

Australian Electoral Commission

PGPA Act and Rule Independent Review – draft report response

Please find below our comments regarding the Department of Finance's (Finance) draft PGPA Act and Rule Independent Review report.

Recommendation 36

The AEC agrees that the definition of 'consultancy' and the use of the 'consultancy flag' to identify consultancy contracts in AusTender should be clarified to ensure that spending on consultancies is reported consistently and accurately by non-corporate Commonwealth entities in their annual reports.

In February of this year the AEC made submissions on this issue to the Joint Committee of Public Accounts and Audit (JCPAA). As referred to on page 43 of the draft report, the JCPAA had found that relevant data suggested that entities may have been under reporting consultancy contracts. When the AEC considered this statement against its own data it found that the AEC was appropriately identifying and reporting consultancy contracts. The AEC found that guidance provided by the Department of Finance on identifying consultancies could be strengthened to be made more relevant and accessible to officials who may not have a legal or procurement background. For example, there may be benefit in providing guidance or scenarios to assist officials in determining if 'intellectual output' is being developed under a contract. Improving the definition of 'consultancy' and the use of the 'consultancy flag' in AusTender would necessarily be beneficial to those agencies who are experiencing difficulties in this area, and would no doubt make the AEC's own decision-making and reporting more efficient.

Recommendation 37

The AEC notes the proposal that non-corporate Commonwealth entities be required to include in their annual reports:

- (a) total aggregate expenditure on contracts and consultancies and the number of new and ongoing contracts in the reporting period; and
- (b) lists of all organisations and/or individuals that receive 5 per cent or more of the entity's total expenditure on contracts and consultancies respectively (or where this includes fewer than five organisations/individuals, the five that received the greatest level of expenditure).

The AEC considers that this proposal would need to be supported by an improved definition of 'consultancy' as proposed in Recommendation 36. These details may improve transparency of government spending in the area of consultancies and contracts generally, assuming that Parliament has expressed that such information would be useful to its oversight functions.

Of particular concern is the proposal that agencies providing the total aggregate expenditure on all contracts in their annual reports, as all contracts valued at or above \$10 000 (GST incl) are already reported on AusTender including the value of each contract. Requiring that agencies report on total aggregate expenditure on all contracts in their annual reports would impose a significant additional administrative burden. In our view, it would be more administratively efficient to link this additional reporting to data already entered into AusTender. This approach would be consistent with the recent approach to make Senate Order reporting more efficient.

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Should this recommendation be adopted, the AEC requests that thorough guidance be developed to assist agency compliance, and that an adequate period for the adjustment of internal processes and systems be allowed for.

Recommendation 38

The AEC agrees that there would be benefits to Finance enhancing its role in providing advice and support to Commonwealth entities in the manner set out in Recommendation 38. The AEC understands that Finance is already in the process of engaging with other agencies to seek feedback on its guidance material. The AEC has recently participated in this consultation process with Finance and made suggestions, including clarifying the Confidentiality Test and providing 'non-obvious' examples. The AEC would be happy to collaborate further on this issue if requested.

Regards,

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