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Parliamentary Budget Office

Submission to the Joint Committee of Public Accounts and Audit inquiry into the operations of the Parliamentary Budget Office

Mr Phil Bowen PSM FCPA
Parliamentary Budget Officer

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Executive summary

1 In December 2013 the Chair of the Joint Committee of Public Accounts and Audit (JCPAA) advised the Parliamentary Budget Office (PBO) that it would consider in detail the outcomes of the Australian National Audit Office's (ANAO's) performance audit of the PBO and the aspects of the report of the Commission of Audit of relevance to the PBO. The terms of reference of this inquiry reflect the key issues of relevance to the PBO from these reports. The structure of this submission broadly reflects the terms of reference of the inquiry.

PBO's access to information: general

2 The ANAO report provides a very positive assessment of the PBO's performance since its establishment, concluding that "the PBO has effectively undertaken its statutory role and is already well regarded as an authoritative, trusted and independent source of budgetary and fiscal policy analysis."[1] A key contributor to this strong performance has been the good cooperation the PBO has received from Commonwealth agencies, most notably the Departments of Treasury and Finance.

3 This performance suggests that the approach to access to information recommended by the Joint Select Committee on the Parliamentary Budget Office has generally worked well. A key concern of the Joint Select Committee was that imposing formal legal obligations on agencies to provide information to the PBO would discourage informal discussions that are at the heart of a cooperative and collegiate relationship between the PBO and agencies.

PBO position: While there is a sound argument in favour of the PBO having a legislative right to information, experience to date with the Memorandum of Understanding (MOU) suggests that its absence is not having a significant adverse impact on the PBO's operations.

4 Indeed, the MOU has worked best where agencies have focused on its broad purpose of facilitating a collaborative working relationship with the PBO, rather than adhering solely to the 'formal' requirements of the MOU. Agencies that have adopted this more flexible approach to the MOU have found the current arrangements to be mutually beneficial.

PBO position: The PBO will continue to work to build cooperative and collegiate relationships with agencies, including encouraging agencies to embrace the pro-disclosure spirit of the MOU and eschew an overly conservative and formal approach to its implementation.

PBO's access to information: specific issues and risks

5 The ANAO report noted that there were some specific issues and risks around the provision of information to the PBO by agencies.

6 The main issue with the PBO's access to information in practice has been the timeliness of responses. Timely access to information underpinning the budget is essential to the PBO's ability to respond to costing requests in the timeframe of relevance to parliamentarians. There are a number of factors that have resulted in delays in responses to information requests, including uncertainty around the application of the MOU; the potential or perceived political sensitivity of

[1] ANAO, 2014, *The Administration of the Parliamentary Budget Office*, page 18.

the information sought; and agency internal clearance processes (particularly when the derivation of estimates included in fiscal updates have not been well documented in a timely manner).

PBO position: **The PBO acknowledges the resource pressures on agencies, particularly around fiscal updates, but it is untenable for the PBO to not be able to prepare costings in a timely fashion when the budget is being debated.**

The PBO is meeting with agencies to address general and agency-specific issues that could address areas of uncertainty and improve the efficiency of the information request process.

For example, the timeliness of requests could be improved by expanding the automatic provision of information following fiscal updates to include the calculations underpinning estimates of new measures on an 'as is' basis.

7 The ANAO report noted that the PBO's effectiveness could be undermined where it is not provided with sensitive information relevant to the composition of the budget – such as the individual items in the Contingency Reserve. While the PBO has been able to work around this limitation in most cases, this risk can be most acute for sensitive policy proposals.

PBO position: **The PBO should be provided with the full details of the budget, including sensitive information (including the composition of the Contingency Reserve and its revenue equivalent), noting that legislation protects from public release information provided to the PBO in confidence.**

8 In certain cases where the agency responsible for a policy has outsourced the preparation of budget estimates and/or a policy costing to another public sector agency (on a user-pays basis) or to a private sector consultancy, the provision of information to the PBO has been impeded by either the request for a prohibitive additional fee to provide information to the PBO and/or refusal to provide the PBO the costing model used to prepare the budget estimates.

PBO position: **Where agencies outsource the preparation of budget estimates and/or costings for policy proposals to a third party, the terms of the contract should include a term enabling them to provide the costing model to the PBO under the MOU without charge.**

9 There are several specific legislative provisions that effectively prohibit agencies from providing information to the PBO. The PBO's ability to provide timely and accurate advice to parliamentarians would be significantly improved if these provisions were amended, with the PBO responsible for ensuring protections against inappropriate release.

PBO position: **Legislative prohibitions to the provision of information (such as those in Attachment H) should be amended to allow the PBO access.**

10 Where legislation provides agencies with a discretion that, if exercised, would allow the provision of sensitive information to the PBO, agencies have tended to adopt a conservative bias towards not exercising this discretion.

PBO position: **Consideration should be given to additional legislative protection to agency heads who exercise a discretionary power to provide information to the PBO.**

11 The ANAO report noted that, in the absence of a legislative mandate, there is an inherent risk that at some time in the future agencies could cease to cooperate with the PBO as agreed under the MOU.[2]

PBO position: **The PBO actively monitors agency responsiveness to information requests and will advise the JCPAA should there be a material deterioration.**

12 As agencies' resources shrink, it is possible that the quality and timeliness of responses to information requests would be reduced.

PBO position: **The PBO is mindful that the provision of information involves costs to agencies and seeks to minimise this cost, in most cases only seeking information that an agency already has on hand, rather than requiring the production of new documents and material.**

The MOU has mechanisms to achieve a balance between the PBO's need for timely information to respond to parliamentarians and the other demands on agency resources.

Publication of detailed medium-term projections

13 The time period over which fiscal estimates are published has important implications for the ability of the Parliament and public to assess the sustainability of the budget as a whole, and the financial implications of policy proposals. However the increasing prominence of aggregate medium-term fiscal projections in public debate has not been matched by the publication of more detailed medium-term fiscal projections.

PBO position: **The public discussion on fiscal sustainability would be improved by the regular publication of detailed medium-term projections, ideally by the Government in the budget papers.**

PBO assessment of fiscal rules

14 The National Commission of Audit (NCOA) recommended that the PBO provide an independent assessment of the Government's performance against its fiscal rules. Should this task be allocated to the PBO, a balance would need to be struck between the level of independent assurance sought and the level of dedicated resources required. There would also need to be a review of whether, and if so which, legislative changes would be required to enable the PBO to undertake this role.

PBO position: **It is a matter for the Government and the Parliament to consider whether to accept the Commission of Audit recommendation to have the PBO assess performance against fiscal rules.**

If the PBO were given the task of monitoring fiscal rules, the most appropriate model would be where the PBO's assessment relied on official economic forecasts and projections, but had scope to prepare independent medium-term fiscal projections.

[2] ANAO, 2014, *The Administration of the Parliamentary Budget Office*, page 28

1 Background to this inquiry

1.1 The *Parliamentary Service Act 1999* provides that the JCPAA may request an independent review of the operations of the PBO following a general election.[3]

1.2 On 12 November 2013, the ANAO formally commenced a performance audit into the administration of the PBO. The ANAO report was tabled on 5 June 2014.[4]

1.3 On 22 October 2013 the Government announced the formation of a Commission of Audit that included in its terms of reference examining the role of the PBO in the context of identifying options for strengthening Commonwealth budgeting arrangements.[5] The Commission of Audit's report was released on 1 May 2014, amidst heightened interest in and public debate on fiscal sustainability issues, particularly over the medium term.[6]

1.4 In December 2013 the Chair of the JCPAA advised the PBO that in the light of these reviews the JCPAA determined not to request an additional review into the PBO's operations but noted that it would "later consider in detail the outcomes of the two current review processes".[7] The terms of reference of this current inquiry (at Attachment A) reflect this, highlighting the key issues from both reports with relevance to the PBO.

1.5 The structure of this submission broadly reflects the terms of reference of the inquiry.

1.6 The submission begins with a brief assessment of international best practice for organisations like the PBO, drawing on the work of the International Monetary Fund (IMF) and the Organisation for Economic Cooperation and Development (OECD). The next section reviews the PBO's access to information held by Government agencies, setting out the legislative and administrative framework, providing an assessment of how these arrangements have worked in practice and identifying specific issues and risks.

1.7 The submission discusses the publication of more detailed medium term fiscal estimates, before considering the potential implications for the PBO of the Commission of Audit's recommendation that the PBO report on the Government's progress on fiscal rules. It then concludes with a summary of potential legislative changes that could be considered.

2 International best practice

2.1 The IMF and OECD have analysed the growth and performance of organisations like the Parliamentary Budget Office.[8] The OECD describes these organisations as Independent Fiscal Institutions (IFIs), while the IMF describes them as Fiscal Councils. While there are some technical differences in the definitions used, the two terms are essentially interchangeable.

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3 Section 64T, *Parliamentary Service Act 1999*.

4 ANAO, 2014, *The Administration of the Parliamentary Budget Office*.

5 Joint Media Release of the Treasurer and Minister of Finance, *Coalition commences National Commission of Audit*, 22 October 2013, available at http://jbh.ministers.treasury.gov.au/media-release/009-2013/.

6 National Commission of Audit, 2014, *Towards Responsible Government*.

7 Correspondence from Chair to PBO (18 December 2013).

8 See, for example, George Kopits (2011), "Independent Fiscal Institutions: Developing Good Practices", *OECD Journal on Budgeting*, Vol. 11/3; IMF, 2013, "The Functions and Impact of Fiscal Councils" IMF Policy Paper, (Washington, DC: IMF); OECD, 2014, *Recommendation of the Council on Principles for Independent Fiscal Institutions.*

IMF fiscal council dataset

2.2 The Parliamentary Budget Office is one of a growing number of similar institutions around the world. The IMF has developed a dataset[9] tracking the growth and characteristics of fiscal councils, with the latest update identifying 29 institutions in 27 countries, more than half of which have been formed since the onset of the global financial crisis.[10]

2.3 The IMF attributes the rapid growth in fiscal councils to high and rising debt-to-GDP ratios in many advanced economies, along with the consequent premium placed on credibility of fiscal estimates giving countries the incentive to strengthen the institutional anchor for sustainable public finances. Growth in fiscal councils has been particularly strong in Europe, where euro member states are effectively required to have an independent fiscal institution under the Treaty on Stability, Coordination and Governance.

2.4 A common element of most fiscal councils is that they are independent public institutions informing public debate on fiscal policy, with the ultimate goal of promoting financially sustainable and economically sound fiscal policies.[11]

2.5 The IMF dataset highlights that the role, functions and institutional arrangements of fiscal councils vary significantly. More detailed information is provided at Attachment B.

- Nearly all fiscal councils have a legal right to information essential for the fiscal council's activity – although the form and extent of that obligation can vary significantly.
- Around three quarters of fiscal councils prepare or assess macroeconomic forecasts and evaluate long-term fiscal sustainability.
- Over half of fiscal councils monitor fiscal rules, with this task being notably more common among more recently formed institutions (around three quarters compared with one third of older institutions).
- Costing of measures is also more common among newer institutions (just over half compared with one third of older institutions); the oldest fiscal council (the Netherlands) is required to cost the election platforms of all parties prior to a general election.

2.6 However, as the IMF notes:[12]

> *The objectives, tasks and institutional form of fiscal councils depend on the causes and manifestations of the bias affecting fiscal policy and, given the deeply political nature of fiscal policy, on the particulars of the political system.*

2.7 As such, there is a need for caution in drawing conclusions from the IMF dataset for Australia. In particular, while many fiscal councils produce economic forecasts, this is a resource-intensive activity and there are already alternative sources to the economic forecasts underpinning the budget in Australia.[13]

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9 This compilation of this dataset is explained in X. Debrun and T. Kinda, 2014, "Strengthening Post-Crisis Fiscal Credibility—Fiscal Councils on the Rise. A New Dataset" IMF Working Paper, 14/58; and X. Debrun, T. Kinda, T. Curristine, L. Eyraud, J. Harris, J. Seiwald, 2013, "The Functions and Impact of Fiscal Councils," IMF Policy Paper; July 16, 2013, International Monetary Fund, Washington, DC.

10 The IMF identified that two countries (Belgium and Slovenia) have two institutions that fit the definition of a fiscal council, reflecting a split of fiscal council-type functions between different institutions.

11 Xavier Debrun et al, 2013, page 8.

12 Xavier Debrun et al, 2013, page 8.

13 See, for example, Joint Select Committee on the Parliamentary Budget Office, 2011, *Inquiry into the proposed Parliamentary Budget Office*, at page 45; Joint Submission of the Departments of Treasury and Finance submission to Joint Select Committee on the Parliamentary Budget Office, at page 4.

2.8 The scope of the costing of measures by fiscal councils varies significantly. Australia's PBO has a much more extensive role in costings than most other fiscal councils, reflecting the political history and context of asymmetrical access to costing resources being a factor in elections in Australia.[14] In turn, this has implications for the size of the PBO, with the IMF noting that:[15]

> *policy costing is the most resource intensive and time consuming remit requiring a larger staff base … combined with access to data and models that have often taken decades to develop within ministries of finance.*

OECD Principles for International Fiscal Institutions

2.9 The OECD has long and extensive involvement in the development of international financial institutions (IFIs), first hosting a meeting of the head of parliamentary budget or finance committees in 2001, leading to the formal formation of the OECD Network of Parliamentary Budget Officials and Independent Fiscal Institutions, with annual meetings held since 2009.

2.10 A key focus of the annual meetings of the OECD Network is the opportunity for senior Parliamentary Budget Officials to share and learn from the experiences – successes, challenges and failures – of institutions in different jurisdictions. In turn, the OECD Secretariat has built on these discussions to identify a series of lessons for good practices for IFIs. A 2011 study concluded that to be effective an IFI must, among other things, have as a "core remit … assessments of fiscal stance and debt sustainability".[16]

2.11 This work formed the basis of the twenty-two principles for independent fiscal institutions (covering nine broad headings) that were endorsed by the OECD Council on 13 February 2014. OECD members (including Australia) recommended that countries who have or are considering the establishment of an IFI take into account the *Principles for Independent Fiscal Institutions*. Among other things, the OECD has concluded that the asymmetry of information between governments and IFIs:[17]

> *creates a special duty to guarantee in legislation … that the IFI has full access to all relevant information in a timely manner, including methodology and assumptions underlying the budget and other fiscal proposals.*

2.12 The OECD *Principles for Independent Fiscal Institutions* is at Attachment C.

3 PBO's access to information

3.1 The Parliamentary Budget Officer is required to use the economic forecasts and parameters and fiscal estimates contained in the most recent economic and fiscal outlook, with the preparation of economic forecasts and budget estimates explicitly excluded from the PBO's functions.[18]

3.2 This highlights how the PBO's ability to perform its functions - in particular, providing costings of policy proposals to parliamentarians - is "heavily reliant on its ability to access information, which … encompasses data and any models used for estimating the costs of policies".[19]

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[14] Phil Bowen, 2013, *Maintaining a Focus on Fiscal Discipline and Budget Transparency: The Role of the Parliamentary Budget Office*, Address to the Carnegie Mellon Forum, Adelaide, 29 November 2013.

[15] Xavier Debrun et al, 2013, page 36.

[16] Kopits, George (2011), "Independent Fiscal Institutions: Developing Good Practices", *OECD Journal on Budgeting*, Vol. 11/3, available at http://dx.doi.org/10.1787/budget-11-5kg3pdgcpn42

[17] OECD, 2014, *Recommendation of the Council on Principles for Independent Fiscal Institutions,* Principle 6.1.

[18] *Parliamentary Service Act 1999,* sections 64E(2),(3).

[19] ANAO, 2014, *The Administration of the Parliamentary Budget Office*, page 62.

Legislative provisions for access to information

3.3 The Joint Select Committee on the Parliamentary Budget Office considered a range of options for the powers the PBO would have in accessing information held by the Executive, from full access guaranteed by legislation (on a par with the Auditor-General's powers); an MOU with relevant agencies; to use of the *Freedom of Information Act 1982* (FOI Act) on the same basis as the public.

3.4 The Joint Select Committee concluded that "the PBO's relationships with Government agencies will be crucial to its success", and that this relationship was more likely to be cooperative rather than adversarial under an MOU than if the PBO had a legislated right to information.[20]

3.5 The Joint Select Committee acknowledged the potential for access to information under the MOU to fall short of what was desirable, and concluded that the "practical application of the MOU could be closely monitored", and "included in the terms of reference for the evaluation of the PBO".[21]

3.6 The initial provisions of Part 7 of the *Parliamentary Service Act 1999* generally reflect the report of the Joint Select Committee. In particular, section 64F gives the Parliamentary Budget Officer the ability to enter into an arrangement with an agency head to obtain "information and documents relevant to the Parliamentary Budget Officer's functions". The Act also provides for this information to be provided on a confidential basis.[22]

3.7 The PBO is listed as an exempt agency in *Division 1 of Part I of Schedule 2* of the FOI Act. Material provided to the PBO by agencies in relation to confidential requests made to the PBO is also exempt from release under Section 45A of the FOI Act. These provisions ensure that the PBO can process confidential requests from parliamentarians without concern that those requests will be made public through the FOI process and that the process of gathering information from Commonwealth agencies is similarly protected.

3.8 The *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2013* amended the *Parliamentary Service Act 1999*, introducing specific provisions for information requested in relation to either a costing in the caretaker period or for the preparation of the post-election report on election commitments. In these circumstances agencies are required to comply with the request on a timely basis unless doing so is not practicable, unlawful, or would disclose information that was commercially confidential or could prejudice national security.[23] Where information is provided its release can be limited to what is needed for the caretaker costing or post-election report.

3.9 The *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2013* also amended the *Taxation Administration Act 1953* to allow the Commissioner of Taxation to share de-identified taxation information with the Parliamentary Budget Officer. There are strict confidentiality provisions around the use of this information.[24]

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[20] Ibid, page 76; see also Miranda Stewart and Holly Jager, 2013, "The Australian Parliamentary Budget Office: A sustainable innovation in fiscal decision-making?", Melbourne Legal Studies Research Paper No.628.

[21] Ibid.

[22] *Parliamentary Service Act 1999,* section 64V.

[23] *Parliamentary Service Act* 1999, sections 64KA, 64MB.

[24] The release of protected taxation information is a criminal offence: section 355-155 *Taxation Administration Act 1953*.

Memorandum of Understanding with agencies

3.10 In September 2012 the Parliamentary Budget Officer signed an MOU with the Secretaries of the Departments of Finance and Treasury, with the heads of all other Commonwealth agencies electing to be covered by the agreement by mid October 2012. The MOU is provided at Attachment D.

3.11 The purpose of the MOU is to "facilitate the formation of a collaborative, productive and collegiate working relationship between" the PBO and agencies "by supporting the ready and open exchange of information, documents, knowledge and views".

3.12 The MOU is not intended to be a legally binding document, underscoring the intention that the PBO and agencies have a cooperative, rather than a formal and legalistic, relationship.

3.13 The MOU has a pro-disclosure bias, with agencies aiming to "provide sufficient relevant information to satisfy each request", and agreeing to provide a written explanation where the release of certain information is not possible.

3.14 The MOU is complemented by a Protocol agreed between Government Ministers and the heads of agencies to protect the disclosure to Ministers of the details of information sought by the PBO under the MOU. The Protocol is provided at Attachment E.

PBO's access to information in practice

3.15 The PBO has made extensive use of the MoU to obtain information, data and models from agencies to enable it to meet requests from parliamentarians and to build its capability to undertake budget analysis.

3.16 Overall, the arrangements have worked well. As the ANAO notes "the PBO has received good cooperation from the Treasury, Finance and other Commonwealth agencies".[25]

3.17 From September 2012 to the end of June 2014, the PBO received 728 responses from agencies to specific information requests. The PBO also has standing agreements with agencies for over 50 information updates following each economic and fiscal update, covering information such as the economic parameters underpinning fiscal estimates, and models used to estimate program forward estimates.

3.18 There have been very few cases where information has either been refused or been provided with caveats that prevented its effective use. In these circumstances the PBO has usually been able to complete costings using alternative sources of information, its own assumptions, and including caveats in the advice on limitations on the analysis due to lack of access to information from agencies.

3.19 That said, the success of the MOU in cultivating "collaborative, productive and collegiate working relationships" with agencies has varied.

3.20 The MOU has worked best where agencies have allowed the more formal terms of the MOU to be supplemented with informal discussion and dialogue between officers at the working level. These arrangements have been mutually beneficial, with a number of examples of the PBO working collaboratively with agencies in model development, documentation and maintenance, and providing constructive confidential feedback on estimates.

[25] ANAO, 2014, *The Administration of the Parliamentary Budget Office*, page 27.

3.21 However, there have also been a number of examples of agencies approaching the MOU in a more formal, legalistic manner, focusing solely on the passive provision of information and adopting a cautious and conservative approach to the information provided. While, as noted, this has still generally resulted in the PBO being provided the information needed to prepare policy costings, it is more resource intensive for agencies and misses the opportunity to build a mutually beneficial collaborative relationship with the PBO.

3.22 Further data on the PBO's experience in accessing information from agencies is set out in Attachment F.

3.23 Specific issues and risks around the PBO's access to information are discussed in more detail below.

PBO position: **While there is a sound argument in favour of the PBO having a legislative right to information, experience to date with the MOU suggests that its absence is not having a significant adverse impact on the PBO's operations.**

The PBO will continue to work to build cooperative and collegiate relationships with agencies, including encouraging agencies to embrace the pro-disclosure spirit of the MOU and eschew an overly conservative and formal approach to its implementation.

Timeliness of agency responses

Issue

3.24 The main issue with the PBO's access to information in practice has been the timeliness of responses. Over half of responses to information requests have been received late, with the average response being four days late, and the average response time overall being 12 days.

3.25 There are a number of factors that have resulted in delays in responses to information requests.

3.26 A common source of delay is where the action officer in an agency is uncertain on how to respond to a request.

3.27 In several cases, action officers have been unaware that the MOU explicitly includes "models that are involved in the generation of the information". Similarly, action officers have been unclear what constitutes a "model", adopting a narrow interpretation limited to more sophisticated econometric analysis, rather than simply the calculations that underpin the estimates in the budget. Agencies have also been concerned about providing models used in preparing material for Cabinet consideration, even where this could be done in a way that need not reveal to third parties the policy options that had been considered by Cabinet.

3.28 This uncertainty, combined with the potential or perceived political sensitivity of the information sought, has led to some agencies adopting a cautious and conservative approach to the information provided to the PBO. In turn, agency internal clearance processes can extend the time taken to respond to requests, particularly where the calculations underpinning estimates included in fiscal updates have not been well documented in a timely manner.

3.29 Another source of delay in responding to information requests is the competing priorities of agency staff, particularly in the period immediately before or after an economic and fiscal update, and where the agency requires significant resources to complete the request.

Why it matters

3.30 As the PBO is required to base its costings on the fiscal estimates contained in the most recent economic and fiscal outlook, timely access to information underpinning the budget is essential to the PBO's ability to undertake analyses and provide timely responses to costing requests in the lead up to and following fiscal updates.

3.31 In the absence of timely provision of information by agencies at these times, there is a risk that the PBO will be least able to be responsive to the requests of parliamentarians at the time when those requests are of greatest relevance – when budget measures are being debated. This is not in the interests of parliamentarians, or, ultimately, the Government presenting legislation implementing these measures to the parliament for consideration.

How this could be addressed

3.32 The PBO acknowledges the pressures on agencies around fiscal updates, but it is untenable for the PBO to not be able to do costings when the budget is being debated.

3.33 The PBO is meeting with agencies to discuss experience with the MOU and information requests, including better understanding the drivers of departmental costs, how to provide more and better context around confidential costing requests, and to clarify areas of uncertainty around the operation of the MOU.

3.34 An underlying objective of these meetings is to explore opportunities to improve the overall efficiency of the information request process. One potential option for achieving efficiencies would be to extend current automatic provision of information provided to the PBO following fiscal updates to include the basis of the calculations underpinning estimates of new measures included in the fiscal update. This approach would integrate the quality control and clearance processes for the PBO's information request with those of the Budget. It is also consistent with the existing requirement for agencies to reach an agreed position on cost estimates of measures with the Department of Finance. By reducing the number of case-by-case, individual requests for information, the automatic provision of this information to the PBO should result in efficiency gains for agencies.

PBO position: **The PBO acknowledges the resource pressures on agencies, particularly around fiscal updates, but it is untenable for the PBO to not be able to prepare costings in a timely fashion when the budget is being debated.**

The PBO is meeting with agencies to address general and agency-specific issues that could address areas of uncertainty and improve the efficiency of the information request process.

For example, the timeliness of requests could be improved by expanding the automatic provision of information following fiscal updates to include the calculations underpinning estimates of new measures on an 'as is' basis.

Lack of access to Contingency Reserve and other sensitive information

Issue

3.35 In July 2013 the Secretary of the (then) Department of Finance and Deregulation refused to provide the PBO with the detail of the individual components of the Contingency Reserve, on the grounds that the disclosure of this information would be contrary to the public interest. Similar issues have arisen in relation to other sensitive information, including unpublished details of agency appropriations[26] and estimates variations included in revenue forecasts.

[26] The financial impact of some decisions taken but not yet announced is sometimes included in an agency's aggregate appropriation rather than the Contingency Reserve. This approach is adopted where the decision is expected to be announced shortly after the budget and requires an appropriation to be implemented (the Contingency Reserve does not form part of the Appropriation Bills).

Why it matters

3.36 The Contingency Reserve forms part of the Budget. While the total amount included in the Contingency Reserve is publicly disclosed, the individual components are not. By not having access to the individual components of the Contingency Reserve, the reliability of the PBO's costings is reduced.

3.37 While the PBO is required to base its costings on the official fiscal estimates, it can only do so based on the information available to it. Accordingly, on 23 July 2013 the PBO issued a guidance note (at Attachment G) advising parliamentarians that PBO costings were subject to the qualification "that they are prepared in the absence of information on the possible impact of any provisions in the Contingency Reserve".[27]

3.38 As the ANAO report notes, to date there have been relatively few instances where this has been an issue in practice. However, the relatively small number of costings affected significantly understates the impact – on parliamentarians, and the credibility of the PBO – of the PBO's lack of access to the details of Contingency Reserve. There are two broad reasons for this.

3.39 First, by their nature, policies provided for in the Contingency Reserve are much more likely to relate to sensitive policy proposals. In particular, costings in the *Post-election Report of Election Commitments* (post-election report) for the Coalition and the Australian Greens were affected by the PBO's inability to verify the magnitude of the provision that the former Government publicly stated it had made in the Contingency Reserve for the operation of the Regional Processing Centre in Nauru.

3.40 Second, the possibility that there may be a provision in the Contingency Reserve that would be relevant to the costing of a policy proposal has an impact on the confidence parliamentarians can have in costings of policy proposals generally.

3.41 There are specific circumstances where the PBO's lack of access to the details of the Contingency Reserve would have an even greater impact, such as where it affects the feasibility, rather than just the financial implications, of the policy proposal. The post-election report costing of the Coalition's policy proposal to *Reduce the public sector headcount by 12,000 through natural attrition* noted that "agency estimates for employee expenses are yet to reflect key public service efficiency saving measures from the 2013–14 Budget and the 2013 Economic Statement".[28] That is, prior to the election the impact of the efficiency dividend and other policies on agency staffing costs was reflected as a confidential provision in the Contingency Reserve rather than being explicitly included in agency budgets.[29] This limited the PBO's ability to assess the feasibility of achieving this reduction in public service through natural attrition without recourse to additional redundancy payments.

3.42 More recently, the *2013–14 Mid-year Economic and Fiscal Outlook* included a specific statement that the financial implications of a number of the Government's pre-election commitments had been included in the Contingency Reserve of the Budget (or included as estimates variations for revenue-related commitments). The PBO had already released costings for the Government's pre-election commitments in the post-election report. Accordingly, the PBO has addressed the lack of access to the Contingency Reserve in this case by assuming the costings in the post-election report form the basis of the provision for pre-election commitments.[30]

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27 PBO, 2013, *Possible Impact of Contingency Reserve on PBO costings,* Guidance 05/2013.

28 PBO, 2013, *Post-election report of election commitments: 2013 general* election, at page 198.

29 In turn, this meant there was uncertainty on the extent to which the efficiency dividend would be achieved through reduction in supplier expenses or through reduced staffing numbers.

30 At a Senate Estimates hearing on 25 February 2014, the then Secretary of the Department of Finance gave evidence that where the financial implications of the Contingency Reserve was included in the Contingency Reserve "it is put in the provision as PER costed by the PBO and released by the government during the election campaign".

3.43 While the lack of access to the Contingency Reserve has not prevented the PBO from responding to requests since the election, it has reduced the reliability of costings, as there is a risk that the provision in the budget is different to what the PBO has assumed. Moreover, the ability to continue to adopt this approach in the future is limited, particularly where substantive changes are mooted to the details of a policy proposal.

How concerns could be addressed

3.44 Where an agency concludes that the public interest would not be served by the public release of sensitive information, this need not preclude it from providing this information to the PBO. The *Parliamentary Service Act 1999* explicitly contemplates that some information could be provided to the PBO without being released to parliamentarians or the public.[31] Indeed, much of the information provided by agencies to the PBO includes this caveat, particularly in relation to models and calculations used for the preparation of budget estimates or the financial impact of budget measures. There is also the additional protection of the PBO's exemption from the FOI Act.

3.45 The PBO has demonstrated that it can be trusted with confidential information, including the management of very sensitive de-identified unit record tax data. The PBO has a secure, protected IT network, physical security around its offices in Parliament House, and high level security clearances for PBO staff.

PBO position: The PBO should be provided with the full details of the budget, including sensitive information (including the composition of the Contingency Reserve and its revenue equivalent), noting that legislation protects from public release information provided to the PBO in confidence.

Outsourcing of preparation of budget estimates and costings by agencies

Issue

3.46 There have been instances where the provision of information to the PBO has been impeded as the agency responsible for the policy outsourced the preparation of budget estimates and/or policy costings to either another public sector agency (on a user-pays basis) or to a private sector consultancy.

Why it matters

3.47 The immediate impact of the outsourcing of the preparation of budget estimates or policy costings by agencies is that the costing provider charges the agency a significant additional fee to provide information to the PBO, even where the costing is outsourced to a public sector agency (such as the Australian Government Actuary) that is also covered by the MOU.

3.48 Moreover, in these circumstances third party providers of policy costings have been unwilling to provide the PBO (or the policy agency) with the model used to prepare the budget estimates or policy costing. Rather, they would provide the results of a costing based on policy specifications provided (in return for an additional fee).

3.49 To date, there have been relatively few instances of outsourcing of budget estimates or policy costings by agencies affecting the PBO's ability to respond to requests from parliamentarians. In these cases, the PBO has not paid a fee to the third party provider of the policy costing, but instead has handled the request by developing its own model and benchmarking it against the official estimates. However, this approach reduces the reliability of policy costings. In addition to the normal risks around policy costings there is an increased risk that official estimates of a policy proposal would differ from those of the PBO.

[31] *Parliamentary Service Act 1999*, section 64V.

3.50 A broader issue with the outsourcing of budget estimates or policy costings by agencies is that it can reduce the scope for the PBO to work collaboratively with agencies in understanding the links between elements of the policy and its financial implications.

PBO position: **Where agencies outsource the preparation of budget estimates and/or costings for policy proposals to a third party, the terms of the contract should include a term enabling them to provide the costing model to the PBO under the MOU without charge.**

Legislative barriers to providing information to the PBO

3.51 There have been several instances where legislative provisions have either prevented or delayed the PBO's access to detailed (de-identified unit record) information and models.

3.52 These legislative provisions fall into three broad categories:

- **Prevents** the agency from providing information to the PBO (eg *Higher Education Support Act 2003*, *National Health Act 1953*),
- **Requires the exercise of a discretionary power** by the agency to provide the information to the PBO (eg *A New Tax System (Family Assistance) (Administration) Act 1999, Social Security (Administration) Act 1999*, *Paid Parental Leave Act 2010*), and
- **Legislation that has been amended** to allow the agency to provide previously prohibited information to the PBO (tax unit record data, *Taxation Administration Act 1953*).

3.53 Where the provision of information to the PBO requires the exercise of a discretion by the relevant agency head, the PBO's experience is that some agencies adopt a conservative bias towards the provision of such data. This conservative bias may stem from:

- a degree of ambiguity regarding whether the data can be released to the PBO,
- the prospect of penalties and prosecution over the improper release of data, and/or
- concerns that the PBO may not hold the data with an appropriate level of security.

3.54 Further detail of the legislative provisions in these three categories is provided at Attachment H.

3.55 To date, legislative barriers have had very little impact on the PBO's ability to respond to the requests of parliamentarians, although they have had an impact on the timeliness of some responses. The PBO's initial focus for costings and analysis has been to use summary data and models provided by agencies.

3.56 The provision of de-identified tax unit record data has enabled the PBO to become more self-reliant, building modelling capacity to provide costings on a range of tax policy proposals. While the unit record data itself is not released by the PBO, used as an input to costing models it allows for more accurate and timely estimates of the financial implications of policy proposals.

3.57 Removing legislative barriers to the provision of a broader range of de-identified unit record data would allow the PBO to extend its costing capacity, through the development of more detailed and flexible models for government programs and payments. In turn, this would enable the PBO to provide more timely and informed responses to requests of parliamentarians, and reduce the frequency of information requests to agencies.

3.58 A key consideration in removing legislative barriers to the provision of this information to the PBO is whether sufficient protocols and controls are in place to ensure the confidentiality of data, and the privacy of individuals, is protected.

3.59 Following amendments that were made to the *Taxation Administration Act 1953* the PBO has obtained protected de-identified taxpayer information. In addition, following the exercise of administrative discretion of agency heads, the PBO also holds de-identified pension and child care data. The PBO holds this data with appropriate security and confidentiality, including a secure IT network, physically secure offices (in addition to Parliament House perimeter security) and staff security clearances.

PBO position: **Legislative prohibitions to the provision of information (such as those in Attachment H) should be amended to allow the PBO access.**

Consideration should be given to additional legislative protection to agency heads who exercise a discretionary power to provide information to the PBO.

Risk of agencies becoming uncooperative

Issue

3.60 The ANAO report notes that, in the absence of a legislative mandate, there is an inherent risk that at some time in the future agencies could cease to cooperate with the PBO as agreed under the MOU.[32]

Why it matters

3.61 As noted earlier, access to information from agencies is essential to the PBO's ability to respond to requests from parliamentarians in a timely and accurate manner. Moreover, without access to information from agencies on the content and basis of official estimates, the likelihood that the PBO's estimates would be inconsistent with those produced by agencies is sharply increased.

How concerns could be addressed

3.62 The PBO places a high priority on maintaining strong and productive working relationships with agencies. In addition to ongoing dialogue on specific requests (transactional consultation), the PBO has regular discussions with counterparts in agencies to ensure the broader relationship is on track, and any issues are addressed in a timely manner. As part of these discussions, the PBO will continue to emphasise to agencies the strategic advantages to them in continuing to cooperate with the PBO in the provision of information (including constructive, confidential feedback on models, and greater consistency in information provided to parties over time).

3.63 The PBO is also continuing to become more self-sufficient, particularly through the development of a model and data repository, and reducing the reliance on specific information requests to agencies in providing responses to parliamentarians.

3.64 Nevertheless, the PBO Executive actively monitors this risk, receiving a weekly report advising on the status of outstanding information requests, along with analysis of overall responsiveness of agencies. Should the PBO detect a noticeable change in the current very good level of cooperation from agencies, it would be brought to the attention of the JCPAA in a timely manner.

PBO position: **The PBO actively monitors agency responsiveness to information requests and will advise the JCPAA should there be a material deterioration.**

[32] ANAO, 2014, *The Administration of the Parliamentary Budget Office*, page 28

Potential implications of reduced agency resources

Issue

3.65 As agencies' resources shrink, it is possible that the quality and timeliness of responses to information requests would be reduced.

Why it matters

3.66 Access to information from agencies is essential to the PBO's ability to respond to requests.

How concerns could be addressed

3.67 The PBO is, and needs to continue to be, mindful that the provision of information to the PBO involves costs to agencies.

3.68 PBO requests usually are for information that an agency already has on hand, rather than requiring the production of new documents and material. (Some agencies choose to do this, but that is their choice, not a PBO requirement.)

3.69 The MOU also provides for agencies to discuss the resources involved in responding to a request, with the opportunity to explore whether there were alternative, less resource intensive, ways of meeting the needs of the PBO (and parliamentarians). There are several examples where this dialogue has resulted in relevant information being received by the PBO in a timely fashion with considerably reduced resource requirements of the agency.

3.70 The MOU also allows for the response time to be re-negotiated with the PBO. There are numerous examples of the PBO agreeing to vary the scope or timing of a request to reflect the circumstances of agencies. However, in doing so the PBO is mindful of the need to respond to the requests of parliamentarians in a timely fashion.

PBO position: **The PBO is mindful that the provision of information involves costs to agencies and seeks to minimise this cost, in most cases only seeking information that an agency already has on hand, rather than requiring the production of new documents and material.**

The MOU has mechanisms to achieve a balance between the PBO's need for timely information to respond to parliamentarians and the other demands on agency resources.

4 Publication of detailed medium-term projections

4.1 The time period over which fiscal estimates are published has important implications for the ability of the parliament and public to assess the sustainability of the budget as a whole, and the financial implications of policy proposals.

4.2 Australia's budget papers include detailed estimates of the components of revenue and expenditure over the 'forward estimates' period - the current (budget) fiscal year and the following three years. Implicitly this reflects an assumption that the ongoing financial implications of most measures adopted in the budget would reach maturity within this period. The length of the forward estimates reflects a trade-off between the additional information contained in estimates provided over a longer time period and the additional resources involved in producing these estimates.

4.3 However over time there have been a number of instances where the financial impact of policy measures is significantly different beyond the forward estimates period. This reflects a number of factors:

- significant lead times between the announcement and commencement of the measure,
- transitional arrangements for the measure,
- the impact of demographic change (particularly the aging of the population), and
- compounding effects – where the financial impact of a measure continues to rise over time.

4.4 The forward estimates in the budget papers are supplemented by the publication of medium-term projections for high-level fiscal indicators (such as the underlying cash balance, total payments and receipts), building on the longer-term projections in Intergenerational Reports.[33]

4.5 This trend is consistent with the increasing focus of public debate on fiscal sustainability. The ANAO report notes that the PBO has played an important role in this shift of focus. Following the May 2013 release of the PBO's paper on Australia's structural budget balance – the budget position abstracting from the impact of the economic cycle – these estimates are now included in the budget papers.[34] The PBO has also published papers examining long run historical trends in expenditure and revenue, highlighting the key drivers of the budget.[35]

4.6 The increasingly prominent role of aggregate medium term fiscal projections has seen the level of detailed modelling underpinning medium-term fiscal projections increase over time. However there has not been a commensurate increase in the level of detail published. While projections of medium-term tax receipts are prepared by revenue head,[36] only total receipts are published. Similarly, medium-term expenditure projections are based on modelling of major demographic spending areas and interest payments on Commonwealth Government Securities, but only total payments are published.

4.7 The publication of detailed figures underpinning the aggregate medium-term fiscal projections would improve the transparency and accountability of the budget and ultimately contribute to achieving and maintaining fiscal sustainability. As Treasury has noted:[37]

> *Well-developed medium-term fiscal projections help to guide policy development by the government and frame public debate about the sustainability of budget settings.*

4.8 More transparency of the medium-term projections requires policymakers to explicitly consider the longer term implications of fiscal policy decisions. That is, where governments fully disclose and justify the financial impact over time of expenditure and revenue measures this provides Parliament and the public with better information about budget realities and priorities.

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33 International examples of medium term fiscal publications are provided at Attachment I.

34 ANAO, 2014, *The Administration of the Parliamentary Budget Office*, page 111.

35 PBO, 2013, *Australian Government Spending – Part 1: Historical Trends from 2002–03 to 2012–13,* Report 02/2013; PBO, 2014, *Trends in Australian Government Receipts: 1982–83 to 2012–13*, Report 01/2014.

36 David Woods, Mary Farrugia, and Mitchell Pirie, 2009, "The Australian Treasury's fiscal aggregate projection model", *Economic Roundup*, pp37-46, at page 40.

37 Ibid, page 30.

4.9 Moreover, understanding the detailed composition of both expenditure and revenue trends over the forward estimates and the medium term is important to assess budget sustainability and the trade-offs explicitly and implicitly being made by governments. While the methodology and assumptions underpinning medium-term estimates have been clearly explained,[38] in the absence of the publication of detailed estimates the implications of estimates for individual programs is not widely understood.[39]

4.10 Ideally the Government would expand its current medium-term projections in the annual budget papers to also publish the more detailed estimates of revenue and expenditure that underpin these projections. There would also be value in the budget papers providing commentary on the underlying drivers of revenue and expenditure over the medium term, including the key assumptions made in their derivation.

4.11 The regular publication of detailed medium-term projections in the budget papers would result in a significantly more informed public debate on fiscal policy. The PBO has been developing the technical capability to produce and assess detailed estimates of the medium-term fiscal position. As part of the PBO's self-initiated work program – and the broad implicit mandate to assess and promote fiscal sustainability – the PBO will shortly be publishing reports on the structural drivers of government expenditure over the medium term and the sensitivity of medium-term projections to economic shocks.

4.12 In addition, in a number of instances parliamentarians have requested that the time period of PBO costings be extended beyond the forward estimates period. PBO costings also routinely include an assessment of whether the financial impact of a policy proposal will extend beyond the forward estimate years, and note where this impact differs from that over the forward estimates period.

PBO position: The public discussion on fiscal sustainability would be improved by the regular publication of detailed medium-term projections, ideally by the Government in the budget papers.

5 PBO assessment of fiscal rules

National Commission of Audit recommendation

5.1 The National Commission of Audit assessed Australia's fiscal framework and rules.

5.2 The National Commission of Audit's report to Government noted that the *Charter of Budget Honesty Act 1998* "requires the government to release a fiscal strategy at its first budget to inform future policy decisions" and that this "strategy should be based on principles of sound fiscal management and underpinned by a sustainable medium-term framework".[40]

5.3 The primary focus of the National Commission of Audit's analysis of fiscal framework and rules was on the operational rules required to achieve a sustainable fiscal strategy. The NCOA report to Government recommended that the Government adopt "fiscal rules which set out how the fiscal strategy is to be achieved on a year-by-year basis".[41]

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38 David Woods, Mary Farrugia, and Mitchell Pirie, 2009, "The Australian Treasury's fiscal aggregate projection model", *Economic Roundup*, pp37-46; ; Jaren Bullen, Jacinta Greenwell, Michael Kouparitsas, David Muller, John O'Leary, and Rhett Wilcox, 2014, *Treasury's Medium-Term Economic Projection Methodology*, Working Paper 2014–02.

39 For example, meeting the then Government's over spending target by "compressing growth in non-modelled spending" implied substantial cuts in some programs.

40 National Commission of Audit, 2014, *Towards Responsible Government*, page 55.

41 Ibid, page 56.

5.4 Under the *Charter of Budget Honesty Act 1998* the Treasurer is required to publicly release and table a budget economic and fiscal outlook report at the time of the budget,[42] with the purpose of providing "information to allow the assessment of the Government's fiscal performance against the fiscal strategy set out in its current fiscal strategy statement."[43] Background information on fiscal rules in Australia is provided at Attachment J.

5.5 However the Commission noted that these provisions did not establish an official mechanism for a regular independent assessment of the Government's progress against, and adherence to, its fiscal strategy and fiscal rules.

5.6 The Commission considered that as the PBO was established to "inform the Parliament by providing independent and non-partisan analysis of the budget cycle [and] fiscal policy", the PBO "could play a formal role in assessing fiscal policy and tracking the government's decisions against the fiscal rules".

5.7 This recommendation is consistent with international practice, with more than half of the Independent Fiscal Institutions having a mandate to monitor, assess and report on progress against fiscal rules.[44] It is also consistent with empirical evidence that the effectiveness of fiscal rules is improved by their independent assessment by IFIs.[45]

5.8 Any decision on whether to expand the PBO's mandate to provide a formal role in assessing the Government's performance against fiscal rules is a matter for the Government and, ultimately, the Parliament.

Alternative models for assessing fiscal rules

5.9 The focus of this section is on explaining – should the PBO mandate be expanded to cover an assessment of fiscal rules – what the task would be likely to involve.

5.10 While it is common for IFIs to monitor performance against fiscal rules, the scope and nature of the task varies considerably between countries, reflecting the different factors affecting fiscal policy and the political context. An assessment of international examples of fiscal rule monitoring by IFIs is provided in Attachment K.

Common elements of fiscal rules assessments

5.11 While there is a spectrum of alternative models to consider, there are some common elements across each option.

5.12 The task would need to be broad enough to provide assurance that it involved a genuinely credible independent assessment of the fiscal rules. If the task was defined too narrowly (such as simply checking the arithmetic in the budget papers), there is a risk that the PBO would be seen as simply endorsing the Government's budget papers, potentially damaging the PBO's reputation as an independent and non-partisan agency. One way of mitigating this risk would be for the mandate to include the ongoing assessment of the government's fiscal rules against the principles of sound fiscal management, in addition to the review of compliance with the fiscal rules themselves.

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42 *Charter of Budget Honesty Act* 1998, section 10.

43 *Charter of Budget Honesty Act 1998,* section 11.

44 Debrun, Xavier, T. Kinda, T. Curristine, L. Eyraud, J. Harris, J. Seiwald, 2013, "The Functions and Impact of Fiscal Councils," IMF Policy Paper; July 16, 2013, International Monetary Fund, Washington, DC.

45 X. Debrun and T. Kinda, 2014, "Strengthening Post-Crisis Fiscal Credibility—Fiscal Councils on the Rise. A New Dataset" IMF Working Paper, 14/58, page 21.

5.13 Equally, close consultation with agencies, particularly the Departments of Finance and Treasury, would be required to ensure that the PBO's assessment was based on a sound understanding of the basis of the fiscal estimates. Ideally this would be a cooperative relationship, with ongoing dialogue with agencies and comprehensive access to information on the calculations underpinning the fiscal estimates, expanding on the existing MOU.

5.14 Similarly, in all cases independent assessment of fiscal rules would require the publication of detailed medium term fiscal projections. As noted above, ideally these estimates would be published in the budget papers. This would be consistent with the independent assessment of fiscal rules being a complement to the Intergenerational Report, which is produced at least every five years. That is, it would provide an annual independent report highlighting progress made against the fiscal rules and addressing fiscal sustainability more generally, between less frequent, but more comprehensive Intergenerational Reports.

5.15 The National Commission of Audit has recommended that the monitoring report follow the release of the annual Final Budget Outcome (FBO). While the FBO provides final fiscal information on the year that has just ended, up-to-date economic and fiscal information would be the more important input to an assessment of progress against the Government's fiscal rules which are forward looking in nature.

5.16 The PBO would ideally report annually in the period following the release of the budget papers – with the exact date depending, among other things, on the breadth of the assessment undertaken. This would complement the cycle of annual budget papers and other official publications on the budget, as well as leverage the latest economic and fiscal forecasts and projections.

5.17 Whichever approach is adopted, there would be a need to review whether and which legislative changes would be required to enable the PBO to complete the task allocated. For example while the existing functions of the PBO allow for an analysis of medium term budget trends, the current legislation does not explicitly refer to the assessment of fiscal rules.

Trade-offs between models for assessing fiscal rules

5.18 Should there be a need to assess the most appropriate model to adopt in Australia, a key consideration is to balance the degree of independent assurance that would be provided against the level of resources that would be involved. The work involved (and the resources required) to report on the Government's adherence to the fiscal strategy depends very much on the mandate and nature of the monitoring and reporting.

5.19 The highest level of independent assurance would involve the PBO preparing independent economic and fiscal forecasts and projections based on government policies over the forward estimates and medium term. This would include sensitivity analysis, examining the impact of varying economic, fiscal and demographic factors on major expenditure and revenue items.

5.20 Unsurprisingly, this approach would also be the most resource intensive. The joint submission of the Departments of Finance and Treasury to the Joint Select Committee on the Parliamentary Budget Office provided detail of the "considerable resources" used to provide economic and fiscal forecasts.[46] Similarly, the IMF has estimated that producing independent economic and fiscal forecasts requires a minimum of 20 professional staff.[47]

[46] Joint submission of the Departments of Treasury and Finance to the Joint Select Committee on the Parliamentary Budget Office, at page 4.

[47] X. Debrun, T. Kinda, T. Curristine, L. Eyraud, J. Harris, J. Seiwald, 2013, 'The functions and impact of fiscal councils', IMF Policy Paper; July 16, 2013, at page 35.

5.21 While, as noted in section 2, many IFIs prepare independent economic forecasts, the circumstances in Australia are different, as there are already credible independent alternative sources of economic forecasts,[48] and public confidence in official economic and fiscal estimates has not been eroded in the same way as in some other countries. Moreover, including independent economic forecasts and projections in an assessment of fiscal rules would risk diverting the focus of discussion on the report away from fiscal sustainability. It would also increase the risk that the relationship with central agencies would be adversarial rather than cooperative and consultative.

5.22 At the other end of the spectrum, a lower, but still meaningful, level of independent assurance could be provided where the PBO provided commentary on the reasonableness of the models, assumptions and judgements made in the production of the Budget fiscal forecasts and projections, while taking the economic and fiscal forecasts and projections themselves as given. This approach would also involve monitoring government policy announcements on an ongoing basis, and checking the budget papers for completeness. However, the PBO would simply draw attention to where it considered there were concerns about the credibility of the budget papers (including, but not limited to, errors or omissions), without producing any fiscal estimates of its own.

5.23 While less resource intensive (as it does not involve producing independent forecasts), this approach would still require dedicated resources on an ongoing basis, particularly in the monitoring of policy announcements, and reviewing the detailed calculations underpinning fiscal updates and policy costings, with a more intense level of dedicated resources around the time of fiscal updates and in the preparation of the report. The IMF has estimated that undertaking an assessment of fiscal policy, including compliance with fiscal rules, can be achieved with relatively few staff, with a range between 2 to 10 full-time professionals.

5.24 Although this approach would provide a level of independent assurance around compliance with fiscal rules, the extent of that assurance would be limited by the heavy reliance placed on official economic and fiscal estimates.

5.25 A third approach would be to adopt elements of each approach. Under this approach, the assessment would rely on official economic forecasts and projections, but would have scope to prepare independent medium-term fiscal projections. It would also include sensitivity analysis, examining the impact of varying economic, fiscal and demographic factors on major expenditure and revenue items.

5.26 This approach would appear to strike the best balance between the level of independent assurance provided and the level of dedicated resources involved. It would give nearly the same level of independent assurance as under the first approach, while requiring significantly less dedicated resources (in the absence of preparing independent economic forecasts). Similarly, it would provide substantially more independent assurance than under the second approach (as it would not be solely reliant on official fiscal projections), for a relatively small amount of additional dedicated resources.

[48] Joint Select Committee on the Parliamentary Budget Office, 2011, *Inquiry into the proposed Parliamentary Budget Office*, at page 45; Joint submission of the Departments of Treasury and Finance to Joint Select Committee on the Parliamentary Budget Office, at page 4.

5.27 A table summarising the IMF's assessment of alternative models of fiscal rule monitoring and their implications for resourcing is provided at Attachment L.

PBO position: **It is a matter for the Government and the Parliament to consider whether to accept the NCOA recommendation to have the PBO assess performance against fiscal rules.**

If the PBO were given the task of monitoring fiscal rules, the most appropriate model would be where the PBO's assessment relied on official economic forecasts and projections, but had scope to prepare independent medium-term fiscal projections.

6 Identification of administrative expenses in costings

6.1 Consistent with the *Charter of Budget Honesty Costing Guidelines*, PBO costings usually separately identify significant administrative expenses in costings of policy proposals. The exception to this general rule is that where the policy proposal included a cap on the total level of expenditure (including administrative expenses), then PBO costings did not necessarily include a separate estimate of administrative expenses.

6.2 The ANAO report recommended that where administrative expenses are significant to the implementation of the policy they should always be separately identified in costings – even if the overall cost of the policy is capped.

6.3 The ANAO report noted that:[49]

> *One of the essential elements of program implementation is to understand the administrative expenses needed to support the implementation process, particularly where they are significant*.

6.4 The PBO has accepted the ANAO's recommendation. The PBO agrees that transparency – and understanding of the full cost of implementing a proposal – would be improved by always separately including both administrative expenses (where significant to policy implementation) and program funds.

6.5 All PBO costings prepared since the release of the ANAO report have made explicit reference to departmental costs and, where significant, estimates have been included.

6.6 On 17 July 2014 the PBO issued a Guidance note to parliamentarians that, among other things, advised that:[50]

> *Departmental administrative expenses, where significant in terms of the policy being costed, will be separately identified as part of the costing. The costs of administering existing programs/policies of a similar nature will be used as a guide*.

[49] ANAO, 2014, *The Administration of the Parliamentary Budget Office*, page 24.

[50] PBO, *Guide to Policy Costings, Procedures, Information Requirements and* Methodology, PBO Guidance Note 02/2014. See also, Robyn Munro and Akash Paun, 2014, "Pre-election Policy Costing Mechanisms in Australia", in *Whitehall in Year Five of the Coalition: Lessons from Elsewhere*.

6.7 The PBO has also amended its internal Operations Manual to reflect this recommendation.[51]

> *Departmental administrative expenses will be included in all costings where these expenses are significant in the context of the policy being administered. In the case of policies that are specified as capped amounts inclusive of departmental administrative expenses, these expenses, where significant, will be separately identified within the capped amount. In cases where departmental administrative expenses are not significant, a statement to this effect will be included in the costing.*

6.8 The PBO is also taking action to build its capacity to prepare estimates of the administrative costs of implementing policies. In particular, the PBO is seeking agencies' cooperation in building a "library" of administrative estimates of a range of Budget measures to inform estimates of administrative expenses in policy costings in the future.

PBO position: The PBO agrees with the ANAO recommendation and has implemented it.

[51] PBO, Operations Manual, page 20

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Attachment A
Terms of Reference of JCPAA Inquiry

On 17 July 2014, the Committee resolved to inquire into and report on the operations of the Parliamentary Budget Office (PBO), with specific regard to:

- PBO statutory information gathering powers and access to information, including the Contingency Reserve
- PBO reporting of Government progress against a new set of fiscal rules, as recommended by the National Commission of Audit
- PBO reporting against medium-term projections of fiscal outlook beyond the forward estimates
- best practice for independent fiscal institutions/ as identified by the International Monetary Fund
- PBO implementation of the recommendation from Australian National Audit Office Report No. 36 (2013–14), and
- the need for any legislative change.

Attachment B
IMF fiscal council dataset

Country	Fiscal council	Long term sustainability	Forecast preparation or assessment	Monitoring of fiscal rules	Costing of measures	Legal/operational independence	Access to information[52]
Australia	Parliamentary Budget Office	Yes	No	No	Yes	Yes	Yes[53]
Austria	Government Debt Committee	Yes	No	Yes	No	Yes	Yes
Belgium	High Council of Finance	Yes	No	Yes	No	Yes	Yes
Belgium	Federal Planning Bureau	Yes	Yes	No	No	Yes	Yes
Canada	Parliamentary Budget Office	Yes	Yes	No	Yes	Yes	Yes
Croatia	Fiscal Policy Council	Yes	Yes	Yes	No	Yes	N/A
Denmark	Danish Economic Council	Yes	Yes	Yes	No	Yes	Yes
Finland	National Audit Office of Finland	Yes	Yes	Yes	No	Yes	Yes
France	High Council of Public Finance	No	Yes	Yes	No	Yes	Yes
Georgia	Parliamentary Budget Office	No	Yes	No	No	No	Yes
Germany	German Council of Economic Experts	Yes	Yes	No	No	Yes	Yes
Hungary	Fiscal Council	No	Yes	Yes	No	Yes	Yes
Ireland	Irish Fiscal Advisory Council	Yes	Yes	Yes	Yes	Yes	Yes
Italy	Parliamentary Budget Office	Yes	Yes	Yes	Yes	Yes	Yes

[52] The IMF defines access to information as a "legal obligation to share information essential for the fiscal council's activity".
[53] Agencies are required to comply with the information requests in relation to either a costing in the caretaker period or for the preparation of the post-election report on election commitments on a timely basis unless doing so is not practicable, unlawful, or would disclose information that was commercially confidential or could prejudice national security.

Country	Fiscal council	Long term sustainability	Forecast preparation or assessment	Monitoring of fiscal rules	Costing of measures	Legal/operational independence	Access to information[52]
Japan	Fiscal System Council	No	No	No	No	No	Yes
Kenya	Parliamentary Budget Office	N/A	Yes	N/A	N/A	N/A	Yes
Mexico	Center for Public Finance Studies	No	Yes	No	Yes	No	Yes
Netherlands	Netherlands Bureau for Economic Policy Analysis	Yes	Yes	Yes	Yes	Yes	Yes
Portugal	Portuguese Public Finance Council	Yes	Yes	Yes	No	Yes	Yes
Romania	Fiscal Council	Yes	Yes	Yes	Yes	Yes	Yes
Serbia	Fiscal Council	Yes	Yes	Yes	Yes	Yes	Yes
Slovak Republic	Council for Budget Responsibility	Yes	No	Yes	Yes	Yes	Yes
Slovenia	Institute of Macroeconomic Analysis & Development	Yes	Yes	No	No	Yes	Yes
Slovenia	Fiscal Council	Yes	No	Yes	No	Yes	Yes
South Africa	Parliamentary Budget Office	N/A	No	No	Yes	N/A	Yes
South Korea	National Assembly Budget Office	Yes	Yes	No	Yes	Yes	Yes
Sweden	Swedish Fiscal Policy Council	Yes	No	Yes	No	Yes	Yes
United Kingdom	Office for Budget Responsibility	Yes	Yes	Yes	Yes	Yes	Yes
United States	Congressional Budget Office	Yes	Yes	No	Yes	Yes	Yes

Source: IMF Fiscal Dataset, Debrun et al, 2013, Debrun and Kinda (2014); PBO.

Attachment C
OECD Principles for Independent Fiscal Institutions (IFIs)

PRINCIPLES FOR INDEPENDENT FISCAL INSTITUTIONS (IFIs)

The twenty-two *Principles for Independent Fiscal Institutions* (fiscal councils and independent parliamentary budget offices) proposed below are grouped under nine broad headings: (1) local ownership; (2) independence and non-partisanship; (3) mandate; (4) resources; (5) relationship with the legislature; (6) access to information; (7) transparency; (8) communication; and (9) external evaluation.

1. Local ownership

1.1. To be effective and enduring, an IFI requires broad national ownership, commitment, and consensus across the political spectrum. While a country seeking to establish an IFI will benefit from the study of existing models and experiences in other countries, models from abroad should not be artificially copied or imposed. Regional or international authorities may provide valuable support and protection.

1.2. Local needs and the local institutional environment should determine options for the role and structure of the IFI. Design choices may also have to take into account capacity constraints, particularly in smaller countries[1]. The basic characteristics of an IFI, including specific protections, should be informed by the country's legal framework, political system, and culture. Its functions should be determined by the country's fiscal framework and specific issues that need to be addressed.

2. Independence and non-partisanship

2.1. Non-partisanship[2] and independence are pre-requisites for a successful IFI. A truly non-partisan body does not present its analysis from a political perspective; it always strives to demonstrate objectivity and professional excellence, and serves all parties. This favours that IFIs should be precluded from any normative policy-making responsibilities to avoid even the perception of partisanship.

2.2. The leadership[3] of an IFI should be selected on the basis of merit and technical competence, without reference to political affiliation. The qualifications should be made explicit – including professional standing and relevant government or academic experience. Qualifications should include proven competence in economics and public finances and familiarity with the budget process.

2.3. Term lengths and the number of terms that the leadership of the IFI may serve should be clearly specified in legislation as should be the criteria and process for dismissal for cause. The leadership's term should optimally be independent of the electoral cycle. Independence may be enhanced by defining the term span beyond the electoral cycle.

2.4. The position of head of the IFI should be a remunerated and preferably full-time position[4]. Strict conflict-of-interest standards, particularly for institutions with council members employed on a part-time basis, should be applied equally vis-à-vis other employment in the public or private sector.

2.5. The leadership of the IFI should have full freedom to hire and dismiss staff in accordance with applicable labour laws.

2.6. Staff should be selected through open competition based on merit and technical competence and without reference to political affiliation. Conditions of employment should be along the lines of that of the civil (or parliamentary) service[5].

3. Mandate

3.1. The mandate of IFIs should be clearly defined in higher-level legislation, including the general types of reports and analysis they are to produce, who may request reports and analysis, and, if appropriate, associated timelines for their release.

3.2. IFIs should have the scope to produce reports and analysis at their own initiative, provided that these are consistent with their mandate. Similarly, they should have the autonomy to determine their own work programme within the bounds of their mandate.

3.3. Clear links to the budget process should be established within the mandate. Typical tasks carried out by IFIs might include (but are not limited to): economic and fiscal projections (with a short- to medium-term horizon, or long-term scenarios); baseline projections (assuming unchanged policies); analysis of the executive's budget proposals; monitoring compliance with fiscal rules or official targets; costing of major legislative proposals; and analytical studies on selected issues[6].

4. Resources

4.1. The resources allocated to IFIs must be commensurate with their mandate in order for them to fulfil it in a credible manner. This includes the resources for remuneration of all staff and, where applicable, council members. The appropriations for IFIs should be published and treated in the same manner as the budgets of other independent bodies, such as audit offices, in order to ensure their independence. Multiannual funding commitments may further enhance IFIs independence and provide additional protection from political pressure.

5. Relationship with the legislature

5.1. Legislatures perform critical accountability functions in country budget processes and the budgetary calendar should allow sufficient time for the IFI to carry out analysis necessary for parliamentary work. Regardless whether an independent fiscal institution is under the statutory authority of the legislative or the executive branch, mechanisms should be put in place to encourage appropriate accountability to the legislature. These may include (but are not limited to): (1) submission of IFI reports to parliament in time to contribute to relevant legislative debate; (2) appearance of IFI leadership or senior staff before the budget committee (or equivalent) to provide responses to parliamentary questions; (3) parliamentary scrutiny of the IFI budget; and (4) a role for parliament's budget committee (or equivalent) in IFI leadership appointments and dismissals.

5.2. The role of the IFI vis-à-vis parliament's budget committee (or equivalent), other committees, and individual members in terms of requests for analysis should be clearly established in legislation. Preferably, the IFI should consider requests from committees and sub-committees rather than individual members or political parties. This is particularly relevant for those IFIs established under the jurisdiction of the legislature.

6. Access to information

6.1. There is often asymmetry of information between the government and the IFI – no matter how well an IFI is resourced. This creates a special duty to guarantee in legislation – and if necessary to reaffirm through protocols or memoranda of understanding – that the IFI has full access to all relevant information in a timely manner, including methodology and assumptions underlying the budget and other fiscal proposals. Information should be provided at no cost or, if appropriate, sufficient resources should be provided in the IFI budget to cover analysis obtained through government actuarial services.

6.2. Any restrictions on access to government information should also be clearly defined in legislation. Appropriate safeguards may be put in place[7] as regards protection of privacy (for example, taxpayer confidentiality) and of sensitive information in the areas of national defence and security.

7. Transparency

7.1. Given that promoting transparency in public finances is a key goal of IFIs, they have a special duty to act as transparently as possible. Full transparency in their work and operations provides the greatest protection of IFI independence and allows them to build credibility with the public.

7.2. IFI reports and analysis (including a full account of the underlying data and methodology) should be published and made freely available to all. As noted in 5.1, all IFI reports and analysis should be sent to parliament in time for legislative debate[8] and the leadership of the IFI should be given the opportunity to testify before parliamentary committees.

7.3. The release dates of major reports and analysis should be formally established, especially in order to co-ordinate them with the release of relevant government reports and analysis[9].

7.4. IFIs should release their reports and analysis, on matters relating to their core on-going mandate on economic and fiscal issues, in their own name.

8. Communications

8.1. IFIs should develop effective communication channels from the outset, especially with the media, civil society, and other stakeholders. Given that the influence of IFIs in fiscal policy making is persuasive (rather than coercive by means of legal sanctions or other punitive measures), media coverage of their work assists in fostering informed constituencies that may then exercise timely pressure on the government to behave transparently and responsibly in fiscal matters.

9. External evaluation

9.1. IFIs should develop a mechanism for external evaluation of their work – to be conducted by local or international experts. This may take several forms: review of selected pieces of work; annual evaluation of the quality of analysis; a permanent advisory panel or board; or peer review by an IFI in another country.

Relevant body: Public Governance Committee

[1] Several countries (e.g. Ireland, Portugal, and Sweden) allow for non-nationals to serve as council members, thus increasing the pool of qualified candidates and reducing the risk of "groupthink". As such, this design choice may also serve to bolster independence.
[2] Non-partisanship should not be confused with bi-partisanship. Whereas bi-partisanship suggests a balance between political parties, non-partisanship necessitates an absence of political influence.
[3] The title may differ – director, president, or chair – depending on its design. The institution may be under individual or collective (council) leadership.
[4] There are exceptional cases in which a part-time position may be considered sufficient, for example if the IFI has a strictly defined and limited work programme or if another institution provides complementary functions which impact on the workload of the IFI. In Sweden, the Fiscal Policy Council can use the macro-fiscal forecasts prepared by another well-established independent agency, the National Institute of Economic Research.
[5] Given the small size of the majority of IFIs, staff may be provided with career mobility within the broader civil service. However, care should be taken to avoid conflict of interest.
[6] Other functions are carried out by well-established IFIs, such as costing of election platforms by the Netherlands Bureau for Economic Policy Analysis, or programme evaluation by the Korean National Assembly Budget Office.
[7] For example, security clearance for IFI staff.
[8] There may be cases where an IFI provides confidential estimates as part of the legislative process. For example, the U.S. Congressional Budget Office provides estimates early in the legislative process – kept confidential only until the legislative proposal becomes public – in order to help craft legislative proposals.
[9] Care must be taken to avoid the perception that the timing of the release of the IFI reports favours the government or the opposition parties.

Attachment D

Memorandum of Understanding
between the
Parliamentary Budget Officer and the Heads of Commonwealth Bodies in relation to the
Provision of Information and Documents

DATED 24/9/12

NOTE: This MOU template has been developed to inform negotiations between the Secretaries to the Department of the Treasury and of the Department of Finance and Deregulation (Finance), with the Parliamentary Budget Officer about arrangements for the provision of information. Other Commonwealth entities, including agencies under the *Financial Management and Accountability Act 1997* and bodies under the *Commonwealth Authorities and Companies Act 1997*, may elect to be covered under this agreement, as identified at Attachment A. Specific schedules may be developed under this MOU to reflect specific issues that arise for Commonwealth bodies.

NOTE: Where bodies elect to negotiate a separate arrangement with the PBO Officer, they must use this template as the basis for the development of an alternative arrangement, in consultation with the Treasury and Finance Secretaries.

STATEMENT OF INTENT

This Memorandum of Understanding (MOU) is made between the Heads of the Department of the Treasury (Treasury) and the Department of Finance and Deregulation (Finance) - and on behalf of the Heads of those Commonwealth bodies listed at Attachment A - and the Parliamentary Budget Officer (Officer) (the Parties) in relation to the provision of information and documents to support the functions of the Parliamentary Budget Office (PBO) (the Activity).

The purpose of this MOU is to facilitate the formation of a collaborative, productive and collegiate working relationship between the Parties.

This MOU assists by supporting the ready and open exchange of information, documents, knowledge and views between the Parties. The MOU also outlines the roles and responsibilities of each Party.

In establishing this MOU, the Parties undertake to engage in a cooperative manner which supports the provision of high-quality advice and support to Australian Senators and Members of the House of Representatives, and which supports the maintenance and improvement of government systems.

The MOU is consistent with the *Australian Government Protocols Governing the Engagement between Commonwealth Bodies and the Parliamentary Budget Officer*.

Signed by:

[redacted]

Mr Phil Bowen PSM
Parliamentary Budget Officer

Date: 26 / 9 / 12

Signed by: [redacted]

Dr Martin Parkinson PSM
Secretary, Department of the Treasury

Date: 24 / 9 / 2012

Signed by: [redacted]

Mr David Yule PSM
Secretary, Department of Finance and Deregulation

Date: 24 / 9 / 12

1. PURPOSE

1.1. The purpose of this MOU is to outline the arrangement between the Parties for the Officer to obtain information to perform his or her statutory functions. Specifically, this MOU covers:

(a) the commitment by the Head to provide information to the Officer;
(b) the format for both requesting information from the Head and for providing information to the Officer;
(c) the circumstances under which the information is to be provided;
(d) the use of the information by the Officer; and
(e) administrative arrangements governing the operation and conduct of the Parties.

1.2. The statutory functions of the Officer are established under section 64E of the *Parliamentary Service Act 1999*, as amended, namely:

(a) outside the caretaker period for a general election - to prepare policy costings on request by Senators or Members of the House of Representatives;
(b) during the caretaker period for a general election - to prepare policy costings on request by authorised members of Parliamentary parties or independent members;
(c) to prepare responses (other than policy costings) to requests relating to the budget by Senators or Members of the House of Representatives;
(d) to prepare submissions to inquiries of Parliamentary committees on request by such committees;
(e) to conduct, on his or her own initiative (including in anticipation of requests referred to in paragraphs (a) to (d)), research on and analysis of the budget and fiscal policy settings.

2. COMMENCEMENT AND DURATION

This MOU commences on the date it is signed by both Parties.

3. STATUS OF THIS MOU

3.1. Non-legally Binding

This MOU does not create legally enforceable obligations between the Parties.

3.2. Legislative Authority

This MOU is intended to be an arrangement for the Officer to obtain information and documents from Commonwealth bodies for the purposes of section 64F of the *Parliamentary Service Act 1999*.

4. ROLES AND RESPONSIBILITIES OF PARTIES TO THIS MOU

4.1. Mutual Assistance

The Parties will be open, honest, cooperative and responsive to each other, respecting each other's functions and roles, and assisting and supporting each other whenever possible.

4.2. Roles and Responsibilities of Parties

The Parties have a number of specific roles and responsibilities in relation to this MOU.

The roles and responsibilities of the **Heads** are to establish appropriate arrangements to ensure:

- compliance with the *Australian Government Protocols Governing the Engagement between Commonwealth Bodies and the Parliamentary Budget Officer*;
- a cooperative working relationship is maintained with the Officer and employees/staff of the PBO on all matters related to this MOU;
- efforts are made by the Heads, or a person authorised by the Heads, to respond to requests received from the Officer with sufficient information and in an appropriate timeframe, as appropriate;
- information provided to the Officer is the most relevant, accurate and current information held or utilised;
- a pro-disclosure approach is maintained to enable open discussion of information sources, methodologies and analytical approaches; and
- where specifically requested by the Officer, all requests for information and documents, including the details of each request, are treated confidentially consistent with the need-to-know principle.

The roles and responsibilities of the Officer are to establish appropriate arrangements to ensure that:

- a cooperative working environment is maintained with the Heads, and their employees/staff, on all matters related to this MOU;
- reasonable contextual detail is provided in relation to each request for information provided to the Heads to allow a response to be relevant, accurate and current;
- consistent with section 64V of the *Parliamentary Service Act 1999*, appropriate safeguards are established to ensure that all information received from the Heads is treated confidentially at all times; and
- all employees/staff/contracted officers of the PBO maintain appropriate security classifications and treat information in a confidential manner at an times.

5. ACCESS TO INFORMATION

5.1. Requesting Information and Documents – The Officer requesting information from the Head

In relation to submitting requests for information to the Head, the **Officer** is to ensure that:

(a) each request for information is submitted via email to the Head, or a person authorised by the Head;
   i. in circumstances where the Head is not the Secretary of either the Department of the Treasury (Treasury) or the Department of Finance and Deregulation (Finance), the Officer is also to ensure that the Heads of both Treasury and Finance receive a copy of such requests to facilitate co-ordination and liaison in processing and responding to requests;

(b) each request for information is made using the 'Request for Information' form at Attachment B including an Information Request Reference Number;

(c) each request for information contains a clear and specific description of the information requested and how the information will be used;

(d) each request for information identifies whether the request is routine or urgent in nature; and

(e) each request for information identifies whether the request is to be treated as confidential because a direction to keep the request confidential has been made under 64H(3)(d) or 64M.

The Officer, or a person authorized by the Officer, may make direct contact with the Head, or a person authorised by the Head, to discuss a request for information.

5.2. Providing Information and Documents - The Head providing information to the Officer

In relation to providing information in response to a request received from the Officer, the **Head** is to ensure that:

(a) each request for information received from the Officer is acknowledged, via email, within 24 hours of its receipt on the next business day;

(b) relevant consultation is undertaken with other Commonwealth bodies, as required, to ensure that the Officer is provided with the appropriate information and documents in response to each request;

(c) relevant and accurate information is provided to the Officer in response to each request; and

(d) a response is provided within a reasonable timeframe using the 'Provision of Information' form at Attachment C, with the indicative timeframe being that:
   a. urgent requests are responded to within 5 working days of receipt, depending on complexity; and
   b. routine requests are responded to within 10 working days of receipt, depending on complexity.

The Head may negotiate alternative timeframes with the Officer based on factors such as the complexity of the request, the level of involvement of other agencies, and workload pressures, including where an unusually large number of requests have been received from the PBO. Further, there may be circumstances when additional time constraints arise - for example, during an estimates update, or during an election period.

In these circumstances, the Head may seek to discuss with the Officer the critical workload pressures and alternative arrangements for the provision of information.

The Head may negotiate specific confidentiality requirements with the Officer, in relation to particular information provided to the Officer, as per clause 7.1.

In keeping with the spirit of this MOU, the Head should aim to provide sufficient relevant information to satisfy each request but provide, at a minimum, those documents that would be made available if a formal request was made under the *Freedom of Information Act 1982*. Where, however, it is not possible to release certain information, the Head should provide a written explanation outlining the reason for the non or partial release – this might include commercial- or cabinet-in-confidence information, intellectual property rights or the application of other relevant legislative provisions relating to the handling of government information and data such as the *Privacy Act 1988.*

Prior to the explanation being provided to the Officer, however, the Head should consult with the Secretaries to determine whether there are alternative ways of satisfying the request from the Officer.

5.3. Using Information

The Officer may only use information and documents provided by the Heads to support the Officer's statutory functions as established under section 64E of the *Parliamentary Service Act 1999,* and outlined in clause 4.2 of this MOU.

The Parties may discuss and agree on issues related to the timing of the release of certain data, models or information, and any limitations or restrictions that may apply to the release of the data, models or information.

5.4. Fees

No fees are payable by the Officer or the PBO for the provision of, or for access to, information under this MOU.

Specific arrangements may need to be negotiated between the parties to obtain information held under license.

6. QUALITY OF INFORMATION

6.1. Data Integrity and Protection – Information provided to the Officer

In relation to the information provided to the Officer under this MOU, the **Heads** will:

(a) take reasonable measures to ensure that information provided is free from malicious computer codes or viruses; and
(b) review and, as required, amend information provided to the Officer within a reasonable time of being formally notified by the Officer of a possible inaccuracy, omission, defect or error in that information.

6.2. Data Integrity and Protection – Information received from the Heads

In relation to any information received from the Head under this MOU, the **Officer** will:

(a) take all reasonable measures to maintain the confidentiality of the information, including any confidentiality requirements negotiated with the Head;
(b) ensure that the information is only used for the purposes for which the information was provided, and is only accessed by employees/staff of the PBO in accordance with the need-to-know principle;
(c) notify the Head as soon as practicable of any possible errors or defect in that information;
(d) ensure that the information is safeguarded against loss, destruction, transfer, or unauthorised access, modification, disclosure, or use; and
(e) notify the Head as soon as practicable of any actual or potential breach of security or confidentiality in relation to the information.

6.3. Review of Data Integrity Procedures and Systems

The Parties recognise that the integrity of the information provided under this MOU relies on both Parties implementing and maintaining appropriate security procedures and systems.

The Head may ask the Officer for information about the procedures and systems that the Officer has in place for maintaining the confidentiality and integrity of the information provided by the Head. In requesting this information:

(a) the Head is to make a request in writing; and
(b) the Officer is to respond to a request within 10 working days of its receipt.

The Parties may meet to discuss issues related to the security procedures and systems established to maintain data integrity.

7. USE AND RELEASE OF INFORMATION

7.1. Confidentiality

The Parties undertake to maintain the confidentiality of information provided to them under this MOU in accordance with the requirements of the Party providing the information; and to comply with all laws that govern the use and release of information.

The *Parliamentary Service Act 1999* allows for the Officer to provide confidential advice to parliamentarians on non-costing matters at any time, as well as confidential policy costings during non-caretaker periods, upon request.

To support this arrangement and ensure the confidentiality of requests for information:

- the Heads of Commonwealth bodies and their staff must not disclose the details of a request for information and the subsequent response to the Government if the request is specifically requested to be treated confidentially;
- Government Ministers and their staff will not ask the Heads of Commonwealth bodies or their staff to provide them with any information which would disclose the nature of a confidential request from the Officer; and
- the Heads of Commonwealth bodies and their staff must not disclose the details of a request for information and the subsequent response to a third party, other than a Commonwealth body, unless required to do so by law.

However, it is appropriate for Commonwealth bodies to provide information to their Minister/s on the resourcing impacts of their interactions with the PBO in aggregate terms, so long as confidential information is not disclosed by the provision of such advice.

Where a Head has provided information to the Officer, the Officer may only disclose the information as provided to a Non Party if that disclosure is made:

(a) with the prior written approval of the Head including complying with any terms . and conditions requested by the Head; and
(b) as required by applicable government direction, policy or law.

7.2. Security

The Parties undertake:

(a) to maintain the security of information provided to them according to the requirements of the Party providing the information;
(b) to ensure that all employees/staff/contractors have, and maintain at all times, appropriate security clearances to access Australia Government information; and
(c) to meet the requirements of the *Australian Government Protective Security Manual,* at a minimum, in relation to the storage and handling of information provided by the other Party.

7.3. Intellectual property

The Parties agree that pre-existing intellectual property will be recognised and respected under this MOU and will only be used as authorised by the owner of the intellectual property as permitted under law.

7.4. Sub-contracts and third party contracts

If a Party to this MOU (the first Party) contracts with another party to carry out any part of the activities the first Party is to perform under this MOU, the first Party will be solely responsible for:

(a) compliance with all legal and regulatory requirements in relation to subcontracting;
(b) the engagement, management, coordination, and payment of, and all communications with, such contractors;
(c) all other matters in connection with that contract and/or those contractors; and
(d) maintaining security as per this MOU.

8. GOVERNANCE ARRANGEMENTS FOR THIS MOU

8.1. Monitoring and Evaluation

Parties may appoint an MOU Manager to monitor and evaluate the operation of this MOU on their behalf. In the absence of a specific appointment, the Head and the Officer are taken to be the MOU Managers.

Parties agree to monitor the workload implications, for both themselves and the other Party, of providing, exchanging and discussing information and data requests, including processes related to submitting and responding to requests for information. Where distinct workload pressures emerge, either Party may seek advice from the other Party about prioritising requests for information.

8.2. Review of MOU

The terms and conditions of this MOU are to be reviewed by the Parties within four years of the date of commencement of this MOU.

Either Party may seek to review the terms and conditions of this MOU at any time.

8.3. Variation

Either Party may undertake to negotiate changes to this MOU. All variations must be documented in writing, and agreed by both Parties in writing. All variations agreed by both Parties will be included as an Attachment to this MOU.

8.4. Notices

Notices under this MOU are to be made in writing, marked for the attention of the recipient MOU Manager, and sent to that MOU Manager's address by e-mail transmission or facsimile.

Notices will be taken to be received by the recipient on the business day next following the day on which the transmission was sent in its entirety to the recipient's email address or facsimile machine.

9. DISPUTE RESOLUTION

Parties agree to attempt to resolve any dispute arising in relation to this MOU by negotiation. Parties agree that dispute resolution will be at the lowest, most informal level practicable, and will incorporate alternative dispute resolution procedures.

As a starting principle, the Parties agree to continue to perform their obligations under this MOU pending resolution of any dispute.

In the first instance, the MOU Managers are responsible for undertaking to resolve a dispute.

Where a dispute is not resolved by the MOU Managers:

(a) either Party may provide the other with a written notice setting out the specific details of the dispute and reporting the failure of negotiations to resolve it; and

(b) both Parties are to refer the dispute to the Officer or Head, as appropriate, for resolution.

Where the dispute is not resolved by the Officer and Head, both parties shall refer the dispute to the Secretaries of Treasury and Finance for resolution.

Where the Head is the Secretary of Treasury or Finance, the Head is to refer the matter to the Secretary of the Department of the Prime Minister and Cabinet.

At any time either Party may request the appointment of an independent mediator - for example the Australian Public Service Commissioner - to resolve a dispute, whose appointment is to be agreed between both Parties. The outcome of any negotiated dispute is to be documented in writing.

The Parties agree to bear their own costs in complying with this clause.

10. INTERPRETATION

10.1. In this MOU, unless the contrary intention appears:

(a) an attachment, schedule or other annexure to this MOU forms part of this MOU; and

(b) the singular includes the plural and vice versa, and each gender includes the other gender.

10.2. The following definitions apply to this MOU and any attachments, schedules or annexure:

Caretaker period – has the same meaning as in Schedule 1 to the *Charter of Budget Honesty Act 1998* being "the period starting when the House of Representatives expires or is dissolved, and ending:

(a) when it is clear that the Government has been re-elected; or

(b) if there is a change of Government, when the new Government has been sworn in".

Commonwealth body – means:

(a) an Agency within the meaning of the *Financial Management and Accountability Act 1997*; or
(b) a Commonwealth authority within the meaning of the *Commonwealth Authorities and Companies Act 1997*; or
(c) a Commonwealth company within the meaning of the *Commonwealth Authorities and Companies Act 1997*;
(d) or the High Court of Australia.

Head – means the Chief Executive/Secretary/CEO, or equivalent, of a Commonwealth body, however described.

Information – includes models that are involved in the generation of the information.

Intellectual Property – means all rights and interests arising from intellectual activity in the scientific, literary, artistic and industrial fields, including those in the nature of copyright, patents, designs, trade and service marks, and trade and business names, whatever they are called and wherever and however they arise.

Non Party – means persons that are not Parties to this MOU and are not contracted by a Party to this MOU.

Officer – means the holder of the statutory office of the Parliamentary Budget Officer as established under section 64C of the *Parliamentary Service Act 1999,* or a person authorised by the Parliamentary Budget Officer.

Parties – means the Officer, and the Head, that are parties to this MOU.

PBO – means the Commonwealth Parliamentary Budget Office as established under section 64A of the *Parliamentary Service Act 1999.*

Presiding Officer means:

(a) in relation to the Senate—the President of the Senate; and
(b) in relation to the House of Representatives—the Speaker of the House of Representatives.

Unless the contrary intention appears, a reference to the Presiding Officers means the Presiding Officers acting jointly.

Third parties – means persons that are not Parties to this MOU but are contracted by a Party to this MOU to carry out any of the activities of that Party under this MOU.

ATTACHMENT A

COMMONWEALTH BODIES COVERED BY THIS MEMORANDUM OF UNDERSTANDING

The Commonwealth bodies listed below have elected to be covered under this agreement.

Signed by:

[redacted]

Name Dr Conall O'Connell

Secretary
Designation

Department of Agriculture, Fisheries and Forestry
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Peter Harris

Secretary
Designation

Department of Broadband, Communications and the Digital Economy
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Duncan Lewis AO DSC CSC

Secretary
Designation

Department of Defence
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Roger Wilkins AO

Secretary
Designation

Attorney-General's Department
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Blair Comley PSM

Secretary
Designation

Department of Climate Change and Energy Efficiency
Commonwealth body

Date: 10 / 10 / 12

[redacted]

Name Ms Lisa Paul AO PSM

Secretary
Designation

Department of Education, Employment and Workplace Relations
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Finn Pratt PSM

Secretary
Designation

Department of Families, Housing, Community Services and Indigenous Affairs
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Ms Jane Halton PSM

Secretary
Designation

Department of Health and Ageing
Commonwealth body

Date: 15 / 10 / 12

[redacted]

Name Mr Martin Bowles PSM

Acting Secretary
Designation

Department of Immigration and Citizenship
Commonwealth body

Date: 9 / 10 / 12

[redacted]

Name Dr Don Russell

Secretary
Designation

Department of Industry, Innovation, Science, Research and Tertiary Education
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Dennis Richardson AO

Secretary
Designation

Department of Foreign Affairs and Trade
Commonwealth body

Date: 3 / 10 / 2012

[redacted]

Name Ms Kathryn Campbell CSC

Secretary
Designation

Department of Human Services
Commonwealth body

Date: 5 / 10 / 2012

[redacted]

Name Mr Mike Mrdak

Secretary
Designation

Department of Infrastructure and Transport
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Dr Ian Watt AO

Secretary
Designation

Department of the Prime Minister and Cabinet
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Ms Glenys Beachamp PSM

Secretary
Designation

Department of Regional Australia, Local Government, Arts and Sports
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Dr Paul Grimes PSM

Secretary
Designation

Department of Sustainability, Environment, Water, Population and Communities
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Stephen Sedgwick AO

Public Service Commissioner
Designation

Australian Public Service Commission
Commonwealth body

Date: 10 / 10 / 12

[redacted]

Name ~~Mr Michael Carmody AO~~
MR MICHAEL PEZZULLO
Chief Executive Officer - ACTING
Designation

Australian Customs and Border Protection Service
Commonwealth body

Date: 10 / 10 / 2012

[redacted]

Name Mr Drew Clarke PSM

Secretary
Designation

Department of Resources, Energy and Tourism
Commonwealth body

Date: 3 / 10 / 12.

[redacted]

Name Mr Ian Campbell PSM

Secretary
Designation

Department of Veterans' Affairs
Commonwealth body

Date: 3 / 10 / 12

[redacted]

Name Mr Brian Pink

Australian Statistician
Designation

Australian Bureau of Statistics
Commonwealth body

Date: 10 / 10 / 12

[redacted]

Name Mr Michael D'Ascenzo AO

Commissioner of Taxation
Designation

Australian Taxation Office
Commonwealth body

Date: 10 / 10 / 12

ATTACHMENT B

REQUEST FOR INFORMATION TEMPLATE

This template is to be utilised by the Parliamentary Budget Officer when submitting a request for information to a Commonwealth Government body.

REQUEST FOR INFORMATION BY THE PARLIAMENTARY BUDGET OFFICER **Page 1 of 2**	
1. Information Request Reference Number:	For example, 001-2012
2. Request submitted to:	For example, Department of Finance and Deregulation
3. Date request submitted:	For example, 1 January 2012
4. PBO Contact Officer for this request:	For example: John Smith Work contact number Work email
5. Is this request confidential? (Y/N)	For example, Y
6. Is this request routine or urgent?	For example, Routine
7. Description of request:	For example, the PBO has been asked to prepare a costing on a change Family Tax Benefit Part *PBO to insert relevant detail*

REQUEST FOR INFORMATION BY THE PARLIAMENTARY BUDGET OFFICER Page 2 of 2	
8. Description of the specific information and/or data that is requested:	For example, models containing indexation parameters and demand trends. *PBO to insert relevant details*
9. How does the request relate to the work and mandate of the PBO?	For example, preparation of policy costings outside the caretaker period (section 64E(1)(a) of the *Parliamentary Service Act 1999*).
10. Date information required by:	15 January 2012
11. Request cleared by:	For example, Parliamentary Budget Officer

ATTACHMENT C

PROVISION OF INFORMATION TEMPLATE

This template is to be utilised by Commonwealth Government bodies when submitting information to the Parliamentary Budget Officer.

PROVISION OF INFORMATION TO THE PARLIAMENTARY BUDGET OFFICER **Page 1 of 3**	
1. Information Request Reference Number:	For example, 001-2012
2. Date of request:	For example, 10 October 2012
3. Date response requested by:	For example, 15 October 2012
4. PBO Contact Officer for this request:	For example: John Smith Work contact number Work email
5. Is this request confidential? (Y/N)	For example, Y
6. Was the request routine or urgent?	For example, Routine
7. Description of request received:	For example, request for a costing on a change to the eligibility for Family Tax Benefit Part A.
8. Date information provided to the PBO (including, if relevant, the reason for any delay in submitting the information)	For example, 15 October 2012
9. Details of any external parties consulted in preparing this response:	For example, Not applicable

PROVISION OF INFORMATION TO THE PARLIAMENTARY BUDGET OFFICER Page 2 of 3	
10. Summary of the response in relation to this request:	
11. Is the detailed response attached? (Y/N)	For example, Yes
12. Are there any restrictions or sensitivities on the use or public disclosure of the information? If so, please specify:	For example, forecasts provided in-confidence, privacy laws, taxpayer confidentiality laws, third party licensing or IP arrangements
13. Indicate currency of information and expiry date for information:	For example, data current as at 15 June 2012 based on population for 2009-10. Data updated twice a year in July and January; relies on forecasts updated at Budget and MYEFO. Expiry date for information: eg 31 December 2012 **Note:** This information is deemed suitable for use until the expiry date, however, other unexpected events such as <*insert as necessary, eg changes in the economy or population*> may render this information unsuitable prior to that date.
14. Are there any other notes, qualifiers or sensitivities associated with the information?	For example, reliability may be low due to volatility of input data; impact of behavior changes; uncertainty over parameter forecasts etc.

PROVISION OF INFORMATION TO THE PARLIAMENTARY BUDGET OFFICER Page 3 of 3	
15. Agency response contact officer	For example: Betty Smith <insert agency name and section> Work contact number Work email
16. Agency response cleared by:	For example: Assistant Secretary, Budget Work contact number Work email

Attachment E

AUSTRALIAN GOVERNMENT PROTOCOLS GOVERNING THE ENGAGEMENT BETWEEN COMMONWEALTH BODIES AND THE PARLIAMENTARY BUDGET OFFICER

Preamble

The Parliament of Australia has established the Parliamentary Budget Office (PBO), headed by the Parliamentary Budget Officer (the Officer), to provide Senators and Members of the House of Representatives with independent and non-partisan analysis of the budget cycle, fiscal policy and the financial implications of policy proposals.

The PBO also prepare submissions to inquiries of Parliamentary Committees on request, conduct research on and analysis of the budget and fiscal policy settings and prepare a post-election report to include costings of the election commitments of Parliamentary parties after a general election.

The PBO is established under the *Parliamentary Service Act 1999* (PSA Act), as amended by the *Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2011*.

In order to perform its statutory functions, the PBO will require access to information and documents owned, held, managed or administered by Commonwealth bodies. Commonwealth bodies comprise agencies under the *Financial Management and Accountability Act 1997* and bodies under the *Commonwealth Authorities and Companies Act 1997*.

This is a statement of the Australian Government's intent to support the Officer in the performance of his or her functions.

These Protocols are Government policy and promote the Government's basis for Heads of Commonwealth bodies and their staff to manage their interactions with the PBO. They also seek to facilitate and promote the ready and open exchange of views and information between Commonwealth bodies and the PBO, and to ensure a high-level of consistency and transparency across government.

The aim is for these Protocols to be observed by all Commonwealth bodies and to be reflected in any arrangement made for the provision of information to the Officer.

Signed for and on behalf of the Australian Government

[redacted]

The Honourable Tony Abbott MP

Prime Minister of the Commonwealth of Australia

[redacted]

The Honourable Joe Hockey MP

Treasurer

[redacted]

Senator the Honourable Mathias Cormann

Minister for Finance

ROLE OF THE PROTOCOLS

These Protocols have been developed to:

(a) ensure that relevant information is provided to the Officer;

(b) outline the responsibilities of the Heads of Commonwealth bodies, and their staff, in engaging with the Officer;

(c) establish procedures to ensure the consistency and confidentiality of information provided to and by the PBO; and

(d) ensure that the integrity of the Government's official budget estimates are maintained.

PROVISION OF INFORMATION TO THE PBO

Commonwealth bodies should aim to provide the Officer with information or documents held by the body that may be relevant to a request received from the PBO or to any discussions held in relation to a request for information.

In determining whether information will be released to the Officer, the Heads of Commonwealth bodies should have regard to:

- the Government's intent to support the Officer in the performance of his/her functions as defined in the PBO's enabling legislation;
- the accessibility of the information under the *Freedom of Information Act 1982*; and
- the application of other relevant legislative provisions relating to the handling of government information and data including, for example, the *Privacy Act 1988*.

Commonwealth bodies are to recognise and respect the pre-existing intellectual property of any information they hold and/or utilise that has been produced by third parties.

RESPONSIBILITIES OF THE HEADS OF COMMONWEALTH BODIES

Requests for information from the Officer are to be actioned by the Head of a Commonwealth body, or a person authorised by the Head.

In responding to requests for information from the Officer, or in otherwise engaging with the PBO, the Heads of Commonwealth bodies are to:

- ensure that all reasonable efforts are made to respond to requests from the Officer in a timely manner and, where there is no legislative impediment, with the information requested;
- ensure, to the greatest extent possible, that information provided to the Officer reflects the economic forecasts and parameters and fiscal estimates contained in the most recent relevant reports released under Parts 5, 6, and 7 of Schedule 1 to the Charter of Budget Honesty Act 1998;
- ensure that they and their staff are accessible should the Officer request discussions and/or informal dialogue in relation to a request for information; and
- take appropriate measures to maintain the confidentiality of a request and the related response, if requested by the Officer.

PROCEDURES TO ENSURE CONFIDENTIALITY

The PSA Act allows for the Officer to provide confidential advice to parliamentarians on non-costing matters at any time, as well as confidential policy costings during non-caretaker periods, upon request.

To support this arrangement and ensure the confidentiality of requests for information:

- The Heads of Commonwealth bodies and their staff must not disclose to the Government the details of a request for information and the subsequent response if the request is specifically requested to be treated confidentially;
- Government Ministers and their staff will not ask the Heads of Commonwealth bodies or their staff to provide them with any information which would disclose the nature of a confidential request from the Officer; and
- The Heads of Commonwealth bodies and their staff must not disclose the details of a request for information and the subsequent response to a third party, other than a Commonwealth body, unless required to do so by law.

However, it is appropriate for Commonwealth bodies to provide information to their Minister/s on the resourcing impacts of their interactions with the PBO in aggregate terms, so long as confidential information is not disclosed by the provision of such advice.

INTEGRITY OF THE GOVERNMENT'S OFFICIAL BUDGET ESTIMATES

Commonwealth bodies are to inform the Department of the Treasury (Treasury) and the Department of Finance and Deregulation (Finance) in writing (email) of the details of a request from the Officer once it has been received.

For some requests, a Commonwealth body or Treasury or Finance may play a coordinating role in preparing the response, as agreed between the bodies. The need for coordination may arise in cases where information relevant to a request is based on information or analysis contributed by several Commonwealth bodies. In such cases, the other parties are entitled to review the response before it is released to the Officer.

A Commonwealth body must consult Treasury and/or Finance in advance of providing information to the PBO if the Head of a Commonwealth body, or the Secretary of either the Treasury or Finance, could reasonably deem that information to be significantly inconsistent with the official budget estimates as contained in the Central Budget Management System.

Finally, Commonwealth bodies are to provide the Treasury and Finance with an update on the status of a request for information, if requested, and a copy of all formal responses to the PBO.

Attachment F

Information requests from the PBO to agencies

	2012–13	2013–14					
	FY Total	Pre-Caretaker	Caretaker	Post-Election Report	After PER	FY Total	**Grand Total**
Requests sent in period	360	95	98	45	150	388	**748**
Requests received in period	331	91	118	51	137	397	**728**
Received by due date	149	42	73	16	75	206	**355**
Received after due date	182	49	45	35	62	191	**373**
Time taken to respond (business days)	12	11	9	10	16	12	**12**
Average punctuality (business days late)	3	5	4	6	6	5	**4**
Average lateness of late requests (business days)	6	9	12	9	16	12	**10**
Requests outstanding (cumulative)	29	33	13	7	20	20	

Attachment G
PBO Guidance: 05/2013
Possible impact of contingency reserve on PBO costings

Parliament of Australia
Parliamentary Budget Office

PBO Guidance: 05/2013

POSSIBLE IMPACT OF CONTINGENCY RESERVE ON PBO COSTINGS

The Parliamentary Budget Office (PBO) does not have access to the details of provisions for individual items included in the Contingency Reserve in the Budget. Accordingly, the PBO's costings are subject to the qualification that they are prepared in the absence of information on the possible impact of any provisions in the Contingency Reserve.

Costings prepared by the PBO show the estimated net financial impact of policies on the Commonwealth Budget. The PBO's costings are based on the best information available to the PBO, including known details of items already included in the Budget.

Most Budget information is publicly disclosed and is able to be taken into account by the PBO in preparing its costings. The PBO is also able to obtain certain detailed budget information that, in the normal course of events, is not published.

The Contingency Reserve forms part of the Budget. The total amount included in the Contingency Reserve is publicly disclosed but the individual components of the Contingency Reserve are not. The Secretary of the Department of Finance and Deregulation has advised that disclosure of this information would be contrary to the public interest and hence would be exempt under the *Freedom of Information Act 1982* (FOI Act).

Most PBO costings will not be affected by provisions in the Contingency Reserve. Moreover, during the caretaker period for a general election, the general practice has been for items not classified as commercial-in-confidence or national security-in-confidence to be identified in the Pre-Election Economic and Fiscal Outlook (PEFO).

However, in a limited number of cases, particularly where a policy is subject to confidentiality because of commercial or national security considerations, the PBO's costings may not show the full net impact of the policy on the Budget.

The Contingency Reserve

The Contingency Reserve is an allowance included in the aggregate budget expenses and published in Statement 6 of Budget Paper No. 1. The amount included in the Contingency Reserve for each of the Budget and forward estimates years is published as a total net expense. Details of the number of individual items included in the Contingency Reserve and the provisions made for each item are not published.

As outlined in Budget Paper No. 1, the main components of the Contingency Reserve include:

- a conservative bias allowance for the tendency for estimates of expenses for existing Government policies to be revised upwards in the forward years (this provision is formulaic and can be quantified)
- a provision for underspends in the current financial year (not quantified)
- commercial-in-confidence and national security-in-confidence items, and programs that are subject to negotiation with State and Territory governments (not quantified)
- decisions made too late for inclusion against individual agency estimates (not quantified)
- the effect of late economic parameter revisions that have not been able to be allocated to individual agencies and functions (not quantified), and
- a provision for events and pressures that are reasonably expected to affect the Budget estimates (not quantified).

Phil Bowen
Parliamentary Budget Officer

Release date: 23 July 2013
Contact: Phil Bowen, Parliamentary Budget Officer
(02) 6277 9510

Attachment H
Legislative barriers to provision of information

Category	Legislation	Relevant extracts from legislation
Departmental Secretary is prevented from providing information to the PBO	*Higher Education Support Act 2003*	S180-10 (1) - "A Commonwealth Officer may disclose *Higher Education Support Act information to another Commonwealth officer to assist that other officer in the other officer's *official employment (within the meaning of section 179-15). 179-15 (4) Official employment of an *officer is: (a) for a *Commonwealth officer the performance of duties or functions, or the exercise of powers, under, or for the purposes of, this Act
	National Health Act 1953	S135A - A person shall not, directly or indirectly… divulge or communicate to any person, any information with respect to the affairs of a third person acquired by the first-mentioned person in the performance of duties, or in the exercise of powers or functions, under this Act.
	Dental Benefits Act 2008	S34(4) - A disclosure of information is an authorised disclosure if the disclosure is one that a person may make under section 35, 36, 37, 38, 39, 40 or 41. S36 (1) For the purposes of subsection 34(4), a person may disclose protected information if: (a) the disclosure is, or is a kind of disclosure, certified, in writing by the Secretary or the Chief Executive Medicare, to be in the public interest; and (b) the disclosure is made in accordance with any requirements specified in the Dental Benefit Rules.

Category	Legislation	Relevant extracts from legislation
	Private Health Insurance Act 2007	S321-1 (2) Information is protected information if the information: (a) either: (i) is obtained by a person in the course of performing duties or functions, or exercising powers, under this Act; or (ii) was information to which subparagraph (i) applied and is obtained by a person by way of an *authorised disclosure under section 323-10, 323-15 or 323-20; and (b) relates to a person other than the person who obtained it. (3) A disclosure of information is an authorised disclosure if the disclosure is one that the person may make under section 323-5, 323-10, 323-15, 323-20, 323-25, 323-30 or 323-35. S323-20 (1) For the purposes of subsection 323-1(3), a person may disclose information to another person if: (a) the information does not relate to any of the following: (i) a private health insurer; (ii) an applicant to become a private health insurer; (iii) a person carrying on *health insurance business; (iv) a *director or *officer of a person mentioned in subparagraph (i), (ii) or (iii); and (b) the information is not information of a kind specified in the Private Health Insurance (Information Disclosure) Rules as information that must not be disclosed under this section; and (c) the disclosure is made in accordance with any requirements in the Private Health Insurance (Information Disclosure) Rules; and (d) the disclosure is, or is a kind of disclosure, certified by the Minister by written instrument to be in the public interest; and (e) if there are any conditions specified in the certificate—the conditions are met. (2) The Minister may specify conditions in a certificate under paragraph (1)(d) relating to the application of the certificate. (3) A certificate under paragraph (1)(d) is not a legislative instrument.

Category	Legislation	Relevant extracts from legislation
	Health Insurance Act 1973	S130 (3A) Notwithstanding anything contained in the preceding provisions of this section, the Secretary or the Chief Executive Medicare may divulge any information acquired by an officer in the performance of duties, or in the exercise of powers or functions, under this Act to an authority or person if: (a) the authority or person is a prescribed authority or person for the purposes of this subsection; and (b) the information is information of a kind that may, in accordance with the regulations, be provided to the authority or person. Under s27(1) of the *Health Insurance Regulations 1975* for the purposes of subsection 130(3A) of the Act: (a) a person holding an office specified in column 2 of an item in Part 2 or 3 of Schedule 3 is a prescribed person; S27(2) For purposes of subsection 130(3A) of the Act: (a) an authority specified in Part 4 of Schedule 3 is a prescribed authority; and (b) a person specified in that Part is a prescribed person; and (c) an authority of a State or Territory specified in Part 5 of that Schedule is a prescribed authority. Note: Neither the Parliamentary Budget Officer nor any of his staff appear in the schedules referenced in s27 of the *Health Insurance Regulations 1975*.
Departmental Secretary has discretion to provide information to the PBO	*Paid Parental Leave Act 2010*	S128(1) Despite sections 129 to 132, the Secretary may disclose information acquired by an officer in the exercise of the officer's powers, or the performance of the officer's duties or functions, under this Act: (a) to such persons and for such purposes as the Secretary determines, if the Secretary certifies that it is necessary in the public interest to do so in a particular case or class of cases…
	Social Security (Administration) Act 1999	S208 (1) Despite sections 204 and 207, the Secretary may: (b) disclose any such information: (i) to the Secretary of a Department of State of the Commonwealth or to the head of an authority of the Commonwealth for the purposes of that Department or authority…
	A New Tax System (Administration) Act 1999	S168(1) Despite sections 164 and 167, the Secretary may: (b) disclose any such information: (i) to the Secretary of a Department of State of the Commonwealth or to the head of an authority of the Commonwealth for the purposes of that Department or authority…
	Student Assistance Act 1973	S355 (1) Despite sections 353 and 354, the Secretary may: (b) disclose any such information: (ii) to the head of an authority of the Commonwealth for the purposes of that authority…

Category	Legislation	Relevant extracts from legislation
	Aged Care Act 1997	S86-3 The Secretary may disclose *protected information: (a) if the Secretary certifies, in writing, that it is necessary in the public interest to do so in a particular case—to such people and for such purposes as the Secretary determines…
Legislation already specifically provides for data to be provided to the PBO	*Taxation Administration Act 1953*	S355-65, Table 3: 9 the Parliamentary Budget Officer (within the meaning of the *Parliamentary Service Act 1999*) (a) is of information that does not include the name, contact details or *ABN of any entity; and (b) is for the purpose of the Parliamentary Budget Officer performing any of his or her functions, or exercising any of his or her powers, under Part 7 of the *Parliamentary Service Act 1999*.

Attachment I
International examples of medium term publications

Selected fiscal councils that produce and/or report against medium term fiscal outlooks

United States

The Congressional Budget Office produces its own long-term fiscal projections, including for major expenditure and revenue items, covering the next 25 years and in some cases extended up to 75 years.

Canada

The Canadian PBO prepares an economic and fiscal outlook that includes its own economic projections, five year fiscal projections and estimates of the structural budget balance. It also has a long term analysis role, in 2010 producing its first report on long-term fiscal sustainability covering up to 75 years ahead.

United Kingdom

The Office for Budget Responsibility has responsibility for producing the official five-year forecasts for the economy and public finances that were previously produced by HM Treasury twice a year. Moreover, it also assesses long-term sustainability by producing 50-year projections of revenue, spending and financial transactions.[54]

Netherlands

The Netherlands Bureau for Economic Policy Analysis prepares economic forecasts and also produces medium-term fiscal scenarios covering up to 30 years ahead and calculating a 'sustainability gap' in public finances.

Sweden

The Swedish Fiscal Policy Council does not produce its own forecasts but it reviews and reports on the quality of forecasts and the underlying models used by the Government. The Council has a role in assessing the Government's progress against the objectives of long-term sustainability of public finances, the surplus target, the expenditure ceiling and consistency of the fiscal policy stance with cyclical developments in the economy. The Council also assesses whether fiscal policy is in line with long-term sustainable growth and long-term sustainable high employment.

Source: T. Curristine, J. Harris, and J. Seiwald, 'Case studies of fiscal councils – functions and impact', International Monetary Fund, July 2013.

[54] Robert Chote, 'Britain's fiscal watchdog: a view from the kennel', Institute and Faculty of Actuaries Spring Lecture, 9 May 2013.

Attachment J
Fiscal rules

What is a fiscal rule?

A fiscal rule is a constraint on fiscal policy expressed in terms of summary indicator(s) of fiscal performance (Box A1). The number of OECD countries that have implemented fiscal rules has increased over the past decade with 28 of 35 countries surveyed by the OECD in 2012 having in place at least one fiscal rule. Moreover, in 2012 the average number of fiscal rules adopted by each country across OECD economies is four, up from three in 2007.[55]

Fiscal rules can be specific (numeric) or general. For example, a specific rule may be to maintain an underlying budget surplus of at least one per cent of nominal GDP in each year whereas a general fiscal rule may be to maintain an underlying budget surplus on average over time.

Fiscal rules can be associated with a degree of strictness – ranging from rules that are enshrined in law to situations where fiscal rules are merely indicative or at best aspirational. Moreover, fiscal rules can be permanent or temporary.

Box A1 Types of fiscal rules

Governments may have in place one or a number of fiscal rules:

- *Expenditure rules:* limit the amount of expenditure (or payments) with reference to nominal or real levels or growth in terms of expenditure to GDP ratio.
- *Revenue rules:* impose constraints on overall tax receipts to GDP and/or limits to the level and/or growth of specific types of government revenue.
- *Fiscal balance rules:* include requirements to achieve a balanced budget position; not to exceed a deficit limit; to achieve a defined surplus, expressed either in nominal or cyclically adjusted forms, usually as a percentage of GDP.
- *Debt rules:* limit the amount of government debt in gross or net terms, usually expressed as a reduction in the debt to GDP ratio.

According to the OECD, in 2012 fiscal balance rules were the most prevalent across OECD countries, followed by debt rules.

Source: OECD, 'Budgeting practices and procedures in OECD countries', 2014.

Benefits and features of fiscal rules

Fiscal rules can provide a useful anchoring mechanism for the Government and promote fiscal sustainability – the ability of governments to maintain public finances at a credible and serviceable position over the long term. In order to do so, fiscal rules should encompass several features:

- Fiscal rules need to be embedded in an overarching public finance framework rather than act as the sole means of fiscal discipline. Fiscal rules should form one operational component of a broader fiscal strategy, usually conveyed as a fiscal strategy over the medium term (five to ten years) and/or the longer term (ten or more years).
- Fiscal rules need to be clearly stated and explained – providing transparency.
- Fiscal rules need to be credible and achievable.

[55] OECD, Budgeting practices and procedures in OECD countries, 2014.

- Fiscal rules need to provide some flexibility for significant unforeseen circumstances that may impact on public finances.
- Fiscal rules need to go hand in hand with appropriate monitoring and reporting activities.

Australian practice with fiscal rules

Successive Australian Governments have had in place various forms of fiscal strategies and discretionary fiscal targets or rules to achieve those strategies in order to improve the transparency, credibility and stability of public finances.[56] These fiscal strategies and accompanying fiscal rules have become more formalised since the *Charter of Budget Honesty Act 1998.*

The Charter sets out principles of sound fiscal management, including mandating that the Government produce regular fiscal strategy statements which include fiscal objectives and targets (or rules) for a three-year period as well as a longer term fiscal strategy. The charter requires the Government to publish an Intergenerational Report at least every five years that examines long-term trends such as ageing of the population and their impact on the sustainability of public finances.

The current Government's medium-term fiscal strategy is to achieve budget surpluses, on average, over the course of the economic cycle.[57] This is underpinned by a set of specific and general fiscal targets (or rules); including a specific target to deliver a budget surplus of at least one per cent of GDP by 2023–24 as well more general targets that involve over time:

- having the payments-to-GDP ratio falling,
- paying down debt by stabilising and then reducing the Government's borrowing, and
- strengthening the Government's balance sheet by improving net financial worth.

The monitoring and reporting of the current Government's progress against its set of fiscal rules is essentially undertaken by the Government itself in the form of reporting in the annual budget papers (usually May each year), Mid-year Economic and Fiscal Outlook (usually December each year) and the Final Budget Outcome (within three months of the end of each financial year) and other less frequent publications such as the Intergenerational Report (at least every five years).

The 'self-monitoring' and reporting by the Government is augmented by scrutiny of public finances by Parliament (Opposition parties and committees of Parliament); supranational bodies such as the IMF and the OECD; and commentary by the media and academics.

[56] Stephen Kirchner, 'Strengthening Australia's fiscal institutions', The Centre for Independent Studies, T30.06.
[57] 2014–15 Budget Statement Three: Fiscal Strategy and Outlook.

Attachment K
International examples of fiscal rule monitoring

Many fiscal councils throughout the world have an explicit mandate to monitor, assess and report on fiscal rules. [58] It is more common for more recently formed fiscal councils to have this mandate than more long established councils, with this trend associated with the increasing use of fiscal rules as well as the tendency to adopt more sophisticated fiscal rules.

The IMF points out that most countries with fiscal councils also have numerical fiscal rules (about 80 per cent) and among these, the fiscal council is mandated to monitor compliance with the rules in about three-quarters of cases (Box A2).[59] In monitoring compliance with fiscal rules, these councils also consider medium-term fiscal sustainability of public finances and related risks and can include both ex-ante and ex-post analysis.

Box A2 Fiscal councils with an explicit mandate to monitor compliance with fiscal rules

Country	Fiscal council	Year established
Netherlands	Netherlands Bureau for Economic Policy Analysis	1945
Denmark	Danish Economic Council	1962
Belgium	High Council of Finance	1989
Austria	Fiscal Advisory Council	2002
Sweden	Swedish Fiscal Policy Council	2007
Hungary	Fiscal Council	2009
Slovenia	Fiscal Council	2009
United Kingdom	Office for Budget Responsibility	2010
Romania	Fiscal Council	2010
Ireland	Irish Fiscal Advisory Council	2011
Serbia	Fiscal Council	2011
Slovak Republic	Council for Budget Responsibility	2011
Portugal	Portuguese Public Finance Council	2012
Croatia	Fiscal Policy Council	2013
Finland	National Audit Office of Finland	2013
France	High Council of Public Finance	2013
Italy	Parliamentary Budget Office	2014

Source: X. Debrun and T. Kinda, 'Strengthening post-crisis fiscal credibility—fiscal councils on the rise. a new dataset', IMF Working Paper, 14/58, 2014.

The work involved with (and the resources required to) report on the Government's adherence to the fiscal strategy depends very much on the mandate of the reporting. The fiscal reports by other fiscal councils are significant reports although the nature of the reports varies according to the mandates of the institutions (Box A3).

[58] A fiscal council is defined by the IMF as an independent public institution aimed at promoting sustainable public finances through various functions such as public assessment of fiscal plans and performance and evaluation of budgetary and economic forecasts. The PBO is classified by the IMF as a fiscal council.

[59] IMF, 'The functions and impact of fiscal councils', July 2013.

Box A3 International practice with monitoring compliance with fiscal rules

United Kingdom

The UK Office of Budget Responsibility prepares its own economic and fiscal forecasts which it then measures against the Government's fiscal mandate. The fiscal mandate has medium-term targets for the cyclically adjusted current balance and public sector net debt against which the forecasts are measured.

Ireland

The Irish Fiscal Advisory Council assesses the Government's fiscal forecasts for the following four years and undertakes a sensitivity and risk analysis. It reports on compliance with fiscal rules, including the deficit limit, structural budget balance and the long-term debt to GDP ratio.

Belgium

The High Council of Finance produces recommendations and assessments of fiscal policy, taking as given the macroeconomic forecasts of the Federal Planning Bureau. The High Council assesses compliance with the Euro stability program and medium-term budgetary targets for the general government and the different subsectors, as well as providing explanations on why some targets were not met. Its annual report evaluates the medium-term budget outlook and recommends the budget targets for the general government, its subsectors and individual federal entities.

Netherlands

The Bureau for Economic Policy Analysis has a broad mandate covering the main functions of fiscal councils. It prepares the forecasts used in the budget and comments on whether expenditure ceilings and revenue targets set are being met, informing the government and parliament.

Sweden

The Swedish Fiscal Policy Council's functions primarily focus on assessing the extent to which the Government achieves its fiscal policy objectives. It reviews the fiscal objectives, mainly the fiscal rule, designed as a surplus objective, and the expenditure ceiling. It does not produce its own forecasts but may review the quality of the Government's economic forecasts and underlying models.

Canada

While the Canadian Parliamentary Budget Office does not have an explicit formal mandate to report on compliance with fiscal rules, under its fiscal policy research mandate it has published research into Canada's experiences with fiscal consolidations and fiscal rules.

Source: T. Curristine, J. Harris, and J. Seiwald, 'Case studies of fiscal councils – functions and impact', International Monetary Fund, July 2013.

Attachment L

IMF assessment of models of fiscal rule monitoring and implications for resourcing

Activity	Assessment	Hybrid	Assessment and forecasting
Analysis of Budget fiscal projections against fiscal rules	X	X	X
Comparison of budget papers with Government policy announcements	X	X	X
Review methodology and assumptions underpinning fiscal projections and costings	X	X	X
Preparation of independent fiscal projections		X	X
Sensitivity analysis of medium term fiscal projections		X	X
Preparation of independent economic forecasts and projections			X
Dedicated resources (full-time equivalent staff)[a]	2 to 10		>20
International examples	Irish Fiscal Advisory Council; Swedish Fiscal Policy Council; Belgium High Council of Finance		UK Office of Budget Responsibility; Netherlands Bureau for Economic Policy Analysis

[a] Source: X. Debrun, T. Kinda, T. Curristine, L. Eyraud, J. Harris, J. Seiwald, 2013, 'The functions and impact of fiscal councils', IMF Policy Paper; July 16, 2013, p. 35