



17 April 2014

Mr David Brunoro  
Secretary  
Joint Committee of Public Accounts and Audit  
Parliament House  
CANBERRA ACT 2600

Dear Mr Brunoro

I am writing in relation to aspects of the evidence given by the Department of Finance (Finance) at the Committee's hearing on 27 March and 7 April 2014 and matters included in Finance's third submission to the Committee dated 10 April 2014 in respect of the Committee's inquiry into the *Public Governance, Performance and Accountability Act 2013*.

In Finance's opening statement at the Committee's hearing on 27 March 2014 and at paragraph 2 of its submission to the Committee of 10 April 2014, the Department purports to quote the views expressed by the Auditor-General in the ANAO's submission of 18 March 2014, indicating that 'The Auditor-General has stated that the Rules provided to the JCPAA will provide a reasonable basis for substantive commencement of the Act on 1 July 2014'.

For completeness, the relevant paragraph of the ANAO's submission is reproduced below:

21. The ANAO considers that, except for the rule on the *Commitment of relevant money*, which is discussed below, the rules provided to the Committee will provide a reasonable basis for the substantive commencement of the Act on 1 July 2014, noting that rules on a number of key matters are still under development. [emphasis added]

Further, in evidence given by Finance at the Committee's hearing on Monday 7 April relating to existing requirements of Financial Management and Accountability Regulation 9, *Approval of spending proposals*, Finance stated:

An approver must not approve a spending proposal unless the approver is satisfied, after making reasonable inquiries, that giving effect to the spending proposal would be a proper use of Commonwealth resources (within the meaning given by.....of the Act).

So, under the FMA Act, every time a spending proposal is made an approver has to document that spending proposal, the inquiries that they made to satisfy themselves that it was a proper use and the fact that they thought it was a proper use.  
(see page 24 of the Proof Committee Hansard)

In fact, Regulation 9, and the related Regulation 12, do not expressly require the approver to document the inquiries that are made to satisfy the approver that the spending proposal was a proper use of Commonwealth resources, as suggested by the above evidence.

In its submission to the Committee of 18 March 2014, the ANAO indicated that it accepted that existing requirements relating to recording the terms of the approval and making reasonable inquiries are best addressed in supporting guidance material. The key issue raised in the ANAO's submission in relation to the proposed rule on the *Commitment of relevant money* is that the draft rule would not expressly require an approver to consider whether a spending proposal was a proper use of relevant money but relies on the accountable authority to promote the proper use of relevant money, and on the accountable authority issuing instructions, delegations or directions to officials that must be complied with in approving the commitment. The issue of documentation of the basis for decisions to enter into commitments of relevant money is a related, but separate, consideration that is covered in paragraph 26 of the ANAO's submission.

The key point being made by the ANAO is that in approving the commitment of relevant money, which all agree is a fundamental control and a necessary step, the approver should be required to be satisfied that the spending proposal is a proper use of public resources. As previously indicated, the ANAO considers such a requirement would protect the interests of both the government and the Parliament; and, in our view, is entirely reasonable when committing public resources, noting that it is the standard that applies to Ministers when approving a proposed expenditure of relevant money (see sub-section 71(1) of the PGPA Act.)

Finally, paragraph 4 of Finance's submission of 10 April states that 'The ANAO's submission dated 18 March 2014 expressed concern over the proposal not to reproduce the specific requirements in FMA Regulation 10 around the commitment of expenditure beyond available appropriation.' This is not consistent with the ANAO's position, as outlined at paragraphs 30 and 31 of its submission. The ANAO noted that the requirements proposed by Finance were less than those traditionally relied on by the Finance Minister, but indicated that it was ultimately a matter for those in government responsible for Budget preparation to determine the extent to which explicit requirements need to be in place to control the commitment of expenditure by government and officials that goes beyond available appropriations.

We would be pleased to provide any further information to the Committee on these matters, or other matters under consideration.

Yours sincerely

  
Steve Chapman  
Deputy Auditor-General