of the agency being established.
2. **Develop and maintain policies and procedures regarding financial management** and compliance with the GSF Bill. This includes ensuring that the government officers of the GSF Agency are accountable for their actions under the Bill.
3. **Establish and maintain effective risk management procedures** appropriate to the agency.
4. **Ensure the integrity of financial and performance information.**
5. **Ensure that the agency is compliant with the GSF Bill.**

## Delegations

Ministers may delegate their functions to an Accountable Authority. Functions delegated to an Accountable Authority by a responsible Minister, may be subdelegated by the Accountable Authority to a government officer or any other entity prescribed by the regulations and subject to exclusion.<sup>1</sup>

For other functions (such as those directly conferred on an Accountable Authority), the Accountable Authority may delegate, and the delegate may subdelegate these functions to a government officer or any other entity prescribed by the GSF regulations.<sup>2</sup>

### Case study

An example of a function that may be delegated to an Accountable Authority by the responsible Minister is an *appropriation expenditure function* (and this may then be subdelegated).

It is important to note that the responsible Minister for a GSF Agency may give written directions to the Accountable Authority of the agency concerning the kinds of persons to whom the Accountable Authority can or cannot delegate these functions.

The Accountable Authority must also review delegations and subdelegations in accordance with any requirements prescribed by the regulations or written directions given by the responsible Minister<sup>3</sup>. For further information, refer to the **Delegating roles and responsibilities fact sheet**.

In addition, a Minister may delegate any of their Separate GSF Agency delegable functions in relation to a Separate GSF Agency to its Accountable Authority<sup>4</sup>.

## Budget preparation, reporting, financial administration and performance information

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The GSF Bill makes it clear that Accountable Authorities are responsible for financial administration, including the preparation of information for use in Budget preparations. This is largely consistent with the responsibilities of Department Heads and Heads of an Authority in previous legislation. Roles include to:

1. **Prepare budget and forward estimates** in accordance with Treasurer's directions, and to be consulted on certain aspects of the direction.
2. **Prepare and give financial statements to the Auditor-General** in the form designated by Australian Accounting Standards, the GSF Bill, Treasurer's directions or regulations.
3. **Prepare, present, and make public, the annual reporting information of their GSF agency**, in a timeframe and format designated by the GSF Bill, the regulations or Treasurer's directions, including for former GSF Agencies.
4. **Ensure that records are kept regarding relevant performance information** and make that information available, on request, for the Treasurer or responsible Minister.
5. **Ensure that records are kept in respect of the GSF agency's financial arrangements, transactions, cashflows, financial position and financial performance**<sup>5</sup>.

Accountable Authorities may also enter into financial arrangements on behalf of the agency if appropriately authorised. They are responsible for recordkeeping in relation to their agencies' financial arrangements and have the power to open, close and operate banking accounts on behalf of the agency.

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<sup>1</sup> Except a function excluded from the instrument of delegation or a function under Division 9.1 (s 9.9(7)). Particular rules apply for delegations that relate to GSF Agencies that are persons (s 9.10).

<sup>2</sup> Except an 'excluded function' cannot be delegated and a function that the responsible Minister has directed in writing cannot be delegated or subdelegated (for agencies that are not Separate GSF Agencies) (s 9.11(3) and (8)).

<sup>3</sup> s 9.11(8).

<sup>4</sup> s 9.9(3).

<sup>5</sup> s 6.22(8), s 7.5.

## Information sharing

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The GSF Bill contains provisions relating to information sharing, which represents a change from the previous financial management legislation. The Bill requires that an Accountable Authority must, when requested, provide 'relevant agency information'. This request could be made by:

- the Treasurer,
- the responsible Minister,
- a Minister who provides funding (or the responsible Minister for another GSF Agency that provides funding), or
- a Minister who receives an appropriation from which that agency has the authority to make payments out of the Consolidated Fund (or another GSF Agency for which that Minister is the responsible Minister).

The accountable authority must comply with the request and may need to produce the information in a particular way.<sup>6</sup>

The power to request information can be delegated by a Minister. For example, the Minister may delegate the power to the Secretary of a Department, so the Secretary would be authorised to request relevant agency information from another Accountable Authority for a GSF Agency<sup>7</sup>.

## What an Accountable Authority cannot do under the GSF Bill

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An Accountable Authority:

- is responsible for ensuring that expenditure of money for the agency is done in a way that is authorised,
- cannot do anything on behalf of their agency that would contravene Part 6 Financial Services and Arrangements if it were done directly by the agency,
- cannot make a gift of government property unless the property was acquired for use as a gift, the gift has been authorised by the Treasurer in writing, the gift is made in accordance with Treasurer's directions or the gift was authorised by or under any law.<sup>8</sup>

## An Accountable Authority can be liable for loss

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An Accountable Authority is a 'person handling government resources' under the GSF Bill to whom the civil recovery provisions apply. An Accountable Authority:

- Incurs a debt to the Crown if they contravene provisions around the gifting of government property where the contravention was dishonest or the result of misconduct or a deliberate or serious disregard of reasonable standards of care.
- Incurs a debt to the Crown if a loss of government resources or related money has occurred and the person caused or contributed to the loss by misconduct or a deliberate or serious disregard of reasonable standards of care.<sup>9</sup>

A debt incurred is recoverable by the Treasurer,<sup>10</sup> but proceedings can only be commenced with the concurrence of the Attorney General.

For further information on the civil recovery provisions refer to Part 9, Division 9.4 of the GSF Bill.

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<sup>6</sup> The information does not need to be provided if the disclosure of the information is prohibited by any other legislation. Where this is the case, the Accountable Authority must give a written notice of the reason for not complying (s 9.5).

<sup>7</sup> Section 9.9(2). This power cannot be subdelegated further (s 9.9(4)(b)).

<sup>8</sup> s 5.6.

<sup>9</sup> Including if the loss is by way of deficiency, destruction, or damage.

<sup>10</sup> Unless it is waived (s 9.18(4)).

## Need more information?

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Please also refer to:

- Attached checklist for detail on relevant sections of the GSF Bill
- Delegating roles and responsibilities fact sheet

Email the Legislation team at [Legislation@treasury.nsw.gov.au](mailto:Legislation@treasury.nsw.gov.au).

## Attachment A – Checklist of Sections in the GSF Bill

The table below references the roles and responsibilities of an Accountable Authority under the GSF Bill. Items denoted with \* are new powers or obligations not found in existing legislation.

Role in Bill	Bill Reference
<b>Commencing 1 December 2018</b>	
<b>General</b>	
Must give notice of a new GSF Agency, to the Treasurer and the Auditor-General within one month of the agency being established and ensure appropriate steps are taken to have the agency audited by the Auditor-General.	Sec 2.8
Is to develop and maintain policies and procedures, within their GSF Agency, regarding the financial management of the agency and compliance with the Act. This includes ensuring that the government officers of the GSF Agency are accountable for their actions under the Bill.	Sec 3.6 Sec 3.7
Establish and maintain effective internal control and assurance and risk management policies and procedures appropriate to the agency. Ensure the integrity of financial and performance information and ensure that the agency is compliant with the GSF Bill.	Sec 3.6
* Ensure that records are kept regarding relevant performance information and make that information available, on request, to the Treasurer or responsible Minister.	Sec 8.2 Sec 9.5(1), 9.6
Functions may be delegated to an Accountable Authority by the Minister.	Sec 9.9
* The Accountable Authority may delegate, and such delegates may subdelegate, to a government officer or any other entity prescribed by the regulations any 'delegable function' in the Bill (except an excluded function).	Sec 9.9(5), 9.11
<b>Expenditure</b>	
Will be consulted on certain aspects of the Treasurer's directions (with respect to the payment of financial distributions to Treasurer).	Sec 5.4(3)
On behalf of their GSF Agency an Accountable Authority may: <ul style="list-style-type: none"> <li>Under certain circumstances, incur expenditure on behalf of their GSF Agency (when authorised)</li> </ul>	Sec 5.5
*Cannot make a gift of government property unless the property was acquired for use as a gift, the gift has been authorised by the Treasurer in writing, the gift is made in accordance with Treasurer's directions or the gift was authorised by or under any law.	Sec 5.6
<b>Financial services and arrangements</b>	
On behalf of their GSF Agency an Accountable Authority may: <ul style="list-style-type: none"> <li>Enter into financial agreements for or on behalf of the agency that the agency is authorised to enter into and is responsible for ensuring that the agency complies with the Treasurer's directions in respect of use of financial services</li> <li>Open, close or operate banking accounts on behalf of the agency</li> </ul>	Sec 6.15(8), Sec 6.22(3) Sec 6.19
Is responsible for record keeping in relation to their agencies' financial arrangements and must provide, when requested, the Treasurer and Minister access to that information.	Sec 6.22(8) Div 9.1
<b>Commencing 1 July 2019</b>	
<b>Budget preparation, Reporting, Administration</b>	
Must prepare information for use in Budget preparations in accordance with Treasurer's directions.	Sec 4.5
Must prepare and give financial statements to the Auditor-General - this also includes for 'former GSF Agencies' - in the time frame and in the form designated by the Australian Accounting Standards, GSF Bill, Treasurer's directions or regulations.	Sec 7.6(1), (3) Sec 7.7(1)

If directed to, the Accountable Authority will prepare special purpose financial reports in accordance with provisions of the directions.	Sec 7.9(3)
Ensure that the annual reporting information for the GSF Agency is prepared and presented, and made public, in a timeframe and format designated by the GSF Bill, regulations and Treasurer’s directions, including for former GSF Agencies.	Sec 7.12 Sec 7.14