



Australian Government

Australian Government response to the
Senate Rural and Regional Affairs and Transport
References Committee report:

Auditor-General's reports on Tasmanian
Forestry Grants Programs

MARCH 2015

Introduction

Audit of Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program 2011-12 (IGACEP)

In 2012, the Australian National Audit Office (ANAO) conducted a performance audit of IGACEP.

The report of the audit was tabled in Parliament on 21 February 2013. The response of the Department of Agriculture agreeing to the three recommendations of the report was included in the tabled report. The report's recommendations were:

Recommendation 1

To improve the quality and transparency of grant assessment processes for future grants programs, the ANAO recommends that DAFF reinforce the:

- obligations to manage programs in accordance with approved program guidelines and the Commonwealth Grant Guidelines; and
- importance of retaining documentation to appropriately evidence the assessment of grant applications and decisions made.

Recommendation 2

To enhance the transparency of future grants programs, the ANAO recommends that the Department of Agriculture advise applicants of any significant changes to the:

- method used to determine grant funding offers; and
- assessment process outlined in the program guidelines.

Recommendation 3

To enable the Department of Agriculture, Fisheries and Forestry to monitor compliance with the terms and conditions of funding, the ANAO recommends that the department reinforce the importance of:

- preparing compliance strategies and determining the basis for funding ongoing compliance activities early in the design phase of grants programs; and
- incorporating compliance obligations into program guidelines and funding agreements.

Following the release of the report, Senator Milne notified the Senate on 14 March 2013 that she would move to refer the Auditor-General's reports on IGACEP and on an earlier Tasmanian forestry grants program to a Senate Committee.

Terms of Reference for the Committee

On 19 March 2013, the Senate agreed to the following motion:

"That the findings of the Auditor-General's audit report No. 26 of 2007-08, *Tasmanian forest industry development and assistance programs*, and the Auditor-General's audit report No. 22 of 2012-13, *Administration of the Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program*, be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 6 May 2013."

The Senate subsequently agreed to motions to extend the time for reporting until 11 June 2013 and then to 19 June 2013.

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Following a request for submissions by 9 April 2013, the Senate Committee held hearings on 7 May and 15 May 2013.

On 19 June 2013, the Senate Committee tabled a final report, which made three recommendations with a further six recommendations made in additional comments by the Australian Greens.

Government Response to Recommendations of the Committee

The government has considered the recommendations of the Senate Committee report and this response addresses each recommendation individually.

Recommendation 1

3.41 The committee recommends that DAFF thoroughly investigate all alleged cases of fraud and all alleged cases of non-compliance resulting from the two programs. The committee further recommends that DAFF resolve these matters as soon as possible.

The Australian Government agrees with this recommendation.

The Department of Agriculture (the department) assesses, and investigates where appropriate, all the allegations of fraud and non-compliance that it receives. The department has a documented process against the Australian Government Investigations Standards. All allegations, whether true or false, are documented from the time they are received.

The department will retain overall responsibility for compliance activities relating to the Tasmanian Forestry Contractor Exit Assistance Program (TFCEAP) and the Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program (IGACEP).

The department has implemented a structured monitoring and compliance program for the TFCEAP and IGACEP. The monitoring and compliance program aims to ensure that the terms and conditions of both exit programs are met. The monitoring and compliance program will run for the life of the funding deeds of the two exit programs. Funding deeds for the TFCEAP expire in 2016 and funding deeds for the IGACEP expire in 2022.

There are two elements to the TFCEAP and IGACEP monitoring and compliance program. Annual declarations are requested from grantees confirming that they have exited and have remained out of the industry. In addition, on-ground compliance visits to grantee business premises are undertaken to monitor grantees' compliance.

It is important to note the difference between fraud and non-compliance in relation to Commonwealth grants programs. Fraud occurs when people misrepresent themselves to get benefits inappropriately from the Commonwealth government. Non-compliance is when a person or business receives a grant but then does not comply with the conditions of that grant.

The department has received fraud allegations in relation to the TFCEAP and the IGACEP. No allegations of fraud have been reported in relation to the Tasmanian Community Forest Agreement Industry Development Program (TCFA IDP).

The department has thoroughly assessed and investigated each allegation of fraud in relation to the TFCEAP and the IGACEP. The department is currently considering an appropriate course of action in relation to one fraud allegation. If an assessment of an allegation identifies that a receiver of a grant may not be complying with the terms of the funding deed, the matter is referred for consideration and appropriate action under the TFCEAP and IGACEP monitoring and compliance program.

The TFCEAP and IGACEP monitoring and compliance program will be re-examined and renewed after July 2014 to take into account the results of the program.

Recommendation 2

3.48 The committee recommends that the Department of Finance and Deregulation implement the Auditor-General's proposal to develop guidelines on the impact of government programs. The guidelines should ensure that the Parliament is able to assess whether programs are achieving the objectives set by government.

The Australian Government agrees this recommendation.

The Department of Finance will shortly be releasing a range of guidance material to assist Commonwealth entities and companies improve the quality of their performance information and reporting.

This guidance will support the introduction of the Enhanced Commonwealth Performance Framework, which is being implemented under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). A draft copy of the proposed guidance material was included in a submission on the Enhanced Commonwealth Performance Framework made by the Department of Finance to the Joint Committee of Public Accounts and Audit (JCPAA) on 21 November 2014.

The performance framework seeks to improve the quality of planning, performance information and evaluation within government. Ministers, Parliament and the public will be able to better assess whether activities and initiatives undertaken by Commonwealth entities are contributing to the achievement of programme goals and other objectives set by government.

The performance framework will be introduced in stages through 2015 and 2016, and will include corporate plans and annual performance statements, the requirements for which will be outlined in the rule made for the PGPA Act, for each Commonwealth entity. The new elements will be supported by the release of a set of integrated guidance materials which will include new technical guidance for the development of performance measures and tools.

These documents will be public, and are intended to improve the standard of planning and reporting for Commonwealth entities, especially in relation to the management of their affairs and the achievement of their purpose and objectives.

The new guidance for Commonwealth entities will be issued in the first part of 2015. This work is being done in consultation with the JCPAA, the Australian National Audit Office and all Commonwealth entities.

**Tabling the Australian Government Response to the Senate Report on the
Tasmanian Forestry Exit Grants - Ref MS15-000156**

Response to questions from Senator Colbeck

- 1) **The TFCEAP and IGACEP monitoring compliance and program will be re-examined and renewed after July 2014 to take into account the results of the program.**

Q: Has this occurred? What were the results?

The review

- In February 2015, the department initiated a desk-top review of the monitoring and compliance actions to date that have occurred under the monitoring and compliance program.
- Once this desk-top review has been completed, a broader assessment of the current monitoring and compliance program will follow. This may result in alterations to the existing monitoring and compliance program, including the possibility of bolstering the requirement for further on-ground compliance checks of individuals and/or businesses likely to be considered at risk of non-compliance.
- This work is expected to be completed by July 2015.

The results

- To date, the desk top review has resulted in two funding deed non compliance notices being issued to individuals across both the TFCEAP and the IGACEP and is also likely to result in more non compliance notices being sent to grantees in coming weeks.
- Over March and April 2015, the department will also be sending letters to all grantees (from both programs) requesting the completion of a statutory declaration stating that they are in compliance with the terms of their funding deed.
- As detailed in the response, the department is still in the process of considering an appropriate course of action relating to one serious fraud allegation. External lawyers with specific expertise in this area are being consulted on the matter.

- 2) **The new guidance for Commonwealth entities will be issued in the first part of 2015. This work is being done in consultation with the JCPAA, the ANAO and all Commonwealth entities.**

Q: How far off are these guidelines?

- The Department of Finance has advised that the timing of the release of the guidance is dependent on the approval of the Joint Committee of Public Accounts and Audit (JCPAA). Ideally this will occur before 1 July 2015 when the enhanced performance framework is expected to commence.

Recommendation 3

3.76 The committee recommends that the ANAO continue to include DAFF's administration of its grants programs in its future work programs.

The Australian Government notes this recommendation.

The ANAO adopts an ongoing and integrated approach to planning its audit coverage. In this context, the ANAO endeavours to maintain a balance between planning and delivering audits that address the key risks and challenges facing the Australian Government public sector while also producing contemporary reports that cover matters of significant public interest. The ANAO gives consideration to the changing Australian Government public sector environment and seeks to be responsive to stakeholder requests where priorities and resources permit.

The ANAO undertakes approximately 50 performance audits on an annual basis. The program of audits seeks to achieve coverage across a wide range of entities and portfolios, either as agency-specific audits or as part of broader cross-agency audits. As core elements of government activity, procurement and grants management have featured strongly in the ANAO's work programme over recent years. While ANAO audits have highlighted examples of effective procurement and grants management approaches, they have also identified opportunities for entities to undertake these activities more efficiently and effectively and to achieve more consistent compliance with relevant guidelines and government policies. Accordingly, the program continues to focus on procurement and grants management, either as individual topics, or as part of audits examining broader program management. The ANAO's 2014 Audit Work Program includes coverage of grant administration by the Department of Agriculture.

Government Response to Additional Recommendations of the Australian Greens

1. The Department of Agriculture, Fisheries and Forestry appoint an independent auditor to its internal audit committee.

No further Australian Government action is required.

The Department of Agriculture has two independent members on the department's audit committee. Also, an audit service provider provides a representative to attend the meetings of the audit committee.

This meets with better practice recommended by the ANAO in its Better Practice Guide *Public Sector Audit Committees – Independent assurance and advice for Chief Executives and Boards*.

The department's audit structure is compliant with Government requirements.

2. The department be restructured to remove forestry from the Department of Agriculture, Fisheries and Forestry and its current responsibilities be re-allocated to the departments of Environment, Climate Change and Industry.

The Australian Government does not agree with this recommendation.

The structure and portfolio responsibilities of government departments are matters for the executive government of the day.

3. No government program be permitted to proceed unless compliance and risk management plans are finished before applications open, regardless of any political time limits that may be imposed and any prior approval from the Minister.

The Australian Government does not support this recommendation.

The Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Programme was undertaken under the original Commonwealth Grant Guidelines (CGGs). The CGGs establish the overarching grants policy framework under which government agencies undertook their grants administration activities.

The CGGs were updated on 1 June 2013 to address concerns raised by the Australian National Audit Office and the Joint Committee of Public Accounts and Audit, stakeholder feedback and policy and legislative changes which have occurred since their introduction in 2009. The CGGs were updated a second time on 1 July 2014 to reflect the implementation of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and became the *Commonwealth Grants Rules and Guidelines 2014* (CGRGs). As a result of the recent updates, the CGRGs contain a greater emphasis on appropriate risk management and proportionality, particularly when planning and designing granting activities. For example, the updated CGRGs state that: "Officials should ensure that the party best placed to manage a specific risk is

identified, the risks are assigned to that party, and that they manage those risks. Identifying the party best able to manage a risk and assigning that risk is an active process that should occur through all phases of grants administration" (*Commonwealth Grants Rules and Guidelines*, July 2014, p. 23).

Three broad categories of risk are now identified in the CGRGs: grant programme risk; grantee/recipient risk; and project/task/services risk. The CGRGs propose that officials ensure that risk identification and engagement is supported by performance information, procedures and systems that continuously identify and treat emerging risks throughout the grants administration processes. This renewed focus on risk is supported by the Commonwealth Risk Management Policy which has been developed as part of the implementation of the PGPA Act.

The updated CGRGs also mandate that officials must develop grant guidelines for all new granting activities, including grant programmes. The CGRGs provide guidance on what should be included in grant guidelines, for example, officials should ensure that grant guidelines clearly inform potential grant recipients of terms and conditions that the recipient will need to meet during the life of the grant, such as financial and performance reporting. Commonwealth entities may not publish their grant programme guidelines or seek applications before the Departments of Finance and Prime Minister and Cabinet agree the risk rating for a grant programme and the respective approval process being undertaken.

Further, the CGRGs continue to emphasise the need for clear accountability, transparency and probity. For example, the CGRGs state that officials should develop policies, procedures and documentation necessary for the effective and efficient governance and accountability of granting activities. The CGRGs further note that accountable authorities should establish internal control mechanisms for grants and guard against fraudulent use of grant payments. Guidelines and operational guidance should clearly set out who are the decision makers for different activities involving grants administration.

Given the recent review and changes to the CGRGs, new guidance issued by the Department of Finance (see Resource Management Guides RMG 411 and RMG 412) and the commencement of the PGPA Act, the addition of a further prescriptive and ad hoc requirement in relation to grants administration, is not justified at this stage.

4. The Tasmanian Parliament Select Committee established to investigate the contractor payments also probe the process within Forestry Tasmania for deciding which contractors were to be supported and which contractors were to be allocated extra volume and the extent to which that opportunity to access extra volume was known to the contracting community.

No further Australian Government action is required.

5. The new federally-funded \$20 million contractor exit program to be administered by the Tasmanian Government to consider these contractors in the new round of applications.

No further Australian Government action is required.

6. Exit means exit. The new federally-funded \$20 million contractor exit program to be administered by the Tasmanian Government will be transparent and include clear compliance criteria before being issued and will ensure:

- (a) contractors leave the industry and grants received not be used for investment in the industry in any circumstances**
- (b) compliance criteria includes surprise visits to contractors**
- (c) a focus on retiring contracts permanently rather than shifting volume to other contractors**
- (d) contractors are prevented from working in the industry anywhere in Australia**
- (e) the amount of any grants previously received for purchase of equipment be deducted from the exit grant.**

The Australian Government notes this recommendation.

The Senate Inquiry Report has been passed to the Tasmanian Government for it to consider and address as appropriate the findings in both the development and implementation of the workers and contractors program.