

Accounting for work bonds, building bonds and hire bonds

Western Australia local government position paper 1

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The purpose of this OAG position paper is to inform local government entities that moneys held as bonds, such as work bonds, building bonds and hire bonds should not, for accounting purposes, be regarded as Trust Fund moneys in terms of the *Local Government Act 1995* (Act). Consequently, these moneys should be held in the Municipal Fund, recognised on the statement of financial position in the annual financial report and interest, if any, earned on those moneys would therefore not need to be paid to the person entitled to the moneys in accordance with section 6.9(3)(a) of the Act.

Summary of the issue

Since assuming responsibility for the annual financial audits of local government entities in accordance with the Local Government Amendment (Auditing) Act 2017, we have noted significant variation in the accounting treatment for bond moneys. These include:

- Some entities hold bond moneys in the Municipal Fund and therefore retain any interest income on those moneys.
- A small number of entities hold bond moneys in the Trust Fund and, in accordance with section 6.9(3)(a) of the Act, repay interest together with the principal amount to the developer/hirer.
- Some entities hold bond moneys in the Trust Fund but retain any interest earnings as revenue of the entity.
- Some entities hold bond moneys in the Trust Fund, and in a non-interest bearing account.

Section 6.9(1) of the Act states:

A local government is to hold in the trust fund all money or the value of assets —

- (a) that are required by this Act or any other written law to be credited to that fund; and
- (b) held by the local government in trust.

Section 6.9(3)(a) states:

Where money or other property is held in the trust fund, the local government is to —

- (a) in the case of money, pay it to the person entitled to it together with, if the money has been invested, any interest earned from that investment.

OAG position

We have obtained independent legal advice that, unless agreements between developers/hirers and the entity require bond moneys to be held in the Trust Fund, they should not be held in the Trust Fund.

There are no provisions in the Act or any other written law that specify that work bonds, building bonds and hire bonds are to be credited to, or held in, the Trust Fund, and these moneys are not held in trust. Consequently, section 6.9 of the Act is not applicable to these funds, and they should be held in the Municipal Fund.

We recommend however that separate accounting records should be maintained for these moneys, as one of the control measures to ensure they are used for the correct purpose.

As section 6.9(3)(a) of the Act is only applicable to moneys held in the Trust Fund, any interest earned while the moneys are in the Municipal Fund, can be retained by the entity.

However, if entities have in the past held bond moneys (or any other moneys) in the Trust Fund, section 6.9(3)(a) of the Act applies. Therefore, if an entity has held moneys in the Trust Fund, invested it and not paid interest to the person entitled to it, the entity should assess:

1. whether it can practically identify past interest earned on the moneys, and who is owed that interest
2. whether it can practically pay those persons entitled to the interest, as required by section 6.9(3)(a) of the Act.

Cash in Lieu of Public Open Space

By contrast to bonds, we have noted for example that section 154 of the *Planning and Development Act 2005* requires Cash in Lieu of Public Open Space to be held in the Trust Fund. Consequently, section 6.9 of the Act is applicable to any such moneys held by a local government. As a result, any interest earned on those moneys should be paid to the person entitled to it, in accordance with section 6.9(3)(a) of the Act.

Recognition in the annual financial report

Because moneys held as bonds, such as work bonds, building bonds and hire bonds should be held in the Municipal Fund, they should be recognised as an asset (Cash and Cash Equivalents) in the Statement of Financial Position, with a corresponding liability to recognise that the moneys are owed to developers/hirers.

Interest earned on the work bonds, building bonds and hire bonds while the moneys are in the Municipal Fund, should be recognised as revenue in the Statement of Comprehensive Income.

