

## RE: confidential - Ford TP

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**From:** "Petsche, Nadine (TBS)" <nadine.petsche@ontario.ca>  
**To:** "Burns, Robert (MEDG/MRIS)" <robert.burns@ontario.ca>  
**Cc:** "Veinot, Cindy (TBS)" <cindy.veinot@ontario.ca>  
**Date:** Mon, 27 Feb 2017 15:09:04 -0500  
**Attachments:** One-time transfer guidance Jan 31 2017.pdf (162.11 kB); Ford - JPF Term Sheet Grant\_vE4 FINALnp.docx (109.74 kB)

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Robert,

Due to the confidential nature of this item, I reviewed the documentation myself and offer the following feedback.

In the absence of pre-flows, in order to support the recording of liability and expense under public sector accounting standards for PS 3410, the government must (1) be able to demonstrate that it has a constructive obligation (little or no discretion to avoid settling its obligation) for the funding commitments. Specifically, the government must create a valid expectation of the recipient by March 31<sup>st</sup> that it has little or no discretion to avoid providing the funds; and (2) no significant, contingent actions should be outstanding which if unfulfilled by year end might cause the transfer not to occur. With this in mind, I re-draft Indicative term sheet.

Based on the details in the term sheet, I would conclude that the requirements under PS 3410 to report a liability and expense would likely be met by March 31st. Specifically, I noted the following observations in my review of the document:

- \* Language stating that the term sheet does not create an obligation on either party, and that the results of various due diligence activities and conditions of approval may result in changes to the terms, in some cases materially.
- \* Various types of conditions including cumulative job targets, investment targets, payroll targets, footprint targets.
- \* Statements regarding eligible costs which must be verifiable and which do not include any costs incurred and paid prior to the effective date.
- \* Fund disbursement conditions – funds will be paid only once the recipient has provided documentation to Ontario's satisfaction that meets the conditions of disbursement, including providing the evidence that the recipient has incurred and paid eligible project costs; receipt and acceptance by Ontario of the Final Auditor's Certificate and a final certificate and report as required pursuant to the conditional grant agreement.

I have attached a copy of OPCD's revised guidance on accounting for one-time transfers for your reference. Please let us know if you have any further questions, or would like to discuss.

Regards,  
Nadine

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**From:** Burns, Robert (MEDG/MRIS) <[Robert.Burns@ontario.ca](mailto:Robert.Burns@ontario.ca)>  
**Sent:** Monday, February 27, 2017 2:08 PM

**To:** Veinot, Cindy (TBS)  
**Subject:** confidential - Ford TP

Hi Cindy,

Attached please find a Confidential Term Sheet agreement between Ford and the province around an investment they are making in Ontario. The term sheet is going to TB this week and should be signed within the next few days after being approved by TB.

The term sheet is used by the lawyers to craft the final agreement which can often take several months to get signed off (when we are dealing with the auto sector). In the past, the lawyers have concluded that there is “detrimental reliance” after signing – basically companies have used the term sheet as a reliable basis for proceeding with the project.

Given that position, the ministry has in the past accrued any obligations that come upon signing the agreement if it cannot occur before year end.

Given the AGs position on TPs last fiscal, I wanted to connect to see what you think. Can we accrue based on the signed term sheet, knowing that lawyers are diligently working away on the contract for signing? Or do we have to wait for the signed agreement (and therefore have to use 2017-18 funding to meet the signing obligations)? I should mention that the money won't flow until the signed agreement is in hand early in the next fiscal. Glad to discuss in person, or by phone if you like.

Thanks.

**Robert Burns**

Chief Administrative Officer & Assistant Deputy Minister  
Corporate Services Division

**Ministry of Economic Development & Growth**  
**Ministry of Energy**  
**Ministry of Infrastructure**  
**Ministry of Research, Innovation & Science**

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