STATES OF JERSEY

MEDIUM TERM FINANCIAL PLAN 2013 – 2015 (P.69/2012): NINTH AMENDMENT (P.69/2012 Amd.(9)) – AMENDMENT (P.69/2012 Amd.(9)Amd.) – COMMENTS

Presented to the States on 6th November 2012
by the Corporate Services Scrutiny Panel

STATES GREFFE

COMMENTS

1. The Corporate Services Scrutiny Panel has lodged 2 amendments to the draft Medium Term Financial (MTFP). One seeks to establish a growth allocation within the MTFP as envisaged in the *Public Finances (Jersey) Law 2005*. The second seeks the development of a performance-monitoring and reporting framework for the MTFP.

2. The Council of Ministers has lodged an amendment to the Panel's first amendment and has presented comments on the second amendment. The Chief Minister has subsequently lodged an amendment to the Council's own amendment.

3. In light of these developments, the Panel asked the Chartered Institute of Public Finance and Accountancy (CIPFA) to consider the Council's amendment (and that of the Chief Minister) and the Council's comments. CIPFA acted as expert advisors to the Corporate Services (MTFP) Sub-Panel during its review of the draft MTFP. CIPFA has provided the Panel with a subsequent report and the Panel has agreed that Members should be made aware of CIPFA's advice.

Statement under Standing Order 37A [Presentation of comment relating to a proposition]

These comments were forwarded to the States Greffe later than noon on Friday 2nd November 2012 as the Council of Ministers lodged its amendment to the Panel's amendment on 30th October 2012 and the Panel was made aware of the Chief Minister's amendment to that amendment on 1st November 2012. The Council's comments were subsequently presented to the States on 2nd November 2012. In order to allow CIPFA sufficient time to review these documents and to report back to the Panel, the Panel was therefore unable to present these comments earlier.

CIPFA The Chartered Institute of Public Finance & Accountancy

States of Jersey
States Assembly

États de Jersey
Assemblée des États

REVIEW OF PROPOSED AMENDMENTS TO THE MEDIUM TERM FINANCIAL PLAN 2013 – 2015 (P.69/2012

November 2012

CIPFA
3 Robert Street
London WC 2N 6RL
Phone: 0207 543 5600
Email: stuart.fair@cipfa.org.uk

CIPFA FINANCE ADVISORY

Certificate No. 5631/06

1. This Brief

1.1 This brief will effectively cover the Corporate Services Scrutiny Sub-Panel's requirements as per the Scrutiny Office emails dated 31 October and 2 November respectively.

31 October - Amendment lodged by the Council of Ministers on 30 October

1.2 Amendments 1 and 2 as submitted by the Scrutiny Panel effectively remove approved growth bids whilst the third amendment requires the Minister for Treasury and Resources to put in place effective performance monitoring reporting arrangements for the MTFP.

1.3 It is noted that the Council of Ministers seek to amend the Ninth Amendment submitted by the Corporate Services Scrutiny Panel by substituting a revised table which significantly reduces the impact of the Scrutiny Panel's amendment. The Scrutiny Panel amendment seeks remove the funding of approved specific departmental growth bids totalling some £5.69m in 2014 and £7.730m from the MTFP to allow the States the opportunity to "consider how those growth allocations should be used". In effect, the impact of the amendment would be neutral as the funding would be removed from Departmental Budgets in 2014 and 2015 and remain in central funding provision.

Rationale for Amendment

1.4 Indeed, the Scrutiny Panels' rationale is succinctly outlined as follows:-

"Removal of these amounts from the relevant Departments' expenditure limits would create growth allocations of £5.69million for 2014 and £7.73 million for 2015."

Crucially – *"The ability of the Assembly (and individual Members) to influence the allocation of funding would, therefore, to an extent be restored, and a degree of flexibility would be incorporated within the MTFP for later years of the plan."*

Basis for Counter Amendment

1.5 Within the amendment to the amendment (a counter amendment) the Council of Ministers, having consulted Departments on the impacts of the original amendment, appear to base their position on the following:-

- "Removing these projects from departments' cash limits removes certainty and the ability to plan and commit funds over a longer period of time";
- "It is important to balance flexibility with certainty to funding for departments"; and
- "One of the other consequences of this amendment is the focus of departments on individual projects, rather than on the higher principle of retaining flexibility in 2014 and 2015.

1.6 The Council of Minsters argue that the removal of "*certainty and the ability to plan and commit funds over a longer period of time. This is a fundamental principle of the Medium Term Financial Plan and one endorsed by both the Fiscal Policy Panel (FPP) and the professional advisers to the Scrutiny Panel charged with reviewing the Medium Term Financial Plan.*"

1.7 Whilst we would fully agree that the main attributes of an effective MTFP should promote stability such an objective should be based at a macro level – for example covering the overall financial position of the States rather than giving primacy to individual departments. It would be our view that the counter amendment seeks to substantially restore the "ring fencing" of departmental funding. A significant recommendation from our previous work was the adoption of a continuously rolling three year (preferably five year) MTFP cycle. This was also the view of the Panel's Economic Advisor Professor Oliver.

Rolling MTFP?

1.8 Decision making from using a continuous rolling plan, by its very nature, is optimised when decision makers have the ability to adapt quickly to changing conditions. Whilst it is perfectly reasonable that Departments fully substantiate their bids within the budget setting cycle there should be no difficulty in departments having to further refine their requirements and substantiate these at more regular intervals based on the very latest intelligence and evidence – usually on costings. Indeed, we see no reason why the Budget setting should be "locked" as a consequence of the three year fixed MTFP and the opportunity to reappraise the position within the currency of three year continuous cycle should be seen as a strength – particularly as costings will inevitably change as a result of the latest prevailing conditions. Notwithstanding recent "concessions" made by the Treasurer's Department on adapting the MTFP on a rolling basis the counter amendment appears to suggest that no such adaptation is in practical contemplation.

Certainty and Stability

1.9 The attempt within the counter amendment to identify an element of Growth items which can be returned to the central funding provision for subsequent review is recognition that certainty on planning for some projects is more acute and desirable than for others. In this respect we would acknowledge that it may be seen as expedient for certain projects to be given absolute “ring fenced status” – for example to promote confidence (External Relations of Economic Development – alignment to Gulf based institutions) or requirements in preparation for demand led/statutory or legally based commitments.

1.10 In this latter respect we would be of the view that the Council of Ministers has employed a fully considered approach in the identification of such critical work streams that require a firm committed advanced decision. The “Key Themes” of Flexibility and Income Uncertainty are well drafted in addition to a compelling set of positions/context for the individual Projects that they seek to consolidate within the MTFP. However, on balance, it would also be our considered view that the original amendment should not place any of these initiatives in jeopardy as a result of revised annual scrutiny envisaged by the amendment.

VfM Culture and Climate on Uncertainty

1.11 Members of the Sub-Panel may recall our observation on the significant/undue extent of flexibility which Departments have in the management of resources and our assertion that this may have promoted a weaknesses in embedding a VfM culture within Departments – this being evidenced within the highly incremental budget process, difficulty in tracking underspends and the apparent ease within which underspends and contingencies can be utilised. In a period of significant uncertainty it has been the practice of most Public Organisation throughout the world to adopt a more centralised, less flexible and more controlled approach to spending. Whilst we are fully aware of recent improvements in Financial Performance Reporting it would be our position that the States of Jersey would benefit from more rigour being applied to ensuring that resources are spent for the specific purposes that they were intended and that costs are managed rather than budgets.

2. Amendment to Amendment to Amendment

2.1 This aspect of this brief will cover the amendment to the counter amendment.

2.2 It is noted that having received further information from the Department of Transport and Technical services it is considered expedient to reduce the amount of growth held centrally further - following upon the previous amendment to the amendment for 2015 to £1,460 million - down from a previous £3.460 million outlined by the Council of Ministers and substantially down from the original full £7.730 million advocated by the Corporate Service Scrutiny Panel in their amendment.

Optimal Procurement

2.3 It is understood that the background to this proposal emanates from requirement to begin contract negotiations for disposal/recycling solutions that may be impaired by limitations imposed by the single year decision making. It is further understood that the prior agreement of this growth bid would "…give long term supply chain benefits and will allow work to begin on a more environmentally sustainable solution. This is because this work requires a long term contract to allow third party capital investment – presumably more certainty.

2.4 Without knowing the actual contractual legal requirements of such procurement it is difficult to make any comment. However, it is equally difficult to envisage that the States could want to fetter their discretion in a way that would prejudice Pre-Contractual Procurement Negotiations from taking place.

2.5 The management of risk is an integral aspect of the procurement process – particularly to ensure that an optimal deal is brokered that best serves the interest of the States. In this respect it is difficult to foresee that a third party capital investor would be in a worse position in terms of actual timing of the delivery of the activity save advanced planning and certainty. This would suggest that there is an intention to enter in to a contractual relation well in advance of the planned activity taking place and without the detail being ventilated by Chief Officers and debated by members – without such transparency this is counter-intuitive to general best practice.

Jersey Law

2.6 Generally authority to proceed with entering into such a contract under Jersey Law is prohibited in the absence of an agreed position on funding. If there is a robust position put forward that there is a *prima facie* benefit – an overriding benefit in concluding negotiations and a binding contract agreed well in advance, we can see obvious benefits of this approach. However, in this respect there should be transparency relative to the procurement benefits of such approach.

3. Comments on Part 3 – MTFP Reporting

3.1 It is pleasing to note that the Council of Ministers support part 3 of the Corporate Scrutiny Panel's amendment.

Reporting Enhancements

3.2 We note the intention to expand on the standard reporting arrangements and provide more detailed reporting generally on:-

- Utilisation of Carry Forwards;
- Tracking of Efficiency Savings;
- Movements on Reserves and Contingencies;
- Balance Sheet Management;
- Performance of the Common Investment Fund; and
- Consolidated Fund Cash movements.

3.3 It is also noted that it is proposed to report comprehensively upon the use of growth allocations as contained within the MTFP. Such reporting would cover a range of issues including:-

- Amount approved in the MTFP;
- Amount spent to date;
- Amount to be returned to the consolidation fund if not needed;
- Brief details of how the money was spent;
- Outcomes anticipated from the expenditure; and
- Actual outcomes achieved.

Improved Transparency on Growth Bids

3.4 In many ways these detailed reporting provisions relating to Growth Bids as contained within the MTFP may go somewhat towards alleviating the transparency issue highlighted in Section 2 of this brief and are most welcomed. Indeed, in many ways such reporting proposals may go some way towards satisfying some of these issues raised by the Corporate Scrutiny Panel. However, they would not act as a substitute to the scrutiny that complete removal of such bids from departmental spending limits within the MTFP would give.

Overall Performance Reporting on the MTFP?

3.5 Panel Members may recall our observations regarding an absence of consolidated reporting on the performance of the MTFP. The Department of Treasury and Resources conceded that there is no single consolidated MTFP model is in existence. Notwithstanding the comments made by the Council of Ministers on the third aspect of the Panel’s amendment we see no proposals that would specifically report on the overall progress and performance of the MTFP. Whilst the Half Yearly Report from the Minister of Treasury and Resources is a welcome development this year - and an excellent step in the right direction – it is not a substitute for defined MTFP performance reporting. Overall what we do see, however, is significant detailed reporting – and this has also to be commended. We would readily acknowledge that the “devil is in the detail”. However, in order to inform an overarching position on the MTFP, movements and impacts on total Income Streams, States Expenditure and all related balance sheet movements – at the highest level should be reported within a separate framework. Notwithstanding these latest proposals we would still be of the view that our three recommendations that relate to consolidated reporting and rebalancing (from our original list of ten are appropriate) would be highly relevant. These are:-

Provision of a single comprehensive model which incorporates all aspects of the MTFP.
Provision of a defined MTFP Performance Monitoring and Reporting framework which produces high level transparency on the tracking of actual performance against the MTFP.
Based on a revised Performance Monitoring and Reporting framework the provision of a mechanism that would allow the appropriate decisions to be taken that would lead to the continual rebalancing of the MTFP that would optimise financial outcomes.

Rebalancing Decisions

3.6 A critical aspect of MTFP functionality would be the ability to provide an appropriate platform to allow corrective/remedial action to be taken when one aspect of the overall model deviates from expectations. The ability to inform decision makers in an accurate and timeous way is fundamental and the ability to rebalance such variances is crucial – we note the authority of the Council of Ministers to do this. However, without an overarching position it is difficult to see exactly how this can be achieved in a transparent way. Jersey's MTFP is comprehensive and there is much in it to commend. We would be of the considered opinion that the capabilities of the current MTFP should be maximised accordingly.

4. Concluding Comments

4.1 In summary it would be our position that the Council of Ministers has prepared a considered and thoughtful amendment and comments upon the Corporate Services Scrutiny Panel's amendment to the MTFP. However, having looked at the revisions our overall comments would be:-

- The proposed approach taken by the Council of Ministers appears to reflect a desire for a fixed MTFP period rather than a continuous cyclical approach;
- In this context Departmental flexibility appears to take a high priority on the management of approved Growth Bids;
- On balance, it would be our considered view that the original amendment should not place any of the Growth Bids in jeopardy purely as a result of revised annual scrutiny envisaged by the original amendment;
- In times of uncertainty undue flexibility at a micro level and the establishment of medium term commitments may inhibit the ability of the States to swiftly react to deviations from the overall macro financial model;
- The proposals on improving performance reporting(whilst welcomed on tracking the position on Growth Bids) on the MTFP do not fully reconcile with our previous recommendations; and
- No specific MTFP consolidated performance reporting outwith enhanced existing arrangements is planned which makes overarching rebalancing potentially more problematic.