

# **TATE MANAGEMENT STATEMENT AND FINANCIAL MEMORANDUM**

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*As @ 6/12/2002*

## **I. INTRODUCTION**

### This document

1. The Management Statement consists of this covering document and its associated Financial Memorandum, and has been drawn up by DCMS in consultation with Tate.
2. Taken together and subject to the legislation noted below, this Management Statement and the Financial Memorandum set out the framework of accountability within which Tate will operate, in particular:
  1. rules and guidelines relevant to the exercise of Tate's functions, duties and powers;
  2. the conditions under which any public funds are paid to Tate;
  3. how Tate is to be held to account for its performance.
3. The Financial Memorandum sets out in greater detail certain aspects of the financial provisions which Tate is required to observe.
4. The combined document will be reviewed by the Department at least every fifth year, and as part of the periodic review of Tate (see Section VIII. below).
5. Tate or the Secretary of State may propose amendments to either document at any time. Following consultation with Tate the Secretary of State will determine what changes, if any, are to be incorporated in the document. Legislative changes will take precedence over any part of this document. Significant variations to the document will be cleared with the Treasury or the Cabinet Office as appropriate.
6. The Department is responsible for resolving any questions regarding the interpretation of this document after consultation with Tate and as necessary with the Treasury or Cabinet Office.
7. Copies of the Management Statement and Financial Memorandum and any subsequent substantial amendments will be placed in the Libraries of both Houses of Parliament. Copies will also be placed on the Internet and made available to members of the public on request.

### Founding Legislation; status

8. Tate is established under the Museums and Galleries Act 1992. It is also an exempt charity. The constitution of Tate is set out in Schedule 2 of the Act. Tate does not carry out its functions on behalf of the Crown. Tate receives funding by virtue of Section 9 Schedule 7 of the Museums and Galleries Act 1992.

### Classification

9. For policy/administrative purposes Tate is classified as an executive non-departmental public body (NDPB).
10. For national accounts purposes Tate is classified to the central government sector.

11. References to Tate include all its subsidiaries and joint ventures that are classified to the public sector for national accounts purposes. (If such a subsidiary or joint venture is created, there will be a document setting out the arrangements between it and Tate. The subsidiary will not do anything to cause the Board of Trustees to breach the FM)

The functions, duties and powers of Tate

12. The Act give(s) Tate the following functions:

- to maintain a collection of British works of art and of documents relating to those works, and a collection of Twentieth Century and contemporary works of art and of documents relating to those works; and
- to care for, preserve and add to the works of art and the documents in their collections;
- to secure that the works of art are exhibited to the public;
- to secure that the works of art and the documents are available to persons seeking to inspect them in connection with study or research; and
- to generally promote the public's enjoyment and understanding of British art, and of Twentieth Century and contemporary art, both by means of the Board's collections and by such other means as they consider appropriate.

## **II. AIM, OBJECTIVES AND TARGETS**

Overall aim

13. Tate aims to increase public awareness, understanding and appreciation of British art from the 16<sup>th</sup> Century to the present day and of modern and contemporary art from around the world; to broaden the social and geographic composition of its audiences; to develop external partnerships and demonstrate leadership in key fields; and to maximise the value, role and potential of its collections through acquisition, display, conservation and research.

Objectives and key targets

14. The Board sets Tate's objectives and targets and agrees them with the Department through the Funding Agreement process, see section IV. below. In particular, nothing in this document shall prevent the Board from carrying out its duties under general trust law or the Charities Acts 1992 and 1993.

## **III. RESPONSIBILITIES AND ACCOUNTABILITY**

The Secretary of State

15. The Secretary of State is accountable to Parliament for the activities and performance of Tate. The Secretary of State's responsibilities include:

- Approving the policy and performance framework within which Tate will operate;
- Providing information about Tate to Parliament as required;
- Determining the resource and capital expenditure limits to be applied to Tate, the amount of grant-in-aid available to finance this expenditure, and seeking Parliamentary approval for that amount;
- Carrying out responsibilities specified in the founding legislation including, approval of terms and conditions of staff and Board members, and laying of annual report and accounts before Parliament.

### The Permanent Secretary

16. The Permanent Secretary, as the Department's principal Accounting Officer, is responsible for the overall organisation, management and staffing of the sponsor Department, and for ensuring that there is a high standard of financial management in the Department as a whole. In particular:
- the Departmental Accounting Officer is responsible for ensuring that the financial and other management controls, such as the Financial Memorandum applied by the Department to Tate are appropriate and sufficient to safeguard public funds and for ensuring Tate's compliance with those controls. Tate will be consulted and due notice given before any changes or new controls are introduced. Public funds" include not only any funds granted to Tate by Parliament but also any other funds within the stewardship of the Museum;
  - the Departmental Accounting Officer must be satisfied that the framework of internal controls applied by Tate conform to the requirements of regularity, propriety and good financial management;
  - the Departmental Accounting Officer is accountable to Parliament for the issue of grant in aid, for ensuring that the subvention is within the ambit and the amount of the Resource Estimate, that Parliamentary authority has been sought and given, and for the framework for achieving value for money.
17. The responsibilities of a Departmental Accounting Officer are set out in Chapter 4 of *Government Accounting*.

### The Sponsor Unit in the Department

18. The Sponsor Unit is the primary source of advice to the Secretary of State on the discharge of the Departmental Accounting Officer's responsibilities in respect of Tate, and the primary point of contact for Tate within the Department.

19. The main functions of the Sponsor Unit are:

- To communicate and maintain an effective relationship with Tate and to ensure timely consultation about policy, resources and other relevant matters;
- To communicate relevant Government policy to Tate and advise on the interpretation of that policy; and to provide specific advice to Tate as necessary;
- To advise the Secretary of State on an appropriate resource and capital budget for Tate within the Department's overall public expenditure provision, and on appropriate Funding Agreement performance targets for Tate;
- To monitor and review Tate's performance against Funding Agreement targets and against its resource and capital provision [*This is needed for cash management purposes because it refers to monitoring of monthly expenditure against profiles*], and to take action where appropriate; and
- To advise the Secretary of State, at a strategic level, on how well Tate is achieving its current objectives and whether it is delivering value for money.

#### The Chairman of Tate

20. The Chairman is elected from among the Trustees in accordance with guidance issued by the Commissioner for Public Appointments.
21. The Chairman is responsible to the Secretary of State for ensuring that where appropriate Tate's policies are consistent with those of the Secretary of State, and that Tate's affairs are conducted with probity.
22. The Chairman has a particular responsibility for providing effective strategic leadership on the following matters consistent with the Model Code of Practice :
- formulating the Board's strategy for discharging its statutory duties;
  - supporting Tate's Accounting Officer in encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources throughout the organisation;
  - ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Secretary of State or the Department;
  - representing the views of the Board to the general public either directly or through the Director; and
  - providing an assessment of the contribution of individual Board members, on request, when they are being considered for re-appointment to the Board.
23. The Chairman will ensure that all members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their other duties, rights and responsibilities.

24. When Board vacancies arise, the Chairman is responsible for advising the Secretary of State of the needs of Tate with a view to ensuring a proper balance of expertise, including professional and financial expertise.
25. The Chairman will ensure that a Code of Practice for Board members is in place, based on the model Code of Practice for Board Members of Public Bodies produced by the Cabinet Office. The Code will commit the Chairman and other Board members to the Nolan seven principles of public life, and will include a requirement for a comprehensive (See Model Code, para 17, for guidance, p.186, NDPB Guide) and publicly available register of interests.
26. Communications between the Board and the Secretary of State will normally be through the Chairman.

#### Tate's Board

27. The Board Members appointed by the PM are appointed in accordance with guidance issued by the Commissioner for Public Appointments.
28. Board Members have corporate responsibility for ensuring that Tate fulfils the aim and objectives set out in legislation and governing documents and complies with any statutory or administrative requirements for the use of public funds. The responsibilities of Board members are set out in the Model Code of Practice for Board Members of Public Bodies.
29. Individual Board members should also be aware of their wider responsibility as members of the Board, namely:
  - to comply at all times with the Code of Practice that is adopted by Tate and with the rules relating to the use of public funds and to conflicts of interest;
  - to act in good faith and in the best interests of Tate;
  - not to misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations; and
  - to comply with the Board's rules on the acceptance of gifts and hospitality (and of business appointments); and
  - to act in accordance with the requirements of Charity law where this applies.
30. Tate will also set up/maintain an Audit Committee as a committee of the Board in accordance with paragraph 8.3.17 of *Government Accounting* and the Cabinet Office's *Guidance on Model Codes of Practice for Board Members of Public Bodies* (February 2000), and other such committees as may be necessary to conform to best standards of corporate governance and risk management.

#### The Director

31. The Director of Tate is normally designated as Tate's Accounting Officer by the Accounting Officer of the Department.

32. As Tate's Accounting Officer the Director is personally responsible for safeguarding the public funds for which he has charge, for propriety and regularity in the handling of those public funds and for the day-to-day operations and management of Tate. He should act in accordance with the terms of this document and with the instructions and guidance in *Government Accounting* and other instructions and guidance issued from time to time by the Department, the Treasury and the Cabinet Office – in particular, the Treasury documents *The Responsibilities of an NDPB Accounting Officer* and *Regularity and Propriety*, both of which the Director will receive on appointment.
33. As Tate's Accounting Officer the Director will, in particular:
- advise the Board on the discharge of its responsibilities as set out under the Act and in this document and in any other relevant instructions and guidance that may be issued from time to time;
  - ensure that all public funding made available to Tate and all sums receivable are used for purposes intended by Parliament, and that such moneys, together with Tate's assets, equipment and staff, are used economically, efficiently and effectively;
  - ensure that timely monitoring information and forecasts are provided to the Department; that Tate keeps within the resource and capital expenditure limits determined by the Secretary of State; that corrective action is taken to avoid overspends; and that the Department is notified promptly when overspends or underspends are likely;
  - ensure that the financial considerations are taken fully into account by the Board at all stages in reaching and executing its decisions, and that standard financial appraisal techniques are followed as far as is practical;
  - ensure that adequate internal management and financial controls are maintained by Tate, including that there are effective measures against fraud and theft and to ensure the sums receivable are collected;
  - ensure Tate's compliance with the financial and other management controls applied by the Department, and maintain systems for compliance with this document;
  - ensure that suitable arrangements are made for the provision of internal audit in a manner which represents best value for money;
  - maintain a comprehensive system of internal delegated authorities which should be notified to all staff, together with a system for regularly reviewing compliance with these delegations;
  - ensure that appropriate personnel management policies are introduced and maintained;
  - be responsible for signing the accounts and for ensuring that proper records are kept relating to the accounts and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State; and for signing a Statement of Accounting Officer's responsibilities for inclusion in the annual report and accounts;

- take action as set out in paragraphs 14-18 of “*The Responsibilities of a NDPB Accounting Officer*” if the Board, or its Chairman, is contemplating a course of action involving a transaction which the Director considers would infringe the requirements of propriety or regularity, or does not represent prudent or economical administration or efficiency or effectiveness;
  - give evidence, normally with the Accounting Officer of the sponsor Department, when summoned before the Public Accounts Committee on the use and stewardship of public funds by Tate; and
  - ensure that effective procedures for handling complaints about Tate are established and made widely known within it.
34. The Director may delegate the day-to-day administration of these Accounting Officer responsibilities to the Finance Director or other employees of Tate. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in this document.
35. The Director is the Principal Officer for the purpose of the handling of cases involving the Parliamentary Commissioner for Administration. The Principal Officer is responsible for informing the Permanent Secretary of the Department about any complaints accepted by the Ombudsman for investigation, and about Tate’s proposed response to any subsequent recommendations from the Parliamentary Ombudsman.

#### **IV. PLANNING, BUDGETING AND CONTROL**

##### The Funding Agreement

36. Tate will agree with the Department a Funding Agreement. Tate will have agreed with the Department the issues to be addressed in the Agreement and the timetable for its preparation.
37. The Agreement will reflect the Tate’s statutory duties and, within those duties, the priorities agreed with the Secretary of State from time to time. In particular the Agreement will reflect Tate’s contribution where relevant to the achievement of the Department’s PSA objectives and targets (see paragraph 21 above). The Funding Agreement should be made available to the public, by appropriate means.
38. The Agreement will set out Tate’s key objectives and associated key performance targets. The main elements of the Agreement will be agreed between the Department and Tate in the light of the body’s own strategy and the Department’s decisions on policy and resources taken in the context of the Government’s wider public expenditure decisions.

##### Business Planning

39. To operate its business effectively, Tate should produce management planning and information documents covering at least three financial years ahead. These may take the form of strategic or corporate plans (for three years ahead), and should include a business plan (one year ahead).
40. The Department should be sent copies of each of the completed planning documents. The Department will draw on these plans in agreeing targets and measures to be incorporated in

the Funding Agreement, and in discharging its responsibilities for pay and staffing issues. These plans should be made available to the public, via the Internet if possible.

41. The first year of the planning document can include the business plan incorporated as a single document. In order for the Department to assess the affordability of pay proposals, the business plan should include:
  - A forecast of income and expenditure suitably classified by activity and key objectives, taking account of guidance on resource assumptions and policies provided by the Department at the beginning of the planning round. These forecasts should represent Tate's best estimate of its available income, including any grant or grant in aid and other funding within Tate.

#### Performance against targets

42. Tate will operate management information and accounting systems which enable it to review its financial and non-financial performance against budgets and targets including those in the Funding Agreement, and in its planning documents.
43. Tate's performance against the Funding Agreement targets will be reported to the Department on a regular basis. Performance will be formally reviewed twice yearly by officials. The Secretary of State or the relevant Minister may meet the Chairman and Director formally each year to discuss Tate's performance, its current and future activities and any policy developments relevant to those activities.
44. Tate's performance against key targets will be reported in its annual report and accounts [see Paragraph 49 below].
45. Tate should inform the Department of changes in external conditions which may affect the achievement of its Funding Agreement objectives, or which may require a change to the budgets or objectives.

#### Risk management

46. Tate should have a process of risk management which is embedded into its planning, operational, monitoring and review activities. This should be appropriate to the business and circumstances of Tate. The Treasury publication, *Management of Risk, a Strategic Overview*, with Supplementary Guidance for Smaller Bodies, provides guidance.

#### Internal audit

47. Tate will establish and maintain arrangements for internal audit in accordance with the objectives, standards, scope and practices set out in the Treasury's *Government Internal Audit Standards*.
48. The Department reserves a right of access to carry out independent reviews of internal audit in Tate. The Department will assess the effectiveness of the Museum's internal audit arrangements by periodic peer reviews by its Internal Audit Service, and by scrutiny of Tate's Head of Internal Audit's annual report and opinion on the adequacy and effectiveness of the Museum's internal control systems. Once this report has been passed to the Audit Committee

a copy should be forwarded as soon as possible to the Internal Audit Unit at the Department and copied to the sponsoring team by Tate.

## **V. EXTERNAL ACCOUNTABILITY**

### The annual report and accounts

49. Tate must keep proper accounts and records in relation to them, and must retain financial records as appropriate. After the end of each financial year Tate will publish an annual report of its activities, together with its audited annual accounts. The report will also cover the activities of any corporate bodies under control of Tate.
50. The report and accounts will comply with the Museum's *Executive NDPB Annual Reports and Accounts Guidance (July 2000)*, and the accounts will be prepared in accordance with the relevant statutes and the specific Accounts Direction issued by the Department.
51. The Accounts Direction may make stipulations on the form and content areas of the accounts the nature and presentation of the information to be contained in any accompanying statements, the manner in which information is to be presented and the principles according to which the statements are to be prepared, taking into account the relevant requirements and guidance including the SORP.
52. The report and accounts will outline the Tate's main activities and performance during the previous financial year and set out in summary form the Museum's forward plans. Information on performance against those key targets which are relevant to financial performance will be included in the notes to the accounts, and will therefore be within the scope of the audit, subject to agreement on their suitability for audit purposes.
53. The report and accounts will be laid before Parliament by DCMS and made available to the public, on the Internet wherever possible.
54. Draft accounts must be submitted to the sponsoring team and the Department's Finance and Planning Division by 30 June, and final accounts by 30 July. The publication of annual reports and accounts should take place before 31 October.

### External audit

55. The Comptroller and Auditor General (C&AG), will audit Tate's expenditures and receipts; examine their regularity and propriety; and lay the accounts before Parliament. In addition, the C&AG will have access to Tate's books and records by virtue of the National Audit Act 1983 for the purpose of carrying out examinations into the economy, efficiency and effectiveness with which Tate has used its resources in discharging its functions. The C&AG will arrange for copies to be placed in the Libraries of the Houses of Parliament.
56. The sponsoring team should be given an opportunity by Tate's management to contribute to the risk analyses underpinning internal and external auditors' planning assumptions.

## **VI. STAFF MANAGEMENT**

## General

57. Within the arrangements approved by the Secretary of State and the Treasury Tate will have responsibility for the recruitment, retention and motivation of its staff.
58. Tate will ensure that staff management is carried out with regard to appropriate standards as set out in the NDPB guide.

## **VII. COMPLIANCE WITH INSTRUCTIONS AND GUIDANCE**

### Instructions and guidance

59. Tate shall comply with the relevant parts of the following documents or their successors:
  - This Management Statement and Financial Memorandum;
  - *Government Accounting*;
  - *Non-Departmental Public Bodies – a Guide for Departments* (the “NDPB Guide”), published by the Cabinet Office;
  - The *Government Internal Audit Standards*;
  - The Treasury’s *Fees and Charges Guide*;
  - The Treasury’s guidance *Departmental Banking: A Manual for Government Departments*;
  - *Executive NDPBs – Annual Reports and Accounts Guidance*, issued by the Treasury;
  - Relevant *Dear Accounting Officer* letters;
  - The Treasury guidance document *Regularity and Propriety*;
  - Other relevant instructions and guidance issued by central departments and the Department;
  - Recommendations made by the Public Accounts Committee or other Parliamentary authority which have been accepted by the Government and which are relevant to
  - Tate.

### Failure to comply

60. The Department may reduce Tate’s expenditure limit or withhold grant in aid, or amend delegated limits, if any condition or requirement set out in this combined document or the instructions and guidance listed above is not fulfilled.

## **VIII. REVIEWS**

Periodic review

61. The Department will commission a comprehensive review of Tate at such intervals as the Department may determine. From time to time the Department may commission other reviews of its NDPBs, e.g. thematic, sectoral or business studies.
62. The terms of this Management Statement and the Financial Memorandum and Tate's compliance with them shall be reviewed as part of the periodic reviews, including Tate's compliance with their terms. This document may also be reviewed between periodic reviews should the Department so determine.

Signed by (Director of Tate)

Signed by DCMS official as Minister's representative.

& dated.

## PART TWO

### TATE FINANCIAL MEMORANDUM

*This Financial Memorandum is effective from 10 December 2002.*

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## **I. INTRODUCTION**

1. This Financial Memorandum must be read in conjunction with the Management Statement. It covers the financial and other management controls to be applied by Tate to safeguard public funds. Public funds include all monies that are in law the property of Tate, not only those derived directly from the Exchequer but also from sources such as fees and charges or asset sales. Tate will provide an assurance through its annual Statement of Internal Control that its control systems have been effectively applied.
2. The terms and conditions set out in this Memorandum may be supplemented by guidelines [or directions] issued by the Secretary of State in respect of the exercise of any individual functions, powers and duties of Tate, while respecting the Body's obligations under Charity law .
3. Tate must satisfy the conditions and requirements set out in this Memorandum and in the Management Statement, together with such other conditions as the Secretary of State may from time to time impose, in order to continue to be entitled to grant in aid.
4. If Tate sets up subsidiaries or engages in joint ventures that are treated in national accounts as part of Tate, the income, expenditure and financing transactions of such bodies must be consolidated with Tate's own income, expenditure and financing transactions (subject to any particular treatment required by UK GAAP).

## **II. BUDGETING PROCEDURES**

### Setting the annual budget

5. At the beginning *of* each three year public expenditure period, and following an assessment by the Department of Tate's own forward projections, the Department will send to Tate:
  - a formal statement of the resource and capital expenditure limits approved by the Secretary of State in the light of competing priorities across the Department and the associated grant in aid to finance this expenditure;
  - a statement of any change in policies affecting Tate.
6. The notified expenditure limits will form part of the Departmental Expenditure Limit (Resource and Capital). Virement from capital to resource requires Departmental approval but the presumption is that this will not be allowed. The associated financing requirement (i.e. grant in aid) will be subject to annual Parliamentary approval.
7. Tate's business plan will take account of its approved funding provision and any other forecast income and will include a budget of estimated income and expenditure on an accruals basis (resource and capital), together with a profile of expected expenditure by budget heading and of draw-down of any Departmental funding and/or other income over the year. The profile should be sent to the Department before the start of the financial year.

### General conditions for authority to spend

8. Once the funding allocation has been approved by the Department and subject to any restrictions imposed by statute and any conditions imposed by the Secretary of State on the grant Tate will have authority to incur expenditure without further reference to the Department, on the following conditions:
  - Tate will comply with the delegations set out in Annex A of this document. These delegations may not be altered without the prior agreement of the Department;
  - Tate must obtain the approval of the Department before incurring any expenditure for any purpose which is or might be considered novel or contentious or which has or could have significant future cost implications, including on staff benefits, or might prove repercussive among other public sector bodies;
  - Tate will provide the Department with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require;
  - Tate will notify the Department immediately and formally if it becomes apparent at any time that an overspend of resource or capital expenditure limit is likely to occur;

### **III. TATE'S INCOME**

#### Grant in aid

9. Grant in aid will be paid to Tate in monthly instalments, on the basis of a written application from the Body showing evidence of need. Tate should have reliable systems for estimating its funding requirement to ensure that it does not draw down in advance of need and build up unacceptably large cash balances. Payment of grant in aid will take account of unspent balances held by Tate.
10. Tate's application should be signed by Tate's Finance Director, or by a person previously notified by him/her to the Department as authorised to sign on the Finance Director's behalf.
11. The application should certify that the conditions applying to the use of grant in aid have been observed to date and that further grant/grant in aid is now required for purposes appropriate to Tate's functions.
12. The profile of expected expenditure and draw-down submitted to the Department must be updated if it becomes clear that spending or draw-down patterns will be significantly different from the forecast. The Department may incur penalties under the Treasury's Cash Management Scheme if forecasts of the need for Exchequer funding are materially wrong. Such penalties may be passed on to Tate if they reflect unsatisfactory profiling information. In order to avoid this, where there are any planned variations of more than +/- 20% to an individual budget heading or, for a draw-down instalment by more than +/- 10%, or more than +/- £1 million, whichever is the lesser, the Department should be notified as soon as possible in advance.

#### Providing monitoring information to the Department

13. Tate will provide the Department with:

- a financial statement every month showing for each main budget heading the payments made and any receipts in the previous month, together with the accumulated net payments to date and the balance of cash remaining available to Tate for the year;
- an indication every month if expenditure and income outturn differs from the forecast by +/- 10%, indicating proposed action when necessary;
- as soon as possible after the end of the financial year, details of the resource and capital expenditure outturn on an accruals basis for the full financial year for each main budget heading.

#### Fees and charges

14. Fees or charges for services supplied by Tate should be determined in accordance with the Treasury's *Fees and Charges Guide* and any statutory provisions.

#### Non-grant in aid income

15. Subject to periodic review and the provisions of paragraph 52-53 below (unspent end-year balances), Tate may retain non-grant in aid income spending in connection with the achievement of Funding Agreement objectives.

#### Wider markets activities

16. Subject to the *Fees and Charges Guide* and to Government policy on selling into wider markets (*Selling Government Services into Wider Markets, Policy and Guidance Note*, HM Treasury, July 1998) Tate should seek to optimise income from non-Exchequer sources where this is consistent with Tate's main functions and is in line with its Funding Agreement agreed with the Department.

#### Gifts received

17. Tate is free to retain any gifts, bequests or similar donations. These will be treated as income. Before accepting them, Tate will consider if there are any associated costs in doing so, or whether acceptance may give rise to any conflicts of interest. Records of gifts received should be kept with their estimated value (where appropriate), and whether they are disposed of or retained.

### **IV. THE GALLERY'S EXPENDITURE - GENERAL PRINCIPLES**

#### Value for money

18. Tate has a responsibility to ensure best value for money, which is the optimum combination of whole life cost and quality to meet the user's requirement - it is not the lowest price alone. Therefore activities should be benchmarked, periodically and where practicable, against best practice elsewhere. They should be contracted out where the conclusion is reached that this would provide better value for money. Procurement of works, equipment, goods and services (including consultant's fees) should be based on value for money, i.e. quality (in terms of fitness for purpose) and delivery against price. Appropriate option appraisal procedures should be carried out before procurement decisions are taken.

### Competition

19. Contracts should always be placed on a competitive basis, unless there are convincing reasons to the contrary. Tenders should be accepted from suppliers who provide best value for money overall.
20. Tate will comply with legal requirements, including EC and WTO regulations on public procurement, and take account of the guidance contained in the Treasury's revised Consolidated Guidelines on Public purchasing Policy and in DAO (GEN) 17/96 "Estates and building services procurement: prevention of fraud and irregularity in the award and management of contracts". The tendering procedures will take account of guidance issued by the Office of Government Commerce and any additional guidance issued by the Department.
21. For substantial procurement associated with new non-IT projects and IT procurement projects the Office of Government Commerce's *Gateway Process* ([www.ogc.gov.uk](http://www.ogc.gov.uk) or [Gateway.Helpdesk@ogc.gsi.gov.uk](mailto:Gateway.Helpdesk@ogc.gsi.gov.uk)) must be followed.
22. Before entering into any operating lease (e.g. for equipment hire) Tate must establish that it offers better value for money than purchase.
23. Tate shall take all appropriate reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract.

### Accommodation decisions

24. Decisions about the acquisition and disposal of property should secure best value for money. In managing its accommodation, Tate should observe Annexes 23.1 and 24.1 of *Government Accounting*.

### Timeliness in paying bills

25. Tate should collect receipts and pay all matured and properly authorised invoices in accordance with the terms of contracts or within 30 days, as provided for in paragraph 16.3.1-2 and Annex 16.2 of *Government Accounting*.

### Combatting fraud

26. Tate must have effective internal controls to prevent and detect fraud and theft. It must have a fraud policy statement to communicate its approach to fraud, and have systems in place (including a fraud response plan) to deal effectively with cases of fraud and theft however they might have been identified (including by the National Audit Office (NAO)). If any attempted, suspected or proven fraud occurs, including those involving grant recipients, Tate's Accounting Officer must be notified immediately.
27. All cases of attempted, suspected or proven fraud, irrespective of the amount involved, must be reported by Tate to the Department as soon as it is discovered so that any lessons can be quickly shared. Any cases which are novel or unusual will be brought to the attention of the Treasury by the Department. The Department will advise the NAO of all frauds reported to it.

28. Tate will be responsible for undertaking a prompt and vigorous investigation of any suspected or actual fraud, and shall inform the Department's Internal Audit, the local police, the Serious Fraud Office and other authorities as appropriate. Legal and/or disciplinary action should be taken in all cases where it can be justified. Appropriate action must be taken to recover public funds and to ensure that the risk of similar frauds is minimised.

## V. EXPENDITURE ON STAFF

### Staff costs

29. Subject to any levels of delegated authority Tate will ensure that the creation of any additional posts does not incur forward commitments which will exceed its ability to pay for them. Subject to that proviso, the Gallery shall determine the numbers and grades of its staff within the approved overall pay remit.

### Pay and conditions of service

30. Tate will determine the terms and conditions of employment of its staff subject to an agreed annual pay negotiating remit, which will be subject to the agreement of DCMS Ministers and, where required, HM Treasury. Except where previously authorised by the Department, pay and grading shall take account of public sector pay policy guidance.
31. Tate will supply information relating to the terms and conditions of employment of its staff, as Department may from time to time require, and consult Department in respect of significant changes in policy or approach. About three years after a major pay and grading change, Tate should carry out an evaluation of its pay arrangements comparing the intentions of the original business case with the outcome, and should copy the evaluation to the Department.
32. Tate must seek approval from Department and, where appropriate, HM Treasury, for the pay, terms and conditions of the Director. Additionally, Department shall approve the pay of officers to whom it is proposed to pay the same as or more than the Director. Any redundancy or compensation payment for loss of office for all senior managers, ie. those paid the same as or more than the Director, shall be subject to prior approval by the Department.
33. In devising non pay reward schemes for staff, Tate should pay particular attention to DAO (Gen) 13/01 and the Treasury handbook on *Regularity and Propriety*. The proposed expenditure should be considered personally by the Director and the Department should be consulted if there is any doubt about the regularity or propriety of any scheme, or whether it might be novel or contentious (ie substantively outside normal practice). Any expenditure of this type should be notified in Tate's accounts if it is greater than £100,000 or 0.5% of gross expenditure, whichever is the lesser.
34. Current terms and conditions for staff of Tate are those set out in its employee handbook. Tate will provide the Department with a copy of the Handbook and subsequent amendments on request.

### Board members' expenses

35. The travel expenses of Board Members which are reimbursed shall be consistent with rates allowed for senior staff of Tate, and shall not include a profit element. The reasonable actual costs of accommodation and meals shall be reimbursed, subject to the requirement that due regard shall be paid to value for money.

### Pensions; redundancy/compensation

36. Tate's staff will normally be eligible for a pension provided by membership of the Principal Civil Service Pension Scheme (PCSPS). Staff are free to take out personal pensions but the employer's contribution will normally be limited to the national insurance rebate level.
37. The Department should be consulted about any proposal by Tate to move from the existing pension and compensation arrangements.

### For Schedule 1 Superannuation Act 1972 Bodies belonging to PCSPS only:

- 37a. Tate may not contract out or market test the function of administering the PCSPS scheme in respect of its employees. Any tendering exercise in respect of the administration function must be conducted by the Department and it not Tate must be party to any resulting contract or service level agreement.

## **VI. EXPENDITURE OTHER THAN ON STAFF**

### Capital expenditure

38. Capital expenditure is defined as expenditure on new construction, land, extensions of, and alterations to existing buildings and the purchase of any other fixed assets (e.g. machinery, plant, and vehicles) with an expected working life of more than one year.
39. Tate's delegations for capital expenditure are at Annex A. Above that level, prior approval must be obtained from the Department before expenditure (including that financed by non-Exchequer funds) is incurred, and Treasury approval may also be needed. (See also paragraphs 43 and 44 below on Public/Private Partnerships.)

### Option appraisal

40. Where capital projects will involve expenditure above Tate's authorised limit, it must conduct an option appraisal and prepare a business case in accordance with the guidance set out in *Appraisal and Evaluation in Central Government* (HMSO), *Option Appraisal of Expenditure Decisions: A Guide for the Department for Culture, Media and Sport and its Sponsored Bodies* (DCMS), and *Private Opportunity, Public Benefit: progressing the Private Finance Initiative* (HM Treasury/Private Finance Panel). The business case should be incorporated in the submission to the Department for approval. Tate should have regard to any other guidance that is issued from time to time on investment appraisal and public/private partnerships.

41. Tate should follow appropriate option appraisal procedures for all capital expenditure, even when this is below the authorised limit. The thoroughness of the appraisal should be proportionate to the sums involved.
42. An option appraisal should include how the implementation of the preferred option will be managed. Areas to be covered include a project management structure; roles and responsibilities and accountabilities of parties in the project management structure; an appropriate monitoring and reporting framework; the process for ex-post evaluation of the project, to establish if the promised outputs have been delivered within budget and to identify lessons learnt for future projects.

#### Public/Private Partnerships

43. Tate should seek opportunities to enter into Public Private Partnerships where this would be more cost effective than conventional procurement. Where cash flow projections may result in delegated spending authority being exceeded the Tate should consult the Department. Guidance is available from the Office of Government Commerce ([www.ogc.gov.uk](http://www.ogc.gov.uk)) or UK Partnerships ([www.partnershipsuk.org.uk](http://www.partnershipsuk.org.uk)).
44. Any partnership controlled by Tate should be treated as part of Tate and consolidated with it subject to any particular treatment required by UK GAAP (see paragraph 4 above).

#### Borrowing, lending, guarantees, indemnities and contingent liabilities (including letters of comfort)

45. Tate shall not, without the Department's prior written consent, borrow (including temporarily, such as through prearranged overdraft facilities), lend money, charge any asset or security. Similarly, subject to any agreed delegated authorities, it should not, without prior approval give guarantees or indemnities or letters of comfort or knowingly incur any other contingent liability (as defined in chapter 26 of *Government Accounting*), whether or not in a legally binding form.

#### Losses and special payments

46. Subject to any delegation, Tate should only write off losses or make special payments when satisfied that there is no feasible alternative. A record of losses should be maintained. Tate should consult the Department where cases are novel and contentious or might be repercussive. If the total of losses or special payments in the year exceeds £100,000, the annual accounts of Tate should include a statement on losses and/or special payments as appropriate. Individual losses and special payments exceeding £100,000 in each case should be specifically identified in the losses statement.

#### Gifts given

47. Proposals for making gifts outside the delegated limits set out in the Annex to this document must have the prior written approval of the Department. Gifts to staff are subject to DAO(GEN)13/01. Tate must keep a record of gifts given. Details of gifts should be noted in Tate's accounts if, individually or collectively, they exceed £1,000.

### Subsidiary companies

48. Subject to the necessary legislative authority Tate may establish subsidiary companies or participate in joint ventures subject to the express approval of the Department (see also paragraph 4 above) in consultation with the Treasury.

### Commercial insurance

49. Tate shall not take out any insurance without the prior approval of the Department, other than third party insurance required by the Road Traffic Acts and any other insurance which is a statutory obligation or which is permitted in paragraph 30.4.2 of *Government Accounting*.
50. A new certificate of exemption for Employers' Liability (Compulsory Insurance) (Amendment) Regulations 1974 was issued to the Tate on 8 October 2002.

### Financial investments

51. Tate shall not use grant in aid to make any speculative financial investments without the prior written approval of the Department.

### Unspent end-year balances of grant in aid (carry forward)

52. The issue by the Department to Tate of the final monthly grant in aid payment for the financial year will be in accordance with need for the period and will take account of any balance of unspent grant in aid held by it at that stage. Tate has responsibilities under paragraph 9, particularly to ensure that it does not draw down grant in aid in advance of need and build up unacceptably large cash balances.
53. In addition to any sums carried forward under the provisions in paragraph 54, Tate may, carry over any unexpended balance of the income from trading and other activities for the year as notified to the Department.

### End Year Flexibility

54. Within the three year funding arrangements agreed with the Treasury, there is scope for carrying forward underspends on resource and capital provision from one year to the next. The extent to which Tate is able, within the envelope of a three year settlement, to roll forward underspend in one year to the next is a matter for the Secretary of State. As soon as possible in each year the Department will confirm what the relevant end-year flexibility arrangements are. Late changes to accrual outturn data which emerge in final audited accounts will be used to adjust End Year Flexibility entitlement but will be deferred to the following year.

## **VII. BANKING; CASH MANAGEMENT**

### Banking arrangements

55. Tate's Accounting Officer is responsible for ensuring that its banking arrangements are in accordance with the requirements of *Government Accounting* and the guidance in the Treasury document *Departmental Banking: a Manual for Government Departments* - in

particular that the banking arrangements safeguard public funds, and are carried out efficiently, economically and effectively.

56. He/she should therefore ensure that:

- these arrangements are suitably structured and represent value for money;
- these arrangements are reviewed at least every five years, to ensure that they represent value for money
- sufficient information about banking arrangements is supplied when required to the Department's Accounting Officer to enable the latter to satisfy his own responsibilities;
- Tate's banking arrangements shall be kept separate and distinct from those of any other person, or organisation.

## **VIII. MANAGEMENT OF FIXED ASSETS (including land and buildings)**

### Register of assets

57. Tate shall maintain an accurate and up-to-date register of its assets.

### Disposal of assets

58. Tate shall at all times use its assets in the most cost efficient manner, and dispose of those assets which are surplus to its requirements subject to statutory constraints. Assets will be sold for the best price, taking into account any costs of sale. High value assets should generally be sold by auction or competitive tender unless otherwise agreed by the Department.
59. Tate may normally retain receipts derived from the sale of assets provided that (i) they are used to finance other capital spending (ii) the Department receives prior notification of sales of items worth £1m or over and (iii) total sales in any financial year do not exceed a specified limit, currently that the total value of sales in a financial year does not exceed 3 per cent of Tate's grant in aid allocation or that the value of an individual sale does not exceed £100 million (see PES(98)5 as extended by Spending Review 2000). When the receipt exceeds 3% of GIA the Department's approval must be sought.
60. Notwithstanding the above, where Tate disposes of assets which have been purchased, improved or developed with Exchequer funds and the receipts amount to more than £1 million, or where the disposal has unusual features of which Parliament should be aware, Parliamentary approval is needed for the receipts to be reinvested. The receipts should therefore be surrendered to the Department which should then submit an Estimate seeking approval for the receipts to be appropriated in aid by the Department and a corresponding increase in Tate's grant in aid.

## ANNEX A: TATE'S DELEGATED FINANCIAL LIMITS

*ALL DELEGATIONS ARE SUBJECT TO THE REQUIREMENT THAT SPENDING PROPOSALS FALLING WITHIN GOVERNMENT ACCOUNTING 2.4.7 SHOULD BE REFERRED TO THE DEPARTMENT.*

Unlimited (unless otherwise specified)

### 1. CAPITAL EXPENDITURE (Para. 38-39)

Expenditure on new construction, land, extensions of, and alterations to, existing buildings and the purchase of any other fixed assets (e.g. machinery, plant, and vehicles) with an expected working life of more than one year. Also includes exchanges of fixed assets.	<u>Up to £6m</u>
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### 2. GIFTS (para. 17 and 47)

Gifts to staff are subject to DAO (Gen) 13/01.

8. in a financial year, any one gift or total of gifts to one person/organisation	<u>Up to £1000</u>
9. gifts received by the Tate	Unltd

### 3. NON-STATUTORY CONTINGENT LIABILITIES (Para. 45)

[Up to £100,000]

### 4. LOSSES AND SPECIAL PAYMENTS(Para. 46)

The write-off of losses or approval of special payments should only be carried out by staff authorised to do so by and on behalf of the Tate's Accounting Officer.

#### **Classification of losses and special payments**

Type	Description	Delegation
<b>A</b>	<b>Losses</b>	
i.	Cash losses. Physical losses of cash and equivalents (e.g. banknotes, postal orders, stamps) by any cause.	100,000

ii.	Bookkeeping losses: because of unvouched or incompletely vouched payments, including cases where vouchers are missing;  because of changes to estimates or other accounts to clear inexplicable or erroneous balances.	100,000  100,000
iii.	<b>Exchange rate fluctuations.</b> Losses due to fluctuations in exchange rates or revaluations of currencies.	100,000
iv.	Losses of pay allowances and superannuation benefits:	
	overpayments due to miscalculation, misinterpretation of acts, regulations or scheme rules or the full facts not being known;	100,000
	unauthorised issues, e.g. payments not admissible under the acts, regulations or scheme rules;	100,000
	losses arising from other causes, e.g. non-disclosure of full facts by the beneficiary, short of proven fraud.	100,000
v.	<b>Losses arising from overpayments</b> of grants, etc. arising from miscalculation, misinterpretation of acts regulations or scheme rules, or the full facts not being known.	100,000
vi.	<b>Losses arising from failure to make adequate charges</b> for the use of public property or services.	100,000
<b>B</b>	<b>Losses of accountable stores:</b>	
i.	because of fraud, whether or not it has been possible to charge anyone with an offence, or proven or suspected theft, arson or sabotage, or any other deliberate act (including repairable damage caused maliciously to buildings, stores; etc. which is not the subject of an identifiable legal claim against some person); wherever possible recovery must be effected and prosecution mounted;	100,000
ii.	losses arising from other causes.	100,000
<b>C</b>	<b>Fruitless payments and constructive losses</b>	100,000
<b>D</b>	<b>Claims waived or abandoned</b>	100,000
<b>E</b>	<b>Special payments:</b>	
i.	extra-contractual and <i>ex gratia</i> payments to contractors;	100,000
ii.	other <i>ex gratia</i> payments;	100,000
iii.	compensation payments;	100,000
iv.	extra-statutory and extra-regulatory payments.	100,000

## DISPOSAL OF ASSETS (Paras. 58-60)

£ 800,000 or 3% whichever is larger

**ANNEX B :**

**LIST OF MANAGEMENT DOCUMENTS AND TIMETABLE** [*Optional*]

<u>Document</u>	<u>Timetable</u> - to be sent to the Department
Annual expenditure and grant in aid draw down profile	By 31 March for following financial year
Financial statement and analysis	Monthly
Resource and capital expenditure outturn details	As soon as possible after the end of the financial year
New or revised Funding Agreement	As agreed with DCMS
Review of last full year of Funding Agreement	As agreed with DCMS
Draft Annual Report and Accounts	By 30 June
Final Annual Report and Accounts	By 30 July
Internal audit plan for the following year	By 1 June
Frauds or attempted fraud	As soon as they occur