

# Chapter 1

## Referral

1.1 On 19 March 2015, the following matters were referred to the Senate Finance and Public Administration References Committee (committee) for inquiry and report by 18 June 2015:

The impact on service quality, efficiency and sustainability of recent Commonwealth Indigenous Advancement Strategy tendering processes by the Department of the Prime Minister and Cabinet, with particular regard to:

- (a) the extent of consultation with service providers concerning the size, scope and nature of services tendered, determination of outcomes and other elements of service and contract design;
- (b) the effect of the tendering timeframe and lack of notice on service collaboration, consortia and the opportunity for innovative service design and delivery;
- (c) the evidence base and analysis underlying program design;
- (d) the clarity of information provided to prospective tenderers concerning service scope and outcomes;
- (e) the opportunities created for innovative service design and delivery, and the extent to which this was reflected in the outcomes of the tender process;
- (f) the number of non-compliant projects, the nature of the non-compliance, if and how they were assisted, and how many of these were successful;
- (g) analysis of the types, size and structures of organisations which were successful and unsuccessful under this process;
- (h) the implementation and extent of compliance with Commonwealth Grant Guidelines;
- (i) the potential and likely impacts on service users concerning service delivery, continuity, quality and reliability;
- (j) the framework and measures in place, if any, to assess the impacts of these reforms on service user outcomes and service sustainability and effectiveness;
- (k) the information provided to tenderers about how decisions are made, feedback mechanisms for unsuccessful tender applicants, and the participation of independent experts in tender review processes to ensure fairness and transparency;
- (l) the impact on advocacy and policy services across the sector;
- (m) factors relating to the efficient and effective collection and sharing of data on outcomes within and across program streams to allow actuarial

analysis of program, cohort and population outcomes to be measured and evaluated;

- (n) the extent of contracts offered, and the associated conditions, to successful applicants;
- (o) the effect of mandatory incorporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* on Indigenous organisations receiving grants of \$500,000 or more per annum;
- (p) the effect and cost impact of delays in the assessment process and the extension of interim funding on organisations pending the outcome of the Indigenous Advancement Strategy; and
- (q) any other related matters.

1.2 The Senate subsequently granted an extension of the reporting date to 26 November 2015.<sup>1</sup> On 9 November 2015, the Senate granted an extension of time for reporting until 3 March 2016<sup>2</sup> which was subsequently extended to 16 March 2016.<sup>3</sup>

### **Conduct of the inquiry**

1.3 The inquiry was advertised in *The Australian* and on the committee's website. The committee also contacted a number of relevant individuals and organisations to notify them of the inquiry and invite submissions by 30 April 2015.

1.4 The committee received 86 public submissions. A list of individuals and organisations that made public submissions, together with other information authorised for publication by the committee is at Appendix 1. The committee held public hearings in Canberra on 29 June 2015 and 1 March 2016. A public hearing was also held in Darwin on 16 February 2016. A list of witnesses who gave evidence at the public hearing is at Appendix 2.

1.5 Submissions, additional information and Hansard transcripts of evidence may be accessed through the committee website at: [www.aph.gov.au/senate\\_fpa](http://www.aph.gov.au/senate_fpa).

### **Acknowledgements**

1.6 The committee thanks all the individuals and organisations that made submissions to this inquiry and appeared at the public hearing.

### **Background to the Indigenous Advancement Strategy**

1.7 Streamlining of the government's Indigenous programs was suggested as an efficiency measure by the National Commission of Audit (NCA) in its Phase One report of February 2014, which recommended:

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1 *Journals of the Senate*, No. 95 – 15 June 2015, p. 2644.

2 *Journals of the Senate*, No. 123 – 9 November 2015, p. 3308.

3 *Journals of the Senate*, No. 138 – 22 February 2016, p. 3749.

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...significantly consolidating and rationalising Commonwealth Indigenous-specific programmes, bodies, committees, councils and boards, and ensuring programmes and reporting are focussed on outcomes. The existing 150 or so Commonwealth Indigenous programmes and activities should be consolidated into no more than six or seven programmes.<sup>4</sup>

1.8 The Department of the Prime Minister and Cabinet (PM&C or the Department) told the committee that groundwork for streamlining Indigenous programs had been carried out by the Australian National Audit Office (ANAO) and the Department of Finance.<sup>5</sup> Ms Liza Carroll, Associate Secretary, Indigenous Affairs, PM&C, explained that the ANAO report:

...found that since July 2007 a total of 820 organisations had received funding from 84 different programs. On average each organisation had 4.5 funding agreements, and they were required to submit over 20,000 performance and financial acquittal reports, and that is the key driver for the reform. We acknowledge, though, that clearly it is a big step for organisations—in particular, Aboriginal and Torres Strait Islander organisations—to make the change.<sup>6</sup>

1.9 The 2014-15 Budget announced that all of the government's programs, grants and activities for Indigenous Australians would be rationalised and streamlined under the new Indigenous Advancement Strategy (IAS), which would be administered by PM&C.<sup>7</sup>

1.10 The 2014-15 Budget reported a \$534.4 million saving to the Indigenous Affairs portfolio through the rationalisation of Indigenous programs. According to the 2014-15 Budget papers, the rationalisation would eliminate duplication and waste.<sup>8</sup> Savings from the health portfolio measures were to be reinvested in the *Medical Research Future Fund*, with the other savings redirect to repair the Budget and fund policy priorities.<sup>9</sup>

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4 Recommendation 35 (a) of the *Report of the National Commission of Audit, Phase One – February 2014*, p. 177.

5 Audit report No. 26, 2011-12, *Capacity development for Indigenous service delivery*, 9 February 2012. Note that this report preceded the work of the NCA and its recommendations.

6 *Committee Hansard*, 29 June 2015, pp 44-45.

7 'Indigenous Affairs Programmes – rationalisation' in *Budget 2014-15, Budget Measures – Budget Paper No. 2 2014-15*, p. 185.

8 'Indigenous Affairs Programmes – rationalisation' in *Budget 2014-15, Budget Measures – Budget Paper No. 2 2014-15*, p. 185. The figure of \$534.4 million includes \$3.5 million in savings from the Torres Strait Regional Authority.

9 'Indigenous Affairs Programmes – rationalisation' in *Budget 2014-15, Budget Measures – Budget Paper No. 2 2014-15*, p. 185. See also, Ms Liza Carroll, Associate Secretary, Indigenous Affairs, Department of the Prime Minister and Cabinet (PM&C), Senate Finance and Public Administration Legislation Committee, *Estimates Hansard*, 30 May 2014, p. 78.

### ***Implementation and objectives of the IAS***

1.11 From 1 July 2014, over 150 programs previously delivered across a range of government portfolios were consolidated into five IAS funding streams, administered by PM&C, namely:

- Jobs, Land and Economy;
- Children and Schooling;
- Safety and Wellbeing;
- Culture and Capability; and
- Remote Australia Strategies.<sup>10</sup>

1.12 The stated objective of the IAS is to improve the lives of Indigenous Australians, with a particular focus on achieving this by:

- getting Indigenous Australians into work, fostering Indigenous business and ensuring Indigenous people receive economic and social benefits from the effective management of their land and native title rights;
- ensuring children go to school, improving literacy and numeracy and supporting families to give children a good start in life;
- increasing Year 12 attainment and pathways to further training and education (including higher education);
- making communities safer so that Indigenous people enjoy similar levels of physical, emotional and social wellbeing as that enjoyed by other Australians;
- increasing participation and acceptance of Indigenous Australians in the economic and social life of the nation; and
- addressing the disproportionate disadvantage in remote Australia.<sup>11</sup>

1.13 The IAS is also intended to make the grants process more efficient and effective for applicants. In July 2014, PM&C released the IAS Guidelines to advise potential applicants for funding, which explained that:

The Strategy has been designed to reduce red tape and duplication for grant funding recipients, increase flexibility, and more efficiently provide evidence based grant funding to make sure that resources hit the ground and deliver results for Indigenous people.<sup>12</sup>

1.14 PM&C has stated that the IAS will be supported by the establishment of a dedicated Regional office network in PM&C:

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10 'Indigenous Affairs Programmes – rationalisation' in *Budget 2014-15, Budget Measures – Budget Paper No. 2 2014-15*, p. 185.

11 'About: Indigenous Advancement Strategy' at [www.dpmc.gov.au/indigenous-affairs/about/indigenous-advancement-strategy](http://www.dpmc.gov.au/indigenous-affairs/about/indigenous-advancement-strategy) (accessed 20 June 2015).

12 IAS Guidelines, p. 3.

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The IAS is supported by a new Regional office network in PM&C, which positions senior decision makers close to the people and communities they work with. Staff in the PM&C Network work closely with funded providers and communities to develop and implement local solutions to improve outcomes in the Government's priority areas.<sup>13</sup>

1.15 The IAS Guidelines provide further detail about the nature and purpose of this network:

Staff in the PM&C Network will engage with communities to negotiate and implement tailored local solutions designed to achieve results against government priorities. Implementation of the PM&C Network will commence from 1 July 2014 with a 12-18 month transition period.<sup>14</sup>

1.16 Further information on the network was provided in the submission from PM&C which included a map of the regional network:

The Department has refocussed its regional Network to spend more time working directly with communities to drive practical change. Network staff will play an integral role in grants administration. The Network has moved from a state and territory based structure to a regional model. The new model comprises 12 regions across Australia reflecting regional similarities in culture, language, mobility and economy.

The PM&C network comprises of a National Director, based in Canberra, and Regional Managers based in each region. The National Director oversees the Network. Network staff report to the National Director, through their Regional Manager, ensuring greater responsiveness and quicker decisions. Regional Managers have a leadership role in ensuring all activities support improved outcomes in Indigenous communities, and that programmes are meeting the objectives of Government.

There are 37 offices in capital cities, regional and remote locations (Attachment C). The Network has an additional presence in approximately 75 communities. The Network will work closely with communities and other local stakeholders to ensure the implementation of tailored local solutions to improve outcomes and support innovative solutions.<sup>15</sup>

### ***Governance***

1.17 The Minister for Indigenous Affairs has overall responsibility for administering the IAS, as outlined by the IAS Guidelines:

The final decision about grant funding will be made by:

- the Minister on advice provided by the Department; or
- the Department where the Minister delegates authority to the Department; or

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13 'About: Indigenous Advancement Strategy' at [www.dpmc.gov.au/indigenous-affairs/about/indigenous-advancement-strategy](http://www.dpmc.gov.au/indigenous-affairs/about/indigenous-advancement-strategy) (accessed 20 August 2015).

14 IAS Guidelines, p. 3.

15 *Submission 48*, p. 9 and Attachment C.

- where funding is to perform representative body functions under the *Native Title Act 1993*, by the Secretary of the Department.<sup>16</sup>

1.18 PM&C is responsible for developing and disseminating all information and application material for applicants to funding rounds, in accordance with the aims and objectives of the IAS. The Department is also responsible for administering the application process and maintaining oversight of programs undertaken by successful applicants:

The Department will be responsible for notifying applicants of the outcomes of any Grant Funding arrangement process and will be responsible for responding to queries in relation to the application process, and for resolving any uncertainties that may arise in relation to application requirements. The Department will also manage the Grant Funding arrangements under the Strategy and undertake all assessment processes. The Department will also be responsible for all management and monitoring requirements of successful applicants in any process under the Strategy, including managing Grant Funding agreements.<sup>17</sup>

#### ***Total amount of Indigenous funding administered under the IAS by PM&C***

1.19 The total Indigenous-specific funding currently managed by PM&C is \$8.5 billion, which consists of:

- \$4.8 billion over four years to the IAS;
- \$3.7 billion allocated through National Partnership Agreements, Special Accounts, Special Appropriations.<sup>18</sup>

1.20 The IAS Guidelines also make it clear that some funding for Indigenous programs remain with other departments and PM&C portfolio bodies:

A significant level of grant funding is also available through Indigenous-specific and mainstream programmes delivered by other agencies, as well as PM&C Indigenous Portfolio bodies.<sup>19</sup>

#### ***Accessing funding under the IAS***

1.21 The IAS Guidelines state that funding for relevant programs can be accessed 'through a variety of means and at various times throughout the year'.<sup>20</sup> However, the guidelines make it clear that the 'bulk of funding' under the IAS will be delivered by 'open competitive grants rounds' that will:

...open and close to applications at nominated dates, with eligible applications assessed against the assessment criteria set out for the relevant

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16 IAS Guidelines, p. 9.

17 IAS Guidelines, p. 9.

18 IAS Guidelines, p. 3.

19 IAS Guidelines, p. 3.

20 IAS Guidelines, p. 5.

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outcome in the application kit, and then prioritised against competing, eligible application for the available grant funding.<sup>21</sup>

1.22 The guidelines also outline some further funding opportunities that are available under the IAS outside of the competitive grants rounds, namely:

- **targeted or restricted grant** rounds where the Department approaches particular, potential applicant or applicants and invites them to submit a proposal to deliver an outcome. Targeted grant rounds may be open to existing grant funding recipients as well as other entities. The targeted entities will be selected based on the specialised requirements of the outcome/s required. Targeted rounds will be open to a small number of potential providers based on specialised requirements.
- **direct grant allocation processes** where the Department directly approaches a new provider or an existing Grant Funding Recipient to expand their current service delivery and/or undertake new service delivery. In these cases, the Department may assess the grant funding recipients current performance and capacity to deliver an expanded service, or capability to deliver a new service.
- **a demand-driven process** where applications may be submitted at any time and will be assessed on a value for money basis against clear selection criteria.<sup>22</sup>

1.23 Moreover, the guidelines also provide for PM&C to make 'one-off or ad hoc grants that do not involve a planned selection process, but are designed to meet a specific need, often due to urgency or other circumstances'.<sup>23</sup>

### ***Incorporation requirements***

1.24 The IAS contains a new stipulation that organisations receiving more than \$500,000 in a single year from an IAS grant must be incorporated under Commonwealth legislation:

Organisations receiving grants of \$500,000 or more in a single financial year from funding administered by the Indigenous Affairs portfolio within the Department of the Prime Minister and Cabinet are required to incorporate under Commonwealth legislation.<sup>24</sup>

1.25 Under this stipulation, Indigenous organisations must incorporate under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act), and other organisations must incorporate under the *Corporations Act 2001* (Corporations Act).<sup>25</sup>

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21 IAS Guidelines, p. 5.

22 IAS Guidelines, p. 5.

23 IAS Guidelines, p. 5.

24 IAS Guidelines, p. 3.

25 IAS Guidelines, p. 8.

1.26 The IAS Guidelines state that organisations are permitted to apply for funding before becoming incorporated, but must incorporate within six months of being awarded funding, unless granted an exemption. The guidelines also make it clear that the costs of incorporating must be met by the organisation:

Organisations will have six months from the date of execution of the Agreement or contract variation to comply with the requirement. The Department may consider longer transition periods for organisations that can demonstrate that more time is required to comply with the requirement. Costs associated with the administration and registration of organisations transferring from one regulatory regime to another are to be met by the organisation.<sup>26</sup>

1.27 Once incorporated, the IAS Guidelines stipulate that organisations receiving any amount of funding from future IAS grant rounds must continue to be incorporated bodies.<sup>27</sup>

1.28 The PM&C website states that the requirement for incorporation is to ensure organisations receiving Commonwealth funding for Indigenous programs 'have high standards of governance and accountability'.<sup>28</sup> However, the Minister can make exemption to the requirement for incorporation on a 'case-by-case basis', taking into account 'information demonstrating that the organisation is well-governed, high-performing and low risk'.<sup>29</sup>

### ***Timeline for the first IAS funding round***

1.29 The IAS commenced on 1 July 2014, when the government's 150 Indigenous programs were consolidated into five IAS funding streams administered by PM&C, as set out in the 2014-15 Budget.<sup>30</sup> PM&C released the IAS Guidelines on 1 July 2014, which set out the terms and conditions for applicants wishing to access funding.<sup>31</sup>

1.30 On 8 September 2014, PM&C announced there would be a six-week open, competitive grant round for funding under the IAS, commencing on Monday 8 September 2014 and closing at 2.00 pm AEST on Friday 17 October 2014.<sup>32</sup>

1.31 In announcing the first IAS funding round, Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, stated:

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26 IAS Guidelines, p. 8.

27 IAS Guidelines, p. 8.

28 'Incorporation requirements' at [www.dpmmc.gov.au/indigenous-affairs/incorporation-requirements](http://www.dpmmc.gov.au/indigenous-affairs/incorporation-requirements).

29 IAS Guidelines, p. 9.

30 'Indigenous Affairs Programmes – rationalisation' in *Budget 2014-15, Budget Measures – Budget Paper No. 2 2014-15*, p. 185.

31 See Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, 'A new era of Indigenous grant funding commences', 8 September 2014.

32 The Hon Nigel Scullion, Minister for Indigenous Affairs, 'A new era of Indigenous grant funding commences', 8 September 2014.

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This first round will provide funding for activities that commence from January or July 2015 and provides the opportunity for organisations with a current funding agreement expiring in the 2014-15 financial year to apply for future funding...It also gives the opportunity for new organisations to apply for funding under the Indigenous Advancement Strategy.<sup>33</sup>

1.32 The minister commented that the application process made it easy for applicants to apply for funding from more than one IAS stream:

Organisations will be able to apply for funding from one or more of the IAS programmes through a single application, and receive a single funding agreement...This will make it easier to apply and will reduce red tape with one funding agreement for multiple programmes and deliverables.<sup>34</sup>

1.33 The minister also noted that stakeholders could call the local PM&C offices, on a 1800 telephone number if they had any questions about the IAS.<sup>35</sup>

1.34 The Department outlined that public consultation was conducted throughout August and early September, and PM&C Network staff ran a series of public information forums for key regional stakeholders. An open information session was held at every location where the Department has an on-ground presence.<sup>36</sup>

1.35 Following the closing of the application period on 17 October 2014, PM&C noted there were a substantial number of non-compliant applications received. The Department considered that the IAS would achieve a 'wrong outcome' if these applications were not included. Given this, the minister decided that the non-compliant applications should be included.<sup>37</sup>

1.36 On 24 November 2014, the minister announced that more time was needed to assess the funding applications and that PM&C had identified 75 service providers which may not have applied for funding through the grant round. As a result the minister announced that organisations with contracts expiring on 31 December 2014 would receive a six month funding extension and outcomes from the round should be known in early March 2015.<sup>38</sup>

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33 The Hon Nigel Scullion, Minister for Indigenous Affairs, 'A new era of Indigenous grant funding commences', 8 September 2014.

34 The Hon Nigel Scullion, Minister for Indigenous Affairs, 'A new era of Indigenous grant funding commences', 8 September 2014.

35 The Hon Nigel Scullion, Minister for Indigenous Affairs, 'A new era of Indigenous grant funding commences', 8 September 2014. The 1800 helpline is discussed further in chapter 3.

36 *Submission 48*, p. 11.

37 Ms Carroll, PM&C, *Committee Hansard*, 29 June 2015, p. 53.

38 Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, 'Indigenous Grant Round', Media release, 24 November 2014. The ad hoc nature of funding extensions and their effect on service providers, as well as on their staff and clients, is discussed further in chapter 3.

1.37 Following the announcement of the funding outcomes (\$860 million worth of funding allocated to 964 organisations to deliver 1, 297 projects) on 4 March 2015,<sup>39</sup> and while the negotiation of funding agreements was occurring, PM&C undertook a 'gap filling' process where possible gaps in service provision were conveyed through the following sources: negotiations with individual service providers around their contract; regional managers; and individuals/organisations which contacted PM&C directly. PM&C described this last process as 'less systematic'.<sup>40</sup> It would also appear that as well as contacting PM&C directly some individuals/organisations contacted the minister directly.<sup>41</sup>

1.38 On 24 March 2015, the minister announced that a list of organisations recommended for funding under the IAS had been published on the PM&C website. The minister noted that that contract negotiations were ongoing and funding amounts would be published when the negotiations are complete and details of each grant will be listed within 14 days of each agreement taking effect.<sup>42</sup>

1.39 On 27 May 2015 the minister 'announced a number of additional grants aimed at providing longer funding agreements and ensuring that the service delivery gaps were filled'.<sup>43</sup> This announcement on 27 May 2015, increased funding by \$240 million to \$1 billion, with 996 organisations receiving funding for over 1, 350 projects. The minister stated that:

...the increase from the initial \$860 million was a result of the Government honouring its commitment to provide longer funding agreements for important frontline services and ensuring that any gaps that emerged as part of the round were filled as quickly as possible.<sup>44</sup>

1.40 IAS funding was scheduled to commence on 1 July 2015. However, at the committee's hearing on 29 June 2015, PM&C told the committee that while 72 per cent of the funding agreements had been executed, 90 per cent of the negotiations were complete.<sup>45</sup>

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39 Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, '\$860 million investment through Indigenous Advancement Strategy Grants Round', Media release, 4 March 2015.

40 Ms Carroll, PM&C, *Committee Hansard*, 29 June 2015, p. 53.

41 North Australian Indigenous Land and Sea Management Alliance, *Submission 59*, pp 9-10; Danila Dilba, *Submission 66*, p. 8.

42 Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, 'IAS recommended organisations list released', Media release, 24 March 2015.

43 Ms Carroll, PM&C, *Committee Hansard*, 29 June 2015, p. 45.

44 Senator the Hon Nigel Scullion, Minister for Indigenous Affairs, 'IAS grant round investment totals \$1 billion', Media release, 27 May 2015.

45 Ms Carroll, PM&C, *Committee Hansard*, 29 June 2015, pp 45, 55.

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1.41 In late June 2015, PM&C announced there would be 'an external review of the IAS guidelines and the processes associated with the 2014 IAS grant funding round', including consultation with key stakeholders 'over the coming months'.<sup>46</sup>

1.42 The department also told the committee that an internal review was being undertaken by an independent consultant during July 2015, which would consider the PM&C's 'internal processes' including the planning and efficiency of the grants process, the Department's IT and system infrastructure, and relevant internal communication and administrative processes.<sup>47</sup>

### **Structure of the report**

1.43 The following chapters of this report cover the following issues:

- Chapter 2 discusses the program design and delivery framework; and
- Chapter 3 discusses the administration and reviews of the first funding round.

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46 PM&C, Letter and fact sheet for peak bodies on IAS external review, Tabled Document 4, Canberra 29 June 2015; see also Ms Liza Carroll, PM&C, *Committee Hansard*, 29 June 2015, p. 45. These reviews are discussed further in chapter 3.

47 Ms Susan Black, First Assistant Secretary, Program Implementation Taskforce, PM&C, *Committee Hansard*, 29 June 2015, pp 56-57, 59.

