

18 March 2014



Australian Government
Department of Finance

David Tune PSM
Secretary

Our Ref: SEC0010010

Dr Andrew Southcott MP
Chair
Joint Committee of Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

Dear Dr Southcott

Please find attached a supplementary submission from the Department of Finance (Finance) to the Joint Committee of Public Accounts and Audit's (JCPAA's) *Inquiry into Public Governance, Performance and Accountability Act 2013 Rules Development*.

This submission provides draft rules relating to procurement and grants and draft guidance developed in support of the proposed draft *Public Governance, Performance and Accountability (PGPA) Rule 2014* lodged with the JCPAA by Finance on 5 March 2014. The submission also includes draft guidance on the duties of officials, draft model resource management instructions and an outline of the approach to key reform initiatives relating to risk and performance.

Finance does not consider the information in this submission to be such that it needs to be kept confidential.

Yours sincerely

David Tune
14 March 2014

Inquiry into the *Public Governance, Performance and Accountability Act 2013* Rules Development

Joint Committee of Public Accounts and Audit

**Supplementary Submission by the
Department of Finance**

18 March 2014

Introduction

1. This supplementary submission to the Joint Committee of Public Accounts and Audit's (JCPAA's) inquiry into the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) Rules development, provides additional information to assist the JCPAA in its deliberations.
2. As foreshadowed in the Department of Finance's (Finance's) initial submission on 5 March 2014, this supplementary submission provides:
 - a draft Commonwealth risk management policy;
 - a draft rule relating to procurement;
 - a draft rule relating to grants;
 - draft guidance developed in support of the proposed draft *Public Governance, Performance and Accountability Rule 2014*;
 - draft guidance on the duties of officials;
 - draft model resource management instructions; and
 - an outline of the approach to developing a performance framework for the Commonwealth.

Draft Commonwealth Risk Management Policy

3. A draft Commonwealth Risk Management Policy has been developed to support accountable authorities of non-corporate Commonwealth entities to effectively discharge their responsibilities under the PGPA Act to establish and maintain an appropriate system of risk oversight and management for the entity and establish and maintain an appropriate system of internal control for the entity.
4. As part of the drafting process, the Risk Reference Group, established under the Public Management Reform Agenda (PMRA) Governance and Risk Management Steering Committee is being consulted. Further to this, consultation was undertaken with key stakeholders in Sydney and Melbourne, including with the Australian Securities and Investments Commission, Reserve Bank of Australia, Australian Broadcasting Corporation, Medibank Private Ltd, Australia Post, Future Fund and the Bureau of Meteorology, as innovators in risk management processes. The JCPAA's views on Attachment A – Draft Commonwealth Risk Management Policy would assist with the development of this policy.

Draft PGPA Rule - Commonwealth Procurement Rules (CPRs) 2014

5. Attachment B – Draft PGPA Rule - Commonwealth Procurement Rules (CPRs) 2014 primarily reflects terminology changes introduced by the PGPA Act and is provided for the information of the JCPAA.
6. Finance has not commenced consultation with stakeholders on the proposed changes, this is expected to commence from April 2014. Following this consultation, further minor amendments may be made prior to finalisation and tabling in the Parliament, although the intention is to retain the current CPR policy settings and scope through the process of transitioning to the PGPA Act.

7. Importantly, the CPRs will continue to require procurement officials in non-corporate Commonwealth entities and prescribed corporate Commonwealth entities to conduct procurement processes in accordance with value for money principles, and to do so in accountable and transparent processes. This includes retaining the expectation that higher valued procurements are conducted through open tendering processes.
8. As part of the update to the CPRs for PGPA Act compliance, Finance has taken the opportunity to reflect recent changes to the procurement framework, summarised below.

Decreasing the construction threshold

9. Under Australia's free trade agreements, the thresholds for procurements of goods/services and construction are adjusted from time to time to account for currency fluctuations. The CPRs have been updated to reflect the change in the construction threshold from \$9.0 million to \$7.5 million. Procurements valued above the construction threshold must comply with the additional rules outlined in Division 2 of the CPRs. This came into effect in January 2014.

Increasing the procurement reporting threshold

10. The updated CPRs also include a change to the AusTender reporting threshold from \$10,000 to \$20,000 for non-corporate Commonwealth entities from 1 July 2014. The increased contract threshold will result in a 0.7% reduction in the total value of procurements reported (\$270 million of \$39 billion in 2012/13) and a nearly 30% reduction in contracts reported (19,000 of 67,800 contracts in 2012/13). Removing the requirement to report low value contracts will retain the transparency of financial commitments being made by agencies while making a significant reduction in administrative and transactional workload. The views of the JCPAA, and other parliamentary stakeholders, on the change to this threshold are welcome.

Draft PGPA Rule - Commonwealth Grants Rules and Guidelines (CGRGs) 2014

11. Attachment C – Draft PGPA Rule - Commonwealth Grants Rules and Guidelines (CGRGs) 2014 primarily reflects terminology and policy changes introduced by the PGPA Act and is provided for the information of the JCPAA.
12. Finance has consulted with stakeholders on the proposed changes, including through the Grants Working Group (with representatives from all portfolio departments and the Australian National Audit Office). The current Commonwealth Grants Guidelines, policy settings and scope will be largely retained through the process of transitioning to the PGPA Act. The drafting of the updated CGRGs makes the status of the elements of the document clearer, with those elements that are mandatory clearly identified, while guidance is identified as non-mandatory better practice.

Draft guidance to support the PGPA Act and rules

13. As outlined in the submission of 5 March 2014, Finance has prioritised the preparation of draft guidance to support the proposed draft PGPA rules relating to:
- Preventing, detecting and dealing with fraud (*prepared by the Attorney-General's Department*);
 - Audit committees for Commonwealth entities and Commonwealth companies;
 - Banking of relevant money received by Ministers and officials;
 - Receipts collected by non-corporate Commonwealth entities;
 - Investment by Commonwealth entities;
 - Insurance;
 - Payment of an amount owed to a person at time of death;
 - Other CRF money;
 - Minister to inform Parliament of certain events;
 - Requests for discretionary financial assistance under the PGPA Act 2013; and
 - Approval and commitment of relevant money.
14. Finance has also developed guidance outlining the new duties that will apply to all officials under the PGPA Act. In particular, this relates to sections 25 to 29 of the PGPA Act and it seeks to provide a uniform set of expected behaviours that covers all officials in meeting high standards of governance, performance and accountability. These duties are very similar to those applying to APS employees under the *Public Service Act 1999*, however the PGPA Act also extends to a similar number of non-APS employees that are Commonwealth officials.
15. The above draft guidance is attached at Attachment D1 – 12 and is provided for the information of the JCPAA.

Draft Model Resource Management Instructions

16. Finance has prepared draft Resource Management Instructions (RMIs) at Attachment E as a tool to assist Commonwealth entities to review their internal control processes for 1 July 2014 and maintain them thereafter. These RMIs are based on the model Chief Executive's Instructions (CEIs) (issued under Finance Circular 2011/05) which were developed collaboratively with Commonwealth agencies and relate to the *Financial Management and Accountability Act 1997*. The working group that drafted the model CEIs in 2011 will be reconvened to consider the draft RMIs. This draft of the RMIs is provided for the information of the JCPAA.
17. The RMIs have been drafted to apply specifically to non-corporate Commonwealth entities. Consultations are underway with corporate Commonwealth entities to determine the utility of a similar tool for those entities.

Performance Framework

18. The PMRA comprises a staged approach to reforming public sector governance, performance and accountability arrangements. A key element of the second stage, immediately following the introduction of the PGPA Act from 1 July 2014, will focus on improving the quality of planning, performance information and evaluation within

government to improve accountability to Ministers, the Parliament and the public through the development of a performance framework. The performance framework would be in place for early 2015, as outlined in paragraphs 29-30 of the 5 March 2014 submission.

19. Attachment F – Proposed approach to the Performance Framework under the PGPA Act sets out Finance’s proposed approach to the development of a performance framework for Commonwealth entities. Finance would be interested in the JCPAA’s views on the proposed approach, and in engaging further with the committee through the development phase of the framework. Noting that the proposed framework includes rules to be made under the PGPA Act, and affects key documents like Portfolio Budget Statements and Annual Reports, Finance will be guided by the JCPAA’s requirements on formal consultation to finalise the performance framework.

Index of Attachments

Attachment A – Draft Commonwealth Risk Management Policy

- *Attachment A1 – Draft Commonwealth Risk Management Policy - Diagram*
- *Attachment A2 – Draft Commonwealth Risk Management Policy - Factsheet*

Attachment B – Draft PGPA Rule – Commonwealth Procurement Rules (CPRs) 2014

Attachment C – Draft PGPA Rule – Commonwealth Grants Rules and Guidelines (CGRGs) 2014

Attachment D – Suite of Draft Guidance

- *Attachment D1 – Preventing, detecting and dealing with fraud (prepared by the Attorney-General's Department);*
- *Attachment D2 – Audit committee for Commonwealth entities and Commonwealth companies;*
- *Attachment D3 – Banking of relevant money received by Ministers and officials;*
- *Attachment D4 – Receipts collected by non-corporate Commonwealth entities;*
- *Attachment D5 – Investment by Commonwealth entities;*
- *Attachment D6 – Insurance;*
- *Attachment D7 – Payment of an amount owed to a person at time of death;*
- *Attachment D8 – Other CRF money;*
- *Attachment D9 – Minister to inform Parliament of certain events;*
- *Attachment D10 – Requests for discretionary financial assistance under the PGPA Act 2013*
- *Attachment D11 – Approval and commitment of relevant money; and*
- *Attachment D12 – Duties of officials*

Attachment E – Draft Model Resource Management Instructions

- *Attachment E1 – Draft guidance - Resource Management Instructions*

Attachment F – Proposed approach to the Performance Framework under the PGPA Act

- *Attachment F1 – Proposed approach to the Performance Framework under the PGPA Act - Graphic*