Funding Guidelines for Agencies Receiving Disbursements from the Technology Modernization Fund

This document is intended to provide agencies a framework and guidelines for repaying the Technology Modernization Fund (TMF).

Questions regarding Repayment Guidelines should be directed to ofcio@omb.eop.gov.

Overview:

Projects that are recommended by the Technology Modernization Board (Board) will receive an allocation to a specified dollar amount that will be dedicated to the project. Within the allocated level, incremental transfers may be made contingent upon the achievement of project milestones. All fund transfers from the TMF must be reimbursed according to the repayment terms in the written agreement for the transfer of funds, which may not exceed five years unless otherwise approved by The Office of Management and Budget (OMB). Generally, the funds will be transferred on an incremental basis, and tied to milestones documented in the written agreement for the transfer of funds.

Written Agreements:

In a format prescribed by The General Services Administration (GSA), in consultation with OMB, all TMF transfers require a written agreement between GSA and the receiving agency stipulating the purpose of the transfer and reimbursement terms. Written agreements will constitute a legal obligation of the receiving agency to reimburse the TMF.[1] Reimbursement is not contingent upon the achievement of project-related savings. Funds for reimbursement can be derived from any agency account supporting information technology activities pursuant to Section 1078 (b)(5)(A)(ii).

A written agreement will include, at a minimum:

- The amount of the transfer that will be made to the agency by the TMF and the purpose for which the funds will be used by the agency;
- The anticipated schedule on which transfers will be made and expected reimbursement shall occur;
- A statement that funds shall be transferred only on an incremental basis, tied to metric based milestones achieved by the agency through the use of rapid, iterative, development processes;
- A reliable estimate of any project-related cost savings or avoidance relative to pre-modernization activities;
- Where applicable, the planned acquisition strategy, including use of full and open competition, and use of commercial products and services to the extent practicable;

[1] Reimbursement subject to the availability of agency appropriations; for example, there may be particular circumstances (e.g., lapse in appropriations) where agency funds that otherwise would be available for reimbursement may not be for some period of time.

- How the GSA Staff and the Board expect to perform oversight of the project; and
- Any other requirements GSA or the Board may deem necessary for project success, in order to execute a transfer.

Reimbursement Schedule:

To ensure amounts transferred return to the TMF in a timely manner, the first reimbursement should take place no more than 12 months after the date of an incremental transfer, or six months after completion of the project, whichever is less. Reimbursement amounts should generally be spread proportionately across the reimbursement period and may not be disproportionately back-loaded to later years.

Agencies may submit for Board consideration projects requiring repayment terms exceeding five years. For such projects that receive a conditional Board recommendation, the GSA Administrator must submit the relevant written agreement between the agency and the Administrator of General Services to the Director of OMB for approval prior to any final funding recommendation by the Board.

Incremental transfers from the TMF may be covered by the same underlying written agreement but each incremental transfer will be treated separately for reimbursement schedule purposes. A reimbursement amount is based on amounts actually transferred, not the total amount committed by the Board. It is anticipated that TMF funding should be committed on a project for no more than two years from the initial incremental transfer of funding; incremental transfers should not be disproportionately back-loaded toward the end of this two-year maximum.

While the Modernizing Government Technology (MGT) Act authorizes incremental transfers of TMF funding, agencies must continue to comply with the recording statute and bona fide needs rule for TMF-funded projects, and so, agencies may not incrementally fund non-severable services contracts using transferred TMF funding unless they have legal authority to do so.

Administrative Costs:

In addition to reimbursement of amounts transferred from the TMF, agencies will pay an administrative fee as determined by GSA in consultation with OMB. The administrative fee covers the cost of operating the TMF including reviewing and recommending project proposals, support to the TMF Board and technical assistance to agencies in preparation of project proposals, monitoring projects and executing transfers. In addition, any optional project execution assistance or “imbedded” GSA labor may be separately paid on a reimbursable basis using transferred project funds or any available agency funding.

OMB Resource Management Office Review:

Prior to final consideration by the Board, a proposed commitment of TMF funds must be submitted for preliminary OMB Resource Management Office (RMO) review, including the reimbursement plan. With GSA facilitation, the requesting agency must demonstrate their anticipated ability to reimburse from within base resources (subject to the availability of out-year appropriations), including the Treasury account number(s) from which reimbursement will be derived, the planned reimbursement schedule and amount, specific identification of offsets or reductions to base resources as applicable, and planned out-year budget impacts. All reimbursements must be incorporated into the base of out-year budget submissions. Agencies may not plan to repay the TMF by requesting a topline increase in agency funding.

In addition to RMO consultation on all projects that go before the Board for final consideration, GSA and the receiving agency must obtain RMO concurrence before the execution of any funds transfer. Following OMB concurrence, GSA must bring any changes in the project plan or schedule to OMB's attention at least 15 calendar days before a planned transfer. From that point forward, consistent with appropriations law, any material changes to the reimbursement terms must be reviewed by the RMO.

Project proposals must include a reliable estimate of any project-related cost savings or avoidance relative to pre-modernization activities using the templates provided. This estimation process will be subject to Government Accountability Office (GAO) review pursuant to the MGT Act. Consistent with OMB Circular A-131, the term "cost savings" refers to "a reduction in actual expenditures below the projected level of costs to achieve a specific objective," and the term "cost avoidance" refers to "an action taken in the immediate time frame that will decrease costs in the future." With GSA assistance, estimates must undergo appropriate due diligence and concurrence from the agency CFO Office prior to submission to the Board and consultation with OMB RMO's.

Reimbursement for Common platforms:

An agency with its own appropriate reimbursable authorities (not provided by the MGT Act) may request TMF funding to become a "managing partner". A managing partner is an agency that acts as a centralized shared service provider, receiving TMF funds to host a common solution for which the managing partner charges a fee-for-service to participating agencies. The TMF written agreement will be between GSA and the managing partner, not between GSA and the partner agencies. The managing partner will handle collections of fee-for-service amounts under their own authorities and through separate agreements with partner agencies. The managing partner will be responsible for TMF reimbursement subject to the agreed upon terms regardless of payments made under separate agreements.

Corrective Action:

The TMF Board will conduct regular reviews of each project and vote at each meeting subsequent to a project receiving an initial transfer from the Fund, to affirm to the release of incremental funding tranches and recommend such release to the GSA Administrator. The TMF Board, in consultation with OMB, reserves the right to recommend amendments to any written agreement between the GSA Administrator and the agency, and to ask the GSA Administrator to withhold incremental funding, if a project of failing health requires corrective action.

In the event of a failure to make a reimbursement to the TMF, the GSA Administrator and head of the receiving agency, if unable to resolve, must provide written notification and consult with the Director of OMB for mediation. The TMF Board Charter will further outline how the TMF

Board will continuously oversee project execution to identify where corrective action or revocation of committed funds is warranted.

Accounting Treatment:

All transfers between the Fund and receiving agencies shall be recorded as non-expenditure transfers requiring apportionment by OMB. To facilitate tracking through Treasury and agency accounting systems, OMB may apportion transfers by project (Category B). Consistent with OMB Circular A-11, it may be necessary to establish no-year TAFS at the receiving agency to align with the TMF period of availability. The non-expenditure transfer does not obligate funds. Pursuant to Section (5)(A)(iii), obligations to make a payment under the written agreement are not recorded at the time of transfer but are to be recorded in the fiscal year in which they are due to GSA.

Available Reimbursement Mechanisms:

The following examples illustrate how agencies can enable reimbursement of transferred TMF funding. Agencies are encouraged to establish and leverage IT Working Capital Funds (WCF) as authorized by the MGT Act, as well as any other existing centralized agency accounts, to take advantage of flexible payment mechanisms. Agencies are reminded that, pursuant to the MGT Act, all transfers to and reprogrammings in the IT Working Capital Funds are subject to any applicable reprogramming restrictions or transfer authorities in current law. In many cases, transfer authorities are limited and require specific Congressional notification prior to a transfer or reprogramming.

Default Reimbursement Mechanism

- Identify Offsets: Identify an offsetting reduction from the existing resource base (i.e. contract reductions, decommissioning of systems, deferred low priority maintenance). Formulate the planned reimbursement into out-year budget submissions.

If other planned reimbursement mechanisms do not materialize, reimbursement is made from existing agency resources and subject to the repayment terms in the written agreement

Other Enabling Mechanisms:

- *Project-Related Savings*: If project completion results in immediate project-related savings that can materialize in the first year, agencies may reallocate funding to TMF reimbursement, assuming savings are sufficient to cover the amount due each year. Agencies must formulate the planned reimbursement into out-year budget submissions.

- *Proportional Reimbursement*: To the extent that an investment crosses organizations, an agency may identify multiple accounts or bureaus (i.e. the benefiting organizations) to pay a proportionate reimbursement amount to the TMF. Agencies must formulate the planned reimbursement into out-year budget submissions.

- *Restructure Appropriations Requests*: An agency may reduce out-year budget requests in existing IT accounts and restructure the agency's request to instead include an appropriations request in the IT WCF that will then be used to repay the TMF.
- *Shared Costs*: Multiple agencies may partner with a managing partner, with its own appropriate reimbursable authorities, who invests in a common platform that is shared across the agencies. The managing partner receives TMF funding to develop the common solution, then charges a fee-for-service to partner agencies. Funds collected by the managing partner from multiple agencies are then used to centrally repay the TMF. Included in the fee-for-service is an additional "pass through" O&M fee to reimburse for any operating costs.