

PROJECT AGREEMENT TO ESTABLISH THE OFFICE OF THE NATIONAL RAIL SAFETY REGULATOR

Council of
Australian
Governments

An agreement between

the Commonwealth of Australia and
the State of South Australia

The output of this agreement will be the commencement of the establishment of the Office of the National Rail Safety Regulator in South Australia.

Project Agreement to Establish the Office of the Rail Safety National Regulator

INTERGOVERNMENTAL AGREEMENT ON FEDERAL FINANCIAL RELATIONS

PRELIMINARIES

1. This Project Agreement (the Agreement) is created subject to the provisions of the **Intergovernmental Agreement on Federal Financial Relations** and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the Intergovernmental Agreement on Federal Financial Relations.
2. This Agreement will provide funding in 2011-12 to contribute to the establishment of the Office of the National Rail Safety Regulator (ONRSR) to be located in Adelaide, South Australia.
3. The Council of Australia Governments signed the Intergovernmental Agreement (IGA) on Rail Safety Regulation and Investigation Reform on 19 August 2011. The IGA set out that establishment costs would be borne by the Commonwealth and be limited to those requirements essential to establishing the ONRSR head office and creating the minimum level of information technology (IT) system connectivity necessary to allow seamless national rail regulatory processing.
4. This Agreement concerns activities to be undertaken in 2011-12 (hereafter called 'the project'). The parties intend that the establishment of the ONRSR will be completed before 1 January 2013.
5. This Agreement constitutes the entire agreement for the project.

PART 1 – FORMALITIES

Parties to this Agreement

6. This Agreement is between the Commonwealth of Australia (the Commonwealth) and the State of South Australia (South Australia).

Term of the Agreement

7. This Agreement will commence as soon as the Commonwealth and South Australia sign the Agreement and will expire on 30 June 2012 or on completion of the project, including acceptance of final performance reporting and processing of final payments against milestones, unless terminated earlier or extended as agreed in writing by the Parties.

PART 2 – PROJECT OUTPUT

Output

8. The output of this Agreement will be the commencement of the establishment of the ONRSR in Adelaide by the National Rail Safety Regulator (NRSR) Project Office.

PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY

Role of the Commonwealth

9. The Commonwealth will be responsible for:
 - (a) monitoring and assessing achievement against the milestone in the delivery of the establishment of the ONRSR under this Agreement to ensure that outputs are delivered within the agreed timeframe; and
 - (b) providing a financial contribution to South Australia to support the implementation of this Agreement.

Role of South Australia

10. South Australia will be responsible for:
 - (a) all aspects of delivering on the project outputs set out in this Agreement;
 - (b) reporting on the delivery of outputs as set out in Part 4 – Project Milestones, Reporting and Payments.

Shared roles

11. Both Parties will meet the requirements of Schedule E, Clause 26 of the **Intergovernmental Agreement on Federal Financial Relations**, by ensuring that prior agreement is reached on the nature and content of any events, announcements, promotional material or publicity relating to activities under this Agreement, and that the roles of both Parties will be acknowledged and recognised appropriately.

PART 4 – PROJECT MILESTONES, REPORTING AND PAYMENTS

12. The following table summarises the milestones for the project, their relationship to the outputs, expected completion dates, relevant reporting dates and expected payments to be made, once a report certifying that milestones have been met is received and accepted.

Table 1: Milestones, reporting and payment summary

Output	Milestone	Relevant Report due	Payment
Commencement of the establishment of the ONRSR, including the procurement of IT and infrastructure facilities necessary for the ONRSR.	NRSR Project Office has placed a contract with the preferred vendor for the regulatory information systems and corporate business systems.	As soon as is practicable after both Parties sign this Agreement, but no later than 1 May 2012.	\$1.87 m

Reporting arrangements

13. South Australia will provide a performance report in accordance with the table above. The performance report is to contain the following information:
- a description of actual performance to date against the project milestone;
 - details of any matter(s) that have arisen which could adversely impact on the delivery of the output, and how the Project Office proposes to resolve this/these matter(s); and
 - promotional activities undertaken in relation to, and media coverage of, the project during the reporting period and any promotional opportunities expected to arise during the next reporting period.

PART 5 – FINANCIAL ARRANGEMENTS

14. The Commonwealth will provide a total financial contribution to South Australia of \$1.87 million in respect of this Agreement. All payments are GST exclusive.
15. The Commonwealth's funding contribution will not be reduced where South Australia secures funding from other activity partners through innovative and collaborative partnerships.
16. The Commonwealth's estimated financial contribution to the operation of this Agreement, including through National Partnership payments to South Australia paid in accordance with *Schedule D – Payment Arrangements* of the **Intergovernmental Agreement on Federal Financial Relations**, are shown in Table 2.

Table 2: Estimated financial contributions

(\$ million)	2011-12	Total
Estimated total budget	1.87	1.87
Less estimated National Partnership Payments	1.87	1.87
Balance of non-Commonwealth contributions	0.0	0.0

17. Having regard to the agreed estimated costs of projects specified in a Project Agreement, South Australia will not be required to pay a refund to the Commonwealth if the actual cost of the project is less than the agreed estimated cost of the project. Similarly, South Australia bears all

risk should the costs of a project exceed the agreed estimated costs. The Parties acknowledge that this arrangement provides the maximum incentive for the States to deliver projects cost effectively and efficiently.

PART 6 – GOVERNANCE ARRANGEMENTS

Enforceability of the Agreement

18. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

Variation of the Agreement

19. The Agreement may be amended at any time by agreement in writing by all the Parties.
20. A Party to the Agreement may terminate their participation in the Agreement at any time by notifying all the other Parties in writing.

Delegations

21. The Commonwealth Minister may delegate the assessment of performance milestones and the authorisation of related project payments to senior Commonwealth officials, having regard to the financial and policy risks associated with those payments.

Dispute resolution

22. Any Party may give notice to other Parties of a dispute under this Agreement.
23. Officials of relevant Parties will attempt to resolve any dispute in the first instance.
24. If a dispute cannot be resolved by officials, it may be escalated to the relevant Ministers and if necessary, to the Standing Council on Transport and Infrastructure.
25. If a dispute cannot be resolved by the relevant Ministers, it may be referred by a Party to the Council of Australian Governments for consideration.

The Parties have confirmed their commitment to this agreement as follows:

**Signed for and on behalf of the Commonwealth
of Australia by**



The Honourable Anthony Albanese MP
Minister for Infrastructure and Transport

30 MARCH 2012

**Signed for and on behalf of the State of
South Australia by**



The Honourable Patrick Conlon MP
Minister for Transport

23/4 / 2012