



## **Other CRF money**

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# Contents

- Audience** 4
- Key points** 4
- Related resources** 4
- 1. Other CRF money is not relevant money** 5
- 2. Developing other CRF arrangements** 5
  - What must other CRF arrangements include? 5
  - When is it appropriate to establish other CRF money arrangements? 6
  - What appropriation will support a particular other CRF money arrangement? 9
- 3. Legal authority to enter into other CRF money arrangements** 10

# Audience

This guide applies to officials of non-corporate Commonwealth entities (NCEs) who:

- have been delegated the power to enter into, vary or administer arrangements in relation to 'other CRF money'
- need to brief their accountable authority about issues relating to other CRF money.

# Key points

- Sometimes the most effective and efficient way to achieve the purposes of a NCE will be to arrange for a person outside the Commonwealth to use or manage money that belongs to the Commonwealth for and on behalf of the Commonwealth.
- Money held for and on behalf of the Commonwealth by a person who is not an official forms part of the Consolidated Revenue Fund (CRF) for the purposes of section 81 of the Constitution and is referred to as 'other CRF money' in the PGPA Act (sections 8, 105(2)):
  - 'other CRF money' is money that makes up part of the CRF **other than** relevant money or money listed in section 29A of the PGPA Rule
- A person outside the Commonwealth using or managing other CRF money is not an official, they are acting as the agent of the Commonwealth, as such:
  - they are not directly subject to the PGPA Act or rules
  - the management of other CRF money is principally addressed through the contractual arrangement.
- The collection and expenditure of other CRF money will need to be credited and debited against an appropriation.

# Related resources

- RMG 203: General duties of officials
- RMG 201: Preventing, detecting and dealing with fraud
- RMG 215: Cooperating with others
- RMG 300: Banking of relevant money received by Ministers and officials
- RMG 400: Approving commitments of relevant money
- Commonwealth Procurement Rules
- Commonwealth Grants Rules and Guidelines
- Estimates Memorandum 2015/24: Retained Receipts – PGPA Act s.74

## 1. Other CRF money is not relevant money

1. Other CRF money is money that forms part of the CRF **other than**:
  - relevant money or
  - money of a kind prescribed by section 29A of the PGPA Rule (section 105(2) of the PGPA Act).
2. The requirements in the PGPA Act and PGPA Rule that apply to relevant money do not apply to other CRF money.
3. Other CRF money arises where a person who is not an official of a NCE or a minister, uses or manages money, by receiving, having custody of or spending money for and on behalf of the Commonwealth—that is, as the legal agent of the Commonwealth. The relationship between the Commonwealth and the person is contractual.
4. Money standing to the credit of a bank account of, or held by, a corporate Commonwealth entity is relevant money, not other CRF money, for the purposes of the PGPA Act.
5. Money that has been paid to another person so that it 'belongs to' that person, such as wages, salaries, superannuation contributions or payments to suppliers in consideration for goods and/or services, is **not** other CRF money – that is, the person will not be acting as the Commonwealth's agent with respect to the money.

## 2. Developing other CRF arrangements

### What must other CRF arrangements include?

6. The PGPA Act provides a mechanism for a NCE to engage a person or organisation outside of the Commonwealth (agent) to use or manage money belonging to the Commonwealth on behalf of the Commonwealth (section 105 of the PGPA Act and section 29 of the PGPA Rule). For example, the other CRF money arrangement can cover:
  - an agent selling Commonwealth property on behalf of the Commonwealth, receives the purchase price and holds the money before remitting it to the Commonwealth or
  - an agent collecting levies or fees payable to the Commonwealth under legislation.
7. In these examples the agent receives and holds money that belongs to the Commonwealth, generally for short periods of time, before remitting the money to the Commonwealth. The arrangement or contract with the agent must address the requirements in section 29 of the PGPA Rule. Specifically other CRF money arrangement **must**:
  - promote the proper use and management of the other CRF money (section 29(2)(a))
  - be in writing (section 29(2)(b)), for purposes of accountability and transparency, and to minimise risks
  - require other CRF money to be banked as soon as is practicable after receipt (section 29(2)(c))

- require the person acting for or on behalf of the Commonwealth to keep proper records in relation to other CRF money (section 29(2)(d)), in such a form that will allow them to be conveniently and properly audited (noting the Commonwealth and the Commonwealth Auditor-General will typically be given right of access to all of the records, and there may also be freedom of information requests)
- require any interest earned on the money must be remitted in full to the Commonwealth (section 29(2)(e) and (f)), noting that these requirements will be based on the best cash outcome for the Commonwealth, balanced against any risks (to encourage other CRF money to remain in an external bank account for the shortest reasonable period of time).
- when payments of other CRF money will be made to a third party (e.g. to a grant recipient), set out the timing and frequency of those payments (section 29(2)(g)).

## When is it appropriate to establish other CRF money arrangements?

8. An official who has the power to enter into other CRF arrangements must exercise that power with the degree of care and diligence that a reasonable person would exercise in the same position ([section 25](#) of the PGPA Act) and act honestly, in good faith and for a proper purpose ([section 26](#) of the PGPA Act). This means being aware of and complying with the directions or instructions of their accountable authority, including to promote the proper use and management (i.e. efficient, effective, economical and ethical) of other CRF money by persons outside the Commonwealth.
9. Other CRF arrangements cannot be used to 'outsource' obligations under the PGPA Act and PGPA Rule (e.g. obligations to report on procurements or grants) to a third party. The PGPA Rule establishes minimum requirements (for control, accountability and transparency) that must be included in all other CRF money arrangements (section 29).
10. Some things an official can consider before entering into an other CRF money arrangement:
  - whether a suitable person or organisation will handle other CRF money. For example, is the person or organisation:
    - well established with a strong reputation for probity?
    - capable of satisfying entity reporting requirements?
    - financially viable with little risk of insolvency?
    - able to demonstrate robust internal procedures and processes for the handling of money?
  - will the arrangement provide value for money (noting that generally, the greater the value, the higher the potential risk to the Commonwealth)?
  - which rules, government policies or decisions will need to be incorporated into the arrangement (e.g. relevant obligations in the Commonwealth Grants Rules and Guidelines or Commonwealth Procurement Rules – noting that some requirements,

such as reporting on AusTender, cannot be managed or fulfilled by a person outside the Commonwealth; therefore it would not be practicable to require a person outside the Commonwealth to do this)?

- whether subcontracting will be permitted and, if so, what controls will be put in place?
- the potential for misuse or mismanagement of the money (section 10 of the PGPA Rule and *RMG 201: Preventing, detecting and dealing with fraud*)?
- which appropriation(s) will be debited and credited in relation to payments and receipts, and when?
- the complexity of transactions, and the level of difficulty to manage them?
- the period, or periods, of time that the person will be handling other CRF money?
- the duration of the arrangement (it is encouraged that an individual arrangement not last more than five years)?
- termination of the arrangement (NCEs often include clauses that allow for termination at any time, taking into account changes in government decisions)?
- the risk of an apparent or actual conflict of interest arising?
- whether the transactions may be contentious (e.g. act of grace payments)?
- the application of other relevant Commonwealth legislation and the laws of other jurisdictions?
- any other risks associated with having a person outside the Commonwealth handle other CRF money?

### **Case Study 1: Arrangement for a person outside the Commonwealth to administer a Commonwealth grants program**

In this case, the relevant entity needs to consider:

- Whether it is necessary for a person outside the Commonwealth to handle the other CRF money and, if so, whether the person is the right person to do so.
- Whether the terms and conditions in the proposed other CRF money arrangement meet the requirements in section *29 of the PGPA Rule*.
- Whether any other terms and conditions are necessary in the contract, for example, the information the person will need to provide to meet its requirements under the Commonwealth Grants Rule and Guidance (such as the requirement to publish information on individual grants no later than 14 working days after the grant takes effect), or other requirements to ensure the person acts in accordance with the law, government policy, applicable grants agreements and internal controls and guidelines issued by the accountable authority.

- The appropriation from which the grants payments will be made (most likely an administered appropriation managed by the NCE).
- The legal authority to enter into the other CRF arrangement. For an arrangement to administer a grants program, the authority is most likely to come from section 32B of the *Financial Framework (Supplementary Powers) Act 1997*, which provides the power to enter into, vary or administer a financial grant arrangement if the grants program is specified in Schedule 1AA or 1AB to the *Financial Framework (Supplementary Powers) Regulations 1997*. The Schedules may list a specific arrangement or grant of financial assistance, a class, or a program under which a grant is made.
- If a minister will approve grants, how to ensure the minister will meet the requirements in section 71 of the PGPA Act and the Commonwealth Grants Rules and Guidance.

### **Case Study 2: Arrangement for a person outside the Commonwealth to collect fees for attendees at a function**

A function is organised where attendees will pay an attendance fee. A person outside the Commonwealth is required to collect the fees paid by attendees, deduct their fee for this service from the amount collected from attendees, and remit the balance to the NCE.

In this case, the relevant entity needs to consider:

- Whether it is necessary for a person outside the Commonwealth to handle the other CRF money and, if so, whether the person is the right person to do so.
- Whether the terms and conditions in the proposed other CRF money arrangement meet the requirements in section 29 of the PGPA Rule.
- Whether any other terms and conditions are necessary in the contract, for example, the NCE will require reports on the total amount collected by the person from the attendees, and the amount deducted to pay the person's fees to enable the correct appropriation to be debited and credited as appropriate, but that might be all as this type of arrangement will generally be a relatively low-risk, uncomplicated arrangement, the terms and conditions may not need more than the mandatory requirements in section 29 of the PGPA Rule.
- The relevant appropriation, as this arrangement relates to the ordinary services of government, the appropriation to be debited is likely to be the departmental appropriation of the NCE. The departmental appropriation may also be able to be credited by the amount of fees collected in accordance with section 74 of the PGPA Act and section 27 of the PGPA Rule.
- The legal authority to enter into the other CRF arrangement. As this arrangement relates to the ordinary services of government, section 23(1) of the PGPA Act is likely to provide the authority to enter into the arrangement.



## What appropriation will support a particular other CRF money arrangement?

11. The collection and expenditure of other CRF money will need to be credited and debited to an existing appropriation. It is important an entity is able to accurately identify which appropriation will support an other CRF arrangement. For cases where no appropriation exists, section 105(3) of the PGPA Act provides a special appropriation for the expenditure of other CRF money. However; this is a very limited appropriation which is only available if:

- the expenditure is in accordance with any requirements prescribed by the rules
- the Finance Minister is satisfied that the expenditure is not authorised by another appropriation. The Finance Minister has not delegated this power.

### **Case Study 3: Sale of property by agent**

An agent sells Commonwealth property on behalf of the Commonwealth and receives the purchase price from which they deduct their service fee and remit the remaining balance of the amount received to the Commonwealth. In this case the entity's departmental appropriation could support the payment by the agent.

In this case the department appropriation could be increased by the receipt in accordance with section 74 of the PGPA Act and section 27 of the PGPA Rule, and any subsequent payments (such as a fee for service to the property manager) could be made by the entity from the departmental appropriation.

### **Case Study 4: Payments by agent**

An organisation manages payments of Commonwealth funding to recipients on behalf of the Commonwealth (such as scholarship payments or a grant program).

In this case the scholarship or grant payments could be supported by the Commonwealth entity's administered appropriation that covered the scholarship or grant program.

### 3. Legal authority to enter into other CRF money arrangements

12. The power for the accountable authority of a NCE to enter into, vary or administer an arrangement generally comes from legislation:
  - section 23(1) of the PGPA Act
  - section 32B of the *Financial Framework (Supplementary Powers) Act 1997* or
  - other specific legislation.
13. The accountable authority can delegate this power to enter into arrangements to officials in the NCE, and may or may not include directions in that delegation. Officials must not enter into, vary or administer any arrangements unless they are authorised to do so. For further information on entering into, varying or administering an arrangement, see [RMG 400: Approving commitments of relevant money](#).