



Australian Government
Department of Finance

Rosemary Huxtable PSM
Secretary

Our Ref: MC20-001109

Senator Katy Gallagher and Senator James Paterson
Chair and Deputy Chair
Senate Select Committee on COVID-19
Parliament House
CANBERRA ACT 2600

Dear Senators Gallagher and Paterson

I refer to your correspondence as Chair and Deputy Chair respectively of the Senate Select Committee on COVID-9 (the Committee) to the Minister for Finance, Senator the Hon Mathias Cormann, dated 17 April 2020.

I note that the Advance to the Finance Minister (AFM) provisions under the annual Appropriations Acts, for which the Department of Finance has responsibility, are a key enabling capability for the Australian Government's response to the COVID-19 pandemic. I have therefore attached information setting out these provisions, eligibility requirements and the assurance reviews that the Auditor General has advised me will be conducted in this context.

I trust that this information will be of use to the Committee in its deliberations.

Yours sincerely

Rosemary Huxtable
Secretary

☞ May 2020

Advance to the Finance Minister (AFM) provisions

AFM provisions under the annual Appropriation Acts enable urgently required allocations to be issued to entities during the year. Allocations are made through a Determination by the Minister for Finance (Finance Minister) up to a statutory limit in the annual Appropriation Acts.

The AFM is a long-standing provision that has been included in Annual Appropriation Acts to accommodate urgent and unforeseen expenditure where the passage of additional Appropriation Acts is either not possible or not practical.

In recent years, Appropriation Act (No.1) has provided an AFM of \$295 million for the ordinary annual services of government and Appropriation Act (No.2) has provide an AFM of \$380 million for the non-ordinary annual services of government (which may include, for example, major capital expenditure or payments to states, territories and local governments). Within the annual cycle, Appropriation Acts (No.3 and No.4) reset the AFM limits in Appropriation Acts (No.1 and No.2), effectively replenishing the AFM provisions to account for any allocations that have been made in that year to date.

Given the impacts of the COVID-19 pandemic and the unknown economic and health responses that may be required, and the possibility that Parliament may not be able to pass additional Appropriation Acts in a timely manner, Parliament has supported extraordinary AFM provisions in 2019-20 and in the 2020-21 Supply Acts.

2019-20 AFM provisions

The AFM provisions available in the 2019-20 financial year are:

\$17,095 million is provided for the ordinary annual services of government, across the following annual Appropriation Acts:

- Section 10 of *Appropriation Act (No.1) 2019-20* – \$295 million
- Section 10 of *Appropriation (Coronavirus Economic Response Package) Act (No.1) 2019-20* - \$800 million
- Section 10 of *Appropriation Act (No.5) 2019-20* - \$16,000 million
 - Allocations from the AFM provision in *Annual Appropriation Act (No.5) 2019-20* reduce the AFM available to be allocated in the 2020-21 financial year under section 10 of *Supply Act (No.1) 2020-21* - \$16,000 million – by a corresponding amount

\$25,580 million is provided for the non-ordinary annual services of government across the following annual Appropriation Acts:

- Section 12 of *Appropriation Act (No.2) 2019-20* – \$380 million
 - Section 12 of *Appropriation Act (No.4) 2019-20* reset the AFM of *Appropriation Act (No.2) 2019-20* to \$380 million. Prior to royal assent of *Appropriation Act (No.4) 2019-20* on 26 March 2020, two AFMs totalling \$300

million had been issued to the Department of Health (details set out at Table 1).

- Section 12 of *Appropriation (Coronavirus Economic Response Package) Act (No.2) 2019-20* – \$1,200 million
- Section 12 of *Appropriation Act (No.6) 2019-20* - \$24,000 million
 - Allocations from the AFM provision in *Annual Appropriation Act (No.6) 2019-20* reduce the AFM available to be allocated in the 2020-21 financial year under section 12 of *Supply Act (No.2) 2020-21* - \$24,000 million – by a corresponding amount

Eligibility requirements and transparency

An AFM may only be issued if the Finance Minister is satisfied that:

- 1) there is an urgent need for expenditure in the current year that is not, or is insufficiently provided for in the relevant Appropriation Act; and
- 2) the additional expenditure is required due to:
 - a) an erroneous omission or understatement in that Act; or
 - b) the additional expenditure was unforeseen until after the last day on which it was practicable to provide for it in the relevant Bill for that Act (before the relevant Bill was introduced into the House of Representatives).

The eligibility criteria for an AFM requires the relevant expenditure to be in the current year. As a result, it is not possible to apply for an AFM to be provided for a future year, nor is it possible for an AFM to be allocated from a prior year Appropriation Act.

An important feature of all AFMs is that they lapse at the end of the financial year in which they were allocated, meaning that any amounts unspent are no longer available to entities following the end of the financial year.

Amounts issued under an AFM may only be spent on the specific purpose for which the AFM was provided. Should an AFM allocated by the Finance Minister exceed the required expenditure, any unspent amount will be administratively quarantined by the Department of Finance ahead of it legally lapsing at the end of the financial year.

Given the unique circumstances associated with the COVID-19 pandemic and to provide Government with flexibility in its policy responses to the emerging situation, the AFM provisions in *Appropriation Acts (No.5 and No.6) 2019-20* and *Supply Acts (No.1 and No.2) 2020-21* were expanded to provide \$40,000 million in total across the two financial years. As part of this arrangement, the AFM provisions in *Appropriation Acts (No.5 and No.6) 2019-20* and *Supply Acts (No.1 and No.2) 2020-21* provide that any AFM allocated under *Appropriation Acts (No.5 and No.6) 2019-20* reduce the AFM available under *Supply Acts (No.1 and No.2) 2020-21* by a corresponding amount, so that no more than \$40 billion may be allocated across these Acts.

AFM Determinations are legislative instruments under the *Legislation Act 2003*, registered on the Federal Register of Legislation and tabled in the Parliament. They are each accessible at <https://www.legislation.gov.au> under the heading “Legislative Instruments”.

An AFM may only be issued to an entity listed in the Schedule to the Act. While the Schedules to *Appropriation Acts (No.1, No.2, No.5 and No.6) 2019-20* and *Supply Acts (No.1 and No.2) 2020-21* list all budget-funded government entities, the Schedules to *Appropriation (Coronavirus Economic Response Package) Acts (No.1 and No.2) 2019-20* list only those entities which received funding through these Act. As such, only the entities listed in the Schedules to the *Appropriation (Coronavirus Economic Response Package) Acts (No.1 and No.2) 2019-20* are able to receive an AFM allocated under the AFM provisions within these Acts.

Assurance reviews

On 23 April 2020, the Auditor General advised the Finance Secretary that he would conduct monthly assurance reviews on AFM allocations over a six month period, in accordance with section 19A of the *Auditor-General Act 1997*. Reports from the Auditor General on the AFM assurance reviews are expected to be tabled in Parliament each month.

Additionally, under a longstanding arrangement, the Finance Minister tables an Annual Report in Parliament on use of the AFM during the prior financial year. This Annual Report, prepared by Finance, is subject to an assurance review by the Australian National Audit Office (ANAO). The ANAO's assurance report forms part of the tabled Annual Report.

Table 1: 2019-20 AFMs issued to 30 April 2020

No	Appropriation Source	Receiving entity	Determination Registration	Purpose	Amount (\$m)	Determination Date
1	<i>Appropriation Act (No.2) 2019-20</i>	Department of Health	https://www.legislation.gov.au/Details/F2020L00220	Procurement of masks and other emergency medical or emergency health equipment for the National Medical Stockpile	100	4 March 2020
2	<i>Appropriation Act (No.2) 2019-20</i>	Department of Health	https://www.legislation.gov.au/Details/F2020L00235	Procurement of masks and other emergency medical or emergency health equipment for the National Medical Stockpile	200	9 March 2020
3	<i>Appropriation (Coronavirus Economic Response Package) Act (No.2) 2019-20</i>	Department of Health	https://www.legislation.gov.au/Details/F2020L00402	Procurement of masks and other emergency medical or emergency health equipment	800	3 April 2020
4	<i>Appropriation (Coronavirus Economic Response Package) Act (No.2) 2019-20</i>	Department of Health	https://www.legislation.gov.au/Details/F2020L00421	Procurement of masks and other emergency medical or emergency health equipment	400	9 April 2020
5	<i>Appropriation Act (No.2) 2019-20</i>	Department of Health	https://www.legislation.gov.au/Details/F2020L00422	Procurement of masks and other emergency medical or emergency health equipment	380	9 April 2020
6	<i>Appropriation Act (No.1) 2019-20</i>	Department of Industry, Science, Energy and Resources	https://www.legislation.gov.au/Details/F2020L00467	Lease costs of storage in the United States Strategic Petroleum Reserve for purchases of oil stocks	2.5	23 April 2020
7	<i>Appropriation Act (No.6) 2019-20</i>	Department of Industry, Science, Energy and Resources	https://www.legislation.gov.au/Details/F2020L00468	Purchase of oil stocks	91.5	23 April 2020

Note: Royal Assent to Appropriation Acts No.3 and No. 4 on 26 March 2020 had the effect of resetting the balance of the AFM provision in Appropriations Acts (No.1 and No.2)