PRESIDENT OF THE SENATE

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PARLIAMENT HOUSE
CANBERRA

19 March 2014

Senator the Hon Mathias Cormann
Minister for Finance
Parliament House
Canberra ACT 2600

Dear Minister

Thank you for your letter of 11 February 2014. I am now writing to raise with you two issues relating to the budget of the Department of the Senate.

1. Reduction of departmental item appropriation

The first is to request your approval for a determination to reduce the departmental item appropriation provided to the Department of the Senate.

The appropriation is to be reduced by $1,135,285 and was provided as the departmental item appropriation in *Appropriation (Parliamentary Departments) Act (No. 1) 2011-2012*, *Appropriation (Parliamentary Departments) Act (No. 1) 2012-2013* and *Appropriation (Parliamentary Departments) Act (No. 1) 2013-2014*.

These funds are to be returned and subsequently appropriated to the Department of Parliamentary Services to finalise the transfer of information and communications technology services as recommended by the Review of Information and Communication Technology for the Parliament undertaken by Mr Michael Roche.

Your determination is now sought under Subsection 11(1) of Appropriation (Parliamentary Departments) Act (No. 1) 2013-2014 to reduce the Department's departmental item appropriation as follows.

Appropriation (Parliamentary Departments) Act (No. 1) 2011-2012	$429,783
Appropriation (Parliamentary Departments) Act (No. 1) 2012-2013	$420,933
Appropriation (Parliamentary Departments) Act (No. 1) 2013-2014	$284,569

Adjustments to appropriation in the forward years will be adjusted as part of the Appropriation (Parliamentary Departments) Bill (No. 1) 2014-2015.

The contact officer is Ms Michelle Crowther, Chief Finance Officer of the Department of the Senate, on 6277 3897.

2. Additional efficiency dividend for the Department of the Senate

Secondly, your letter of February, you noted the fiscal challenges faced by the Government and that therefore, you did not support an exemption for the Department of the Senate from the additional efficiency dividend in the 2014-15 financial year and succeeding years. You also noted an additional $5.5 million recently provided to the Department of Parliamentary Services – supplementation that, while welcome, has no impact on the ability of the Department of the Senate to continue to support the work of senators and committees.

The Appropriations and Staffing Committee appreciates the budgetary challenges faced by the Government. Notwithstanding its modest size, and even more modest budget, the Senate Department has made significant savings and introduced many significant efficiency measures over recent years. These savings enabled the return of more than $11 million in reserves to consolidated revenue in 2008.

However, the work undertaken by the Department of the Senate continues to grow. A greater number of sitting weeks is planned for this year. Committees (including select committees staffed by the Department) are currently inquiring into 53 separate matters and, to date, have tabled 67 reports in this Parliament. From 1 July, the composition of the Senate will change; there will be an unprecedented number of cross-bench and independent senators, with a corresponding increase in the demand for drafting services and procedural advice and support. I note that a continually expanding workload cannot be accommodated by a continually diminishing budget, particularly in a small Department where staff costs comprise 80% of all costs.

However, there is an even more important matter of principle at issue here. The Appropriations and Staffing Committee has for many years drawn the attention of successive Ministers in successive governments to the need to establish a new method for determining budgets for the Parliament. As I am sure you are aware, the Parliament is not simply another Executive Department administering government programs, and should not be considered as one from a budgetary perspective.

I suggest that there is a need to review the current method for determining parliamentary budgets, and to consider some possible alternative approaches, and propose that the Committee meet with you to discuss these.

Yours sincerely

John J Hogg

(John Hogg)

PRESIDENT OF THE SENATE

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PARLIAMENT HOUSE
CANBERRA

9 April 2014

Senator the Hon Mathias Cormann
Minister for Finance
Parliament House
Canberra ACT 2600

Dear Minister Cormann

I refer to my letter of 19 March 2014 on the Senate Department's budget to which I have not yet received a reply.

The need to reach agreement on an appropriate method for determining the budgets of the parliamentary departments so as to preserve the independence of the Houses to carry out their constitutional functions is highlighted by Estimates Memorandum 2014/14 which imposes a further 0.25 per cent efficiency dividend, bringing the total efficiency dividend to 2.5 per cent for the next three financial years.

This Memorandum was sent to the Senate Department without reference to the budgetary milestones process unanimously endorsed by the Appropriations and Staffing Committee and reported on in its 55th report (May 2013) and Annual Report 2012-13 (June 2013).

The Memorandum indicates that:

> … consistent with the Government's election commitment, savings should be achieved by first targeting reduced advertising, consultancy, travel and deregulation efficiencies, rather than staff reductions.

May I draw to your attention the following facts.

The Senate Department administers no programs which are capable of providing deregulation efficiencies.

The Senate Department ceased all newspaper recruitment advertising some years ago and has cut newspaper advertising of committee inquiries by approximately 50 per cent, saving another $100,000. The advertising that does occur is considered to be the minimum that is consistent with the obligation on the Senate to inform the people of Australia about the work of its committees and to provide access to committee inquiries. Provision of such information is essential to the democratic process.

Apart from the engagement of legal advisers under standing orders and resolutions to advise the Scrutiny of Bills Committee, the Regulations and Ordinances Committee and the Parliamentary Joint Committee on Human Rights, the Senate Department purchases consultancy services only in respect of such technical matters as auditing and specialist information technology in direct support of key systems supporting chamber operations and committees.

Departmental travel is undertaken for essential purposes only and most travel expenditure is incurred in connection with the participation of members of Parliament in the International Parliamentary Union or with committee hearings. It is therefore non-discretionary.

Inevitably, the cuts will affect staffing numbers which have already been reduced in response to previous efficiency dividends. The capacity of the department to absorb further cuts has been eroded by successive governments.

The Government, through its legislation program, and the Senate determine the workload of the department. Any further reduction in funding impinges directly on the capacity of the Senate to carry out its functions and represents an unwarranted interference by the executive government with the independence of the Senate.

It is on this basis that I seek exemption for the Senate Department from the efficiency dividend notified in Estimates Memorandum 2014/14 pending further discussions of a more appropriate budget process consistent with the separation of powers under the Australian Constitution.

Yours sincerely

(John Hogg)

SENATOR THE HON MATHIAS CORMANN
Minister for Finance

REF: C14/1021

Senator the Hon John Hogg
President of the Senate
Parliament House
CANBERRA ACT 2600

Dear President

Thank you for your letter dated 19 March 2014 seeking a determination to reduce the appropriation amounts provided to the Department of the Senate and 9 April 2014 seeking an exemption from the application of the additional efficiency dividend.

In accordance with your request, I have made an Instrument which reduces the Department of the Senate's departmental item consistent with your request.

The reductions are for:

- $429,783 to *Appropriation (Parliamentary Departments) Act (No. 1) 2011-2012*;
- $420,933 to *Appropriation (Parliamentary Departments) Act (No. 1) 2012-2013*; and
- $284,569 to *Appropriation (Parliamentary Departments) Act (No. 1) 2013-2014.*

These reductions have been combined with appropriation reductions for the Department of the House of Representatives into a consolidated instrument. A copy of the Instrument will be provided by my Department to the Department of the Senate.

On the second issue that you have raised in your letter of 19 March 2014, regarding the process for determining the Parliamentary Departments budgets, I note the valuable work undertaken by the Appropriations and Staffing Committee in terms of inquiring into the estimates for the Department of the Senate. I also note officials from my Department met with Ms Bronwyn Notzon, the Usher of the Black Rod, on Friday 4 April 2014, to discuss a range of appropriation matters.

I welcome any information that the Committee would like to provide on its deliberations that would assist me in understanding the resourcing requirements of the Department of the Senate. This information could also assist Ministers in reviewing any future proposals that are bought forward for their consideration, consistent with the budget process operational rules as agreed by Cabinet.

I would be happy to meet with the Committee to discuss these issues.

With regard to your letter of 9 April 2014, I do not support exempting the Department of the Senate from the application of the additional efficiency dividend on general government sector agencies for the next three financial years.

I note this is consistent with my letter of 11 February 2014, regarding the additional efficiency dividend imposed by the previous Government. In the current tight fiscal environment, the Government considers that the application of the additional efficiency divided is appropriate.

The contact in my Department for appropriation matters is Marc Mowbray-d'Arbela, Assistant Secretary, Financial Management, who can be contacted by your officials on (02) 6215 3344 or marc.mowbray-darbela@finance.gov.au.

The contact in my Department for the other issues raised in your correspondence is Geoff Painton, Assistant Secretary, Central Agencies and Attorney- General's Branch, Budget Group, who can be contacted by the officials on (02) 6215 3588 or geoff.painton@finance.gov.au.

Kind regards

Mathias Cormann
Minister for Finance

14 April 2014

PRESIDENT OF THE SENATE

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PARLIAMENT HOUSE
CANBERRA

17 March 2014

Senator Sean Edwards
Chair
Standing Committee on Regulations and Ordinances
Parliament House
Canberra ACT 2600

Dear Senator Edwards

I am writing to draw your attention to the need to address a deficiency in the process of scrutinising items of expenditure which appear to have been inappropriately included in the appropriation bill for the ordinary annual services of the government. As you may be aware, this matter is of significance in view of the limitation, in section 53 of the Constitution, on the power of the Senate to amend proposed laws appropriating revenue or moneys "for the ordinary annual services of the Government".

The existing scrutiny practice has been that such items are drawn to the attention of the Appropriations and Staffing Committee, and to legislation committees examining estimates of expenditure. A list of such items is also drawn to the attention of the Finance Minister.

In 2012, the High Court delivered its judgment in *Williams v the Commonwealth* [2012] HCA 23. The effect of that decision was to cast doubt on the validity of all programs involving direct payments to persons other than a State or Territory, the only authority for which was the appropriation acts.

The Commonwealth responded to the judgment by passing the *Financial Framework Legislation Amendment Act (No 3) 2012*. This Act specifically authorised payments under more than 420 programs not previously approved by legislation. Importantly, it also established a mechanism for all such future authorisations to be made by amendment to the Financial Management and Accountability Regulations. This regulation-making power allows items that previously would have raised questions concerning their classification as ordinary annual services of the government to be included, without direct parliamentary approval. This has had the effect of weakening the Senate's scrutiny powers.

In order to address this weakness, the Appropriations and Staffing Committee proposes that the Regulations and Ordinances Committee monitor the making of regulations under the Financial Framework legislation and report to the Senate on the nature and extent of expenditure approved by this method.

Such an approach is compatible with the Committee's terms of reference, which require it, among other things, to scrutinise legislative instruments to ensure that they do not contain matter more appropriate for parliamentary enactment.

Committee reports would contain an appropriate recommendation for adoption by the Senate, and they could be referred to legislation committees for consideration as part of the estimates process.

The appropriation of money is a fundamental function of the Parliament. Delegating this function to the executive to carry out, in part by regulation, is a matter that would benefit from scrutiny by your Committee.

Yours sincerely

John J Hogg

(John Hogg)

AUSTRALIA

AUSTRALIAN SENATE

CLERK OF THE SENATE

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Noted & distribute to Approps & Staffing c'ttee
JH
24.4.14

14 APR 2014
PRESIDENTS OFFICE

14 April 2014

Senator the Hon John Hogg
President of the Senate
Parliament House
Canberra ACT 2600

Mr President

ORDINARY ANNUAL SERVICES OF THE GOVERNMENT

At the last meeting at which the Appropriations and Staffing Committee discussed the issue of ordinary annual services of the government, there was a view within the committee that it should continue to monitor proposed expenditure that did not appear to fall within the meaning of 'ordinary annual services of the government' as last defined by the Senate in its consolidated resolution of 22 June 2010.

The key sticking point since the introduction of accrual budgeting and accounting at the turn of the century has been the inclusion of new policy in the non-amendable appropriation bill on the basis that the new policy comes under an existing outcome. The Senate has not accepted this categorisation. Because outcomes are so broadly framed, there is virtually nothing that cannot be encompassed by an existing outcome, even though any new expenditure proposal must still go through the traditional budget processes for approval of new policies. Governments have not conceded the obvious flaw in this argument, namely that something that is new policy for Cabinet approval purposes is not regarded as new policy for the purpose of respecting the constitutional rights of the Senate.

The Senate made the concession that something would not be regarded as new policy if it had separately been approved by special legislation. In other words, such measures could be regarded as ordinary annual services of the government and included in the non-amendable bill provided they had been approved in separate legislation. This concession was undermined, however, by the legislative response to the High Court's decision in the *Williams* case which was to create a regulation making power to "approve" all the classes of payments that the *Williams* decision had cast doubt over.

The Senate has not considered the question whether approving expenditure on a program by means of regulation is the same as approving it by special legislation. By letting the relevant regulations stand without challenge, the Senate is tacitly accepting this practice. For this reason, the committee has asked the Regulations and Ordinances Committee to monitor the use of the relevant regulation-making power and to consider whether such regulations contain matter that would be more appropriate for parliamentary enactment (one of that committee's terms of reference).

The new method of authorising expenditure has also been challenged in the High Court in Williams (No. 2). A hearing is scheduled for 6 May 2014.

In the meantime, Senate officers have examined the additional appropriation bills to identify expenditure that may have been inappropriately included in the non-amendable bill. The list includes items of one-off expenditure (that cannot possibly be characterised as ordinary annual services under any stretch of a distorted imagination) as well as items which either have been or may have been "approved" by regulations made under the *Financial Management and Accountability Act 1997*.

Even though the additional appropriation bills have been passed by the Senate and this is only an academic exercise, I recommend that this advice and the attached report be circulated to members of the Appropriations and Staffing Committee for noting at its next meeting.

Yours sincerely

(Rosemary Laing)

Items of expenditure which appear to be inappropriately classified as ordinary annual services of the Government – Additional Estimates 2013-14

Introduction

On 22 June 2010, the Senate made an order in relation to appropriations for the ordinary annual services of the Government.[1] In particular, the Senate reaffirmed its constitutional right to amend proposed laws appropriating revenue or moneys for expenditure on all matters not involving the ordinary annual services of the Government. The order specified the types of expenditure which ought not to be characterised as appropriations for ordinary annual services of the Government providing:

> (2) That appropriations for expenditure on:
>
> (a) the construction of public works and buildings;
>
> (b) the acquisition of sites and buildings;
>
> (c) items of plant and equipment which are clearly definable as capital expenditure (but not including the acquisition of computers or the fitting out of buildings);
>
> (d) grants to the states under section 96 of the Constitution;
>
> (e) new policies not previously authorised by special legislation;
>
> (f) items regarded as equity injections and loans; and
>
> (g) existing asset replacement (which is to be regarded as depreciation),
>
> are not appropriations for the ordinary annual services of the Government and that proposed laws for the appropriation of revenue or moneys for expenditure on the said matters shall be presented to the Senate in a separate appropriation bill subject to amendment by the Senate.

The Senate also clarified its view of the correct characterisation of payments to international organisations. Finally, the order provided that all appropriation items for continuing activities, for which appropriations have been made in the past, be regarded as part of ordinary annual services.

This report identifies expenditure which appears to have been inappropriately classified as ordinary annual services of the Government and included in Appropriation Bill (No.3) 2013-2014. It should be noted that some of the expenditure identified relates to new programs where the expenditure may be authorised by the *Financial Management and Accountability Regulations 1997* (FMA regulations). Section 32B of the *Financial Management and Accountability Act 1997* establishes a regulation-making mechanism whereby the executive authorises expenditure on programs by amending Schedule 1AA or Schedule 1AB of the FMA regulations, rather than including those matters in primary legislation.[2] The Senate has

1 The 2010 order incorporates a series of previous resolutions made by the Senate in relation to appropriations for the ordinary annual services of the Government from 1977 onwards.

2 See also Regulation 16 of the FMA regulations.

not yet determined whether this mechanism amounts to prior legislative authority for the expenditure.

Agriculture

Indonesia-Australia Red Meat and Cattle Partnership (Program 1.13): The Government will provide $60.0 million over 10 years to create the Indonesia-Australia Red Meat and Cattle Partnership. The partnership will provide a mechanism for government and industry in Indonesia and Australia to increase agricultural cooperation, improve long-term trade and boost Australian investment in Indonesia's red meat and cattle sector. Funding for this measure includes $10.0 million which will be provided through the Department of Agriculture and offset from the 'Carbon Farming Futures — return of unallocated funds' measure (originally reported in the 2013 Economic Statement).

The department will receive an additional $300,000 in administered expenses and $600,000 in departmental expenses in 2013-14 under this measure. The only funding in Appropriation Bill (No.4) is an equity injection of $465,000. Appropriation Bill (No.3) included an additional $5.9 million for departmental expenses under Outcome 1. However, no additional administered expenses are appropriated to Outcome 1 by Appropriation Bill (No.3).[3] Item 2 of Schedule 1AB of the FMA regulations relates to international cooperation programs relating to the red meat and cattle sectors: *MYEFO*, p. 118; *Agriculture PAES*, pp 20, 23, 33 and 41; *Particulars of Certain Proposed Additional Expenditure,* p. 7; *Particulars of Proposed Additional Expenditure,* p. 6.
Summary: This expenditure relates to establishment of a new program not continuation of an existing program.

Education

Australia-Indonesia Centre — Establishment (Programs 3.3 and 3.7): The Government will provide $15.0 Million over four years (including $750,000 in administered expenses in 2013-14) to establish the Australian-Indonesia Centre which will aim to strengthen Australia-Indonesia business, cultural, educational, research and community links. Half of the cost of this measure will be offset by redirecting $7.5 million over four years from the Reward Funding program. Table 2.3 of the *Education PAES*, *Budgeted Expenses and Resources for Outcome 3*, does not show any funding in Appropriation Bill (No. 4) for Program 3.3 or Program 3.7. The only appropriations for the Education Portfolio in Appropriation Bill (No. 4) were an equity injection of $13.6 million and administered assets and liabilities totalling $2.9 million. Appropriation Bill (No. 3) included $1.6 million in administered expenses for Outcome 3. There appears to be a legislative basis for this measure under Item 11 of Schedule 1AB of the FMA regulations which relates to the establishment of the Australia-Indonesia Centre: *MYEFO 2013–14*, p. 127; *Education PAES*, pp 20, 41, 46 and 47; *Particulars of Certain Proposed Additional Expenditure,* p. 21; *Particulars of Proposed Additional Expenditure,* p. 23.
Summary: This expenditure relates to establishment of a new centre.

Students First — Flexible literacy learning for remote primary schools (Program 2.3): The Government will provide $22.0 million over four years (including $4 million in

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[3] It appears the administered expenses have been met from unallocated funds from the Carbon Farming Futures measure (*Agriculture PAES*, p. 23).

administered expenses in 2013-14) to improve reading and writing outcomes for students in remote primary schools. Grants will be provided through the States and Territories to support remote primary schools adopt flexible teaching methods. The *Education PAES* characterises all the administered expenses for Program 2.3 as Ordinary Annual Services. No administered funds for Program 2.3 are appropriated by Appropriation Bill (No. 4). Item 407.005 under Schedule 1AA of the FMA regulations relates to 'School support' and is very broadly framed. It might be argued that this provides a legislative basis for the expenditure: *MYEFO,* p. 131, *Education PAES*, pp 19, 22 and 33, *Particulars of Certain Proposed Additional Expenditure*, p. 21; *Particulars of Proposed Additional Expenditure,* p. 23.
Summary: This expenditure relates to establishment of a new grant program not continuation of an existing program.

Students First — Independent Public Schools Fund — establishment (Program 2.1): The Government will provide $70.0 million over four years (including $10 million in administered expenses in 2013-14) to encourage 1,500 Government schools to become Independent Public Schools by 2017. No departmental or administered funds for Outcome 2 were appropriated by Appropriation Bill (No. 4) and it appears the estimated expense amount of $10.0 million has been classified as Ordinary Annual Services (Appropriation Bill (No. 3) included $75.1 million in administered expenses for Outcome 2). Item 407.005 under Schedule 1AA of the FMA regulations relates to 'School support' and is very broadly framed. It might be argued that this provides a legislative basis for the expenditure: *MYEFO*, p. 132; *Education PAES,* pp 11, 18 and 33; *Particulars of Certain Proposed Additional Expenditure*, p. 21; *Particulars of Proposed Additional Expenditure*, p. 23.
Summary: This expenditure relates to establishment of a new fund.

Employment

Seniors Employment Incentive Payment — establishment (Program 1.1): The Government will provide $197.5 million over five years (including $339,000 in departmental expenses and $514,000 in departmental capital in 2013-14) to establish a wage subsidy for mature age job seekers. No departmental expenses for Program 1.1 were appropriated by Appropriation Bill (No. 4). However, only $195,000 in departmental expenses for the Department of Employment was appropriated by Appropriation Bill (No.3) so at least some proportion of the funding has been redirected. It is likely that the $514,000 in capital expenses is included in the $2.1 million equity injection included in Appropriation Bill (No.4). Item 407.050 under Schedule 1AA of the FMA regulations relates to 'Mature-age work participation - assistance' and is very broadly framed. It might be argued that this provides a legislative basis for the expenditure: *MYEFO,* p. 138; *Employment PAES*, pp 11, 17, 18 and 21; *Particulars of Certain Proposed Additional Expenditure,* p. 23; *Particulars of Proposed Additional Expenditure*, p. 5.
Summary: This expenditure relates to establishment of a new program not continuation of an existing program.

Tasmanian Jobs Program — Pilot (Program 1.1): The Government will provide $6.9 million over three years (including $98,000 in administered expenses and $72,000 in departmental expenses in 2013-14) to establish a wage subsidy pilot for Tasmanian job seekers. The program will provide up to 2,000 one-off payments of $3,250 to any Tasmanian business that hires an eligible job seeker and continues to employ them on a full-time basis for at least six months. No departmental or administered funds for Program 1.1 are appropriated by Appropriation Bill (No. 4). Appropriation Bill (No.3) appropriated $195,000

in departmental expenses to Outcome 1 of the department. There appears to be a legislative basis for this measure under Item 7 of Schedule 1AB of the FMA regulations which relates to the Tasmanian jobs program: *MYEFO*, p. 139, *Employment PAES*, pp 11, 17, 20 and 27, *Particulars of Certain Proposed Additional Expenditure,* p. 23; *Particulars of Proposed Additional Expenditure,* p. 25.
Summary: This expenditure relates to establishing a pilot program.

Environment portfolio

Green Army — establishment (Environment Program 1.1, Human Services Program 1.1): The Government will provide $300.0 million over four years (including $5.8 million in 2013-14) to establish the Green Army. The program will support regional, national and international conservation management objectives through the delivery of local projects, while also providing skills and training to participants. The cost of this measure will be partially offset by a reduction in income support payments in the Social Services portfolio.[4]
The Department of Human Services will receive $4.4 million in departmental expenses in 2013-14. In Appropriation Bill (No.4) the total funding for the Human Services portfolio is $4.2 million for equity injections. The total funding in Appropriation Bill (No.3) for Outcome 1 of Human Services is $78 million which would indicate the expenditure for this program, $4.4 million, is in Appropriation Bill (No.3).

The Social Security Legislation Amendment (Green Army Programme) Bill 2014 which is before the House of Representatives would prevent a person receiving a green army allowance from receiving other social security benefits but it does not contain provisions to provide for payment of the green army allowance itself: *MYEFO*, pp 141-2; *Environment PAES*, pp 22 and 27; *Human Services PAES*, pp 17 and 20; *Particulars of Certain Proposed Additional Expenditure*, pp 26 and 44; *Particulars of Proposed Additional Expenditure*, pp 30 and 58.
Summary: This expenditure relates to establishment of a new program not continuation of an existing program.

Finance portfolio

National Commission of Audit (Program 1.1): The Government will provide $1.0 million in 2013-14 for the establishment and the operation of a National Commission of Audit to assess the role and scope of Government, and to examine the scope for efficiency and productivity improvements across all areas of Commonwealth expenditure. The National Commission of Audit will provide an initial report to the Government before the end of January 2014 with the final report forming part of the 2014-15 Budget process. No money was appropriated to the Finance Portfolio by Appropriation Bill (No. 4) while $1.7 million was appropriated to Outcome 1 of the department by Appropriation Bill (No. 3): *MYEFO*, p. 147; *Finance PAES,* pp 12, 16, 18 and 22; *Particulars of Proposed Additional Expenditure,* p. 34; *Particulars of Certain Proposed Additional Expenditure*, p. 5.
Summary: This is one-off expenditure.

[4] The lead agency for this measure is the Department of the Environment which will receive $1 million in departmental expenses in 2013-14 under this measure. However, overall funding to Outcome 1 of the Department of the Environment is reduced by Appropriation Bill (No.3).

Foreign Affairs and Trade portfolio

The New Colombo Plan (Program 1.5): The Government will provide $100.0 million over five years to establish a New Colombo Plan. The objective of the New Colombo Plan is to foster closer people-to-people and institutional links between Australia and the Indo-Pacific by contributing to an overall increase in the number of Australian undergraduate students undertaking study and internships in the region.[5]

According to the *FAT PAES* funding for the New Colombo Plan in 2013-14 will be $0.02 million for departmental items and $6.142 million for administered items. The only funding for the department in Appropriation Bill (No.4) is $2.19 billion in administered assets and liabilities and a $938,000 equity injection. There appears to be a legislative basis for this measure under Item 10 of Schedule 1AB of the FMA regulations which relates to the New Colombo Plan: *FAT PAES*, pp 13; 18, 20, 21, 29, 30 and 37; *Particulars of Certain Proposed Additional Expenditure,* p. 29; *MYEFO*, pp 101 and 151.
Summary: This expenditure relates to establishment of a new program not continuation of an existing program.

Health Portfolio

Hummingbird House (Program 1.1): The Government will provide $5.5 million over seven years (including $750,000 in administered expenses in 2013-14) to assist with the establishment and operation of Hummingbird House: a children's hospice. Table 2.1.2 in the *Health PAES* indicates that the $750,000 in administered expenses was in Appropriation Bill (No.3). There was no new money for administered outcomes in Appropriation Bill (No.4) (only $2.7 million for equity injections). However, the net appropriation to Outcome 1 of the Department of Health is only $5,000 due to a reduction in departmental expenses appropriated to this outcome. Item 415.028 of Schedule 1AA of the FMA regulations relates to chronic disease treatment and includes providing support to the families and carers of people with cancer. It might be argued that this provides a legislative basis for the expenditure: *MYEFO*, p. 155; *Health PAES* pp 18 and 40; *Particulars of Certain Proposed Additional Expenditure*, p. 33; *Particulars of Proposed Additional Expenditure*, p. 40.
Summary: This expenditure relates to establishment of a new facility.

Bear Cottage (Program 1.1): The Government will provide $2.0 million in administered expenses in 2013-14 to support the children's palliative care facility, Bear Cottage, in New South Wales. Table 2.1.2 in the *Health PAES* indicates that these administered expenses were in Appropriation Bill (No.3). There was no new money for administered outcomes in Appropriation Bill (No.4) (only $2.7 million for equity injections). However, the net appropriation to Outcome 1 of the Department of Health is only $5,000 due to a reduction in departmental expenses appropriated to this outcome. Item 415.028 of Schedule 1AA of the FMA regulations relates to chronic disease treatment and includes providing support to the families and carers of people with cancer. It might be argued that this provides a legislative basis for the expenditure: *MYEFO*, p. 152; *Health PAES* pp 18 and 40; *Particulars of Certain Proposed Additional Expenditure*, p. 33; *Particulars of Proposed Additional Expenditure*, p. 40.
Summary: This is one-off expenditure.

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5 Department of Foreign Affairs and Trade, New Colombo Plan, at: www.dfat.gov.au/new-colombo-plan/ (accessed 18 February 2014).

Youth e-mental Health Platform (Program 11.1): The Government will provide $5.0 million over three years (including $2.5 million in administered expenses in 2013-14) to the Young and Well Cooperative Research Centre to establish a new e-mental health platform. The only funding for the department in Appropriation Bill (No.4) is $2.7 million for equity injections. Appropriation Bill (No.3) appropriated $51.6 million to Outcome 11 for administered expenses. Table 2.11.2 in the *Health PAES* indicates that the $2.5 million for funding the platform is in Appropriation Bill (No.3). Item 415.029 of Schedule 1AA of the FMA regulations relates to 'e-Health Implementation' and Item 415.034 relates to 'Mental Health.' These are fairly broadly framed and it might be argued that this provides a legislative basis for the expenditure: *MYEFO*, p. 161; *Health PAES*, pp 15, 23 and 90, *Particulars of Certain Proposed Additional Expenditure*, p, 33, *Particulars of Proposed Additional Expenditure*, p, 41.
Summary: This expenditure relates to funding of a new initiative.

Human Services Portfolio:

Job Commitment Bonus — establishment (Employment Program 1.1, Human Services Program 1.1): The Government will provide $157.1 million over five years to assist long-term unemployed young people to obtain employment by providing Job Commitment Bonuses. This measure includes funding in 2013-14 of $1.2 million in departmental expenses and $400,000 in related capital expenditure to the Department of Human Services as well as $142,000 in departmental expenses to the Department of Employment. No departmental expenses for Employment Program 1.1 were appropriated by Appropriation Bill (No. 4). Only $195,000 in departmental expenses for the Department of Employment was appropriated by Appropriation Bill (No.3).[6] Appropriation Bill (No.4) included $4.2 million for equity injections to the Department of Human Services. It therefore appears that the funding for capital expenses of the Department of Human Services could be in Appropriation Bill (No.4). However, the $1.2 million in departmental expenses for Outcome 1 of the Department of Human Services appears to have been included in the $78 million appropriated for departmental expenses of the Department of Human Services by Appropriation Bill (No.3): *MYEFO,* p. 135, *Employment PAES*, pp 11, 17 and 21, *Human Services PAES*, pp 17, 19, 20 and 26; *Particulars of Certain Proposed Additional Expenditure*, pp 23 and 44; *Particulars of Proposed Additional Expenditure*, pp 25 and 58.
Summary: This expenditure relates to establishment of a new program not continuation of an existing program.

Immigration and Border Protection portfolio

Donation of Bay Class Vessels (Program 1.1): The government will provide $2.4 million over four years to donate four retired Bay Class vessels to assist regional efforts to combat people smuggling. Two vessels will be donated to Sri Lanka and two vessels to Malaysia in 2014-15. Pre-delivery maintenance and vessel training will be provided to the recipient country prior to the vessels being donated. The funding for this measure in 2013-14 will be $216,000 for departmental expenses of the Australian Customs and Border Protection Service (ACBPS). The only funding for ACBPS in Appropriation Bill (No.4) was a $4.2 million

[6] Note that the total of the departmental expenses for the Department of Employment which have been identified in this report as potentially misallocated exceeds the $195,000 in departmental expenses appropriated by Appropriation Bill (No.3).

equity injection. Appropriation Bill (No.3) included an additional appropriation of $30.2 million in departmental expenses for ACBPS. Item 417.024 under Schedule 1AA of the FMA regulations relates to 'Combating People Smuggling—addressing irregular migration in region' and is fairly broadly framed. It might be argued that this provides a legislative basis for the expenditure: *MYEFO,* p. 164; *IBP PAES,* pp 132, 134, 136-137, 139, 164; *Particulars of Certain Proposed Additional Expenditure,* p. 36; *Particulars of Proposed Additional Expenditure*, p. 45.
Summary: This expenditure relates to one-off costs associated with donation of the vessels not continuing activities.

Infrastructure and Regional Development portfolio

Community Development Grants Programme - establishment (Program 3.1): The Government will provide $342.0 million over four years (including $22 million in administered expenses to the Department of Infrastructure and Regional Development in 2013-14) to fund the Community Development Grants program to deliver projects in regional Australia as well as provide funding for other selected regional projects and selected community infrastructure projects. The only appropriations to the department in Appropriation Bill (No.4) relate to operating costs associated with Outcome 1 and non-operating costs. However, only $6.3 million in administered expenses was appropriated to Outcome 3 of the department by Appropriation Bill (No.3)[7]: *MYEFO,* p. 177; *IRD PAES,* pp 19, 25 and 56; *Particulars of Certain Proposed Additional Expenditure,* p. 41; *Particulars of Proposed Additional Expenditure*, p. 50.
Summary: This expenditure relates to establishment of a new program not continuation of an existing program.

Prime Minister and Cabinet Portfolio

Better employment outcomes for Indigenous Australians (Program 2.1) - The Government will provide $45.0 million over two years (including $19.5 million in administered expenses and $459,000 in departmental expenses in 2013-14) to the Department of the Prime Minister and Cabinet to establish at least four Vocational Training and Employment Centres to provide up to 5,000 Indigenous Australians with practical training and guaranteed employment. No money is appropriated for the Prime Minister and Cabinet Portfolio under Appropriation Bill (No. 4) while $96 million was appropriated to Outcome 2 of the department by Appropriation Bill (No.3) (including $6.0 million for departmental expenses and $90.3 million for administered expenses). There appears to be a legislative basis for this measure under Item 5 of Schedule 1AB of the FMA regulations which relates to better employment outcomes for Indigenous Australians: *MYEFO*, p. 182, *PM&C PAES,* pp 29 and 31 *Particulars of Certain Proposed Additional Expenditure,* p. 5, *Particulars of Proposed Additional Expenditure*, p. 53.
Summary: This expenditure relates to the establishment of new vocational training and employment centres.

Establishment and support of the Prime Minister's Indigenous Advisory Council (Program 2.1) - The Government will provide $1.0 million (including $254,000 in administered expenses in 2013-14) to the Department of the Prime Minister and Cabinet to

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[7] The balance of the funds appears to have been redirected from the cessation of other measures such as the Community Infrastructure Grants measure (*MYEFO*, p. 177).

establish and support the Prime Minister's Indigenous Advisory Council. No money is appropriated for the Prime Minister and Cabinet Portfolio under Appropriation Bill (No. 4) while $90.3 million was appropriated to administered expenses related to Outcome 2 of the department by Appropriation Bill (No.3): *MYEFO*, p. 184, *PM&C PAES,* pp 30 and 31, *Particulars of Certain Proposed Additional Expenditure,* p. 5, *Particulars of Proposed Additional Expenditure*, p. 53.
Summary: This expenditure relates to the establishment of a new advisory body.

Treasury portfolio

Strengthening the Reserve Bank Reserve Fund (Program 1.1): The Government will provide a one-off $8.8 billion grant to the Reserve Bank of Australia (RBA) to meet its request to strengthen its financial position to the level considered appropriate by the RBA Board. The Reserve Bank Reserve Fund is established by Section 29 of the *Reserve Bank Act 1959*. However, the Act does not appear to provide a legislative basis for a one-off payment of this nature. It provides only for the crediting of net profits of the Reserve Bank to the fund in accordance with section 30. The *Treasury PAES* makes it clear that the $8.8 billion grant is included in administered expenses appropriated to the Department of the Treasury by Appropriation Bill (No.3): *MYEFO*, p. 194; *Treasury PAES*, pp 12, 13-14; *Particulars of Proposed Additional Expenditure*, p. 60.
Summary: This is one-off expenditure.