

Pennsylvania Treasury
Budgetary Impasse Payment Approval Standard
Questions & Answers

Why now? Is Pennsylvania Treasury anticipating a protracted budgetary impasse?

- No, Treasury is not assuming that the General Assembly and the Governor will fail to enact a FY 2017-18 General Fund Budget prior to the end of the current fiscal year, June 30, 2017. Like most Pennsylvanians, we hope and expect that the legislature and Governor will deliver a budget on time.

Rather, Treasurer Torsella pledged that he would comprehensively review Treasury's payment policies and establish clear "rules of the road" to be followed for any future impasse. That review has now been completed and a revised payment standard has been created. Instead of waiting until after an impasse has begun to inform agencies and the public of Treasury's payment review, in the interests of transparency Treasurer Torsella is advising all agencies in each branch of government of Treasury's new payment standard and the legal reasoning upon which it is based.

What is the role of the Treasurer in the payment of public money?

- With the exception of the Department's own expenditures, the Treasurer cannot initiate or compel the payment of public funds without a requisition being submitted to the Treasurer from another governmental agency. Upon presentment of a payment requisition, the Treasurer may approve the release public funds by issuing a warrant for payment upon a determination that the requisition is "lawful and correct."

No public funds may be released from the State Treasury without the Treasurer's warrant.

What is the new Impasse Payment Approval Standard?

- Without a General Fund budget, there is no direct appropriation authority for most government expenditures. Under such circumstance, Article III, Section 24 of the Pennsylvania Constitution would prohibit the State Treasurer from authorizing the payment of any public funds, with certain limited exceptions to this general prohibition. If presented with a requisition for the expenditure of public funds during a budgetary impasse, the Treasurer will only approve the issuance of a warrant for payment of public funds if the expenditure request, at the time of its submission, is:

- 1) pursuant to a prior fiscal year appropriation unaffected by the impasse;
- 2) mandated pursuant to state or federal authority, independent of the annual General Fund budget; or,
- 3) necessary to maintain public health, safety and welfare pursuant to the police powers of the Commonwealth.

Only under these limited circumstances does the state Treasurer have the authority to permit the expenditure of public funds in the absence of an appropriations.

Unless payment authority is unaffected by the impasse (e.g., continuing appropriation, mandated federal expenditure), the presentment of requisitions will require agencies to justify how the expenditure is necessary to maintain public health, safety and welfare pursuant to the police powers of the Commonwealth.

How does this differ from Treasury's 2015 payment decisions?

- In 2015, faced with an unprecedented budgetary impasse that lasted six months, Treasury adopted a standard that directed the payment of requisitions necessary for the continued operation of core governmental functions. During this time, Treasury deferred to the submitting agencies to determine which governmental operations were necessary, resulting in the continued operations of most programs in most state agencies.

In 2016, following the enactment of a General Fund Budget and a partial veto of the Department of Corrections' operating budget that provided insufficient funding for the remaining months in the fiscal year, Treasury adopted a more narrow standard pertaining to the payment of expenses in the absence of general appropriations authority. Many of the non-deferrable expenses paid during this period were associated with the operation and oversight of the state prison system.

Treasury's new budget impasse payment standard builds upon its experience with and lessons learned from the Department of Corrections budget in 2016, and adopts a more rigorous standard requiring payments to be "*necessary to maintain* the public health, safety and welfare," as those terms relate to the police powers of state government. Treasury will independently consider spending justifications provided by submitting agencies.

What are some examples of payment requests you are likely to reject during an impasse?

- Every payment request will be considered on a case-by-case basis. While Treasury cannot predict the circumstances of future requisitions, it would be difficult to justify most expenditures involving, for example, state parks, higher education, marketing programs (including those within Treasury related to college savings, ABLÉ accounts and unclaimed property), deferrable grants, economic development initiatives, tourism programs, funding for the arts and museum operations, as being “necessary” for “maintaining” public health, safety and welfare as a police power function. This list is intended to be illustrative only.

Are you going to continue to pay state employee salaries during an impasse?

- Federal and state laws compel the timely payment of employees who remain at work during an impasse. Accordingly, Treasury will continue to pay employees who continue to work in each branch of state government – judicial, executive and legislative.

Treasury has no control over agency staffing decisions.

Will Treasury pay judicial and legislative necessary expenses?

- Treasury will apply the same impasse payment standard to each independent branch of government.

Accordingly, once continuing available appropriations are exhausted, all expenses will be paid pursuant to the protocol established above. While Treasury cannot predict the circumstances of future requisitions, it would be difficult to justify most expenditures involving, for example, capitol preservation, court management education, Joint State Government Commission and the Interbranch Commission. This list is intended to be illustrative only. Deferrable expenses, such as per diems, travel costs, and non-emergency maintenance expenses would *not* be paid during an impasse under these circumstances.

What about elected officials, including the Treasurer, who may wish to voluntarily decline their paychecks during an impasse?

- The Treasurer strongly supports “no budget, no pay” legislation, such as SB 185 introduced in 2016 by Senator Vulakovich. In the absence of such legislation, Treasurer Torsella will voluntarily forgo salary payments during an impasse, as some elected officials did during the 2015-16 impasse.

Treasury will therefore set up a process to accommodate any elected official who may wish to voluntarily decline their salary during an impasse.