



THE MODEL RESOURCE MANAGEMENT INSTRUCTIONS

WORKING DRAFT 15 MARCH

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MANAGING RISK AND INTERNAL ACCOUNTABILITY

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** on activities relating to corporate governance, including:

- managing risks;
- fraud risk management and control;
- audit;
- accounts and records; and
- insurance.

Sections 15 of the PGPA Act imposes a duty of **accountable authorities**, to govern a **Commonwealth entity** in a way that promotes the '**proper**' use and management of the **public resources** for which the accountable authority is responsible. This includes managing committing, and spending **relevant money** and managing **relevant property**. Consistent with this duty, accountable authorities should establish appropriate controls that relate to the corporate governance of the entity, as a crucial part of managing public resources.

Corporate governance relates to the general duties of accountable authorities under Chapter 2 of the PGPA Act and is part of the broader governance frameworks established by an accountable authority to manage risk and achieve an entity's objectives, functions or role.

Sections 16 to 19 of the PGPA Act highlight the role and importance of the accountable authority of a Commonwealth entity to establish and maintain appropriate risk frameworks and systems that ensure:

- the development of an entity's risk management framework, supporting systems and control framework that is fit for purpose, giving consideration to the complexity (or maturity) of the entity;
- cooperation with stakeholders to achieve common objectives;
- consideration of the requirements imposed on others, to ensure that specific risks are placed with those best placed to manage the risk; and
- a process for the communication of risk, and an entity's ability to manage specific risks, with the **responsible Minister**.

Risk management

Chapter 2 of the PGPA Act places a duty upon an accountable authority to govern its Commonwealth entity in a way that promotes the **proper** use and management of **public resources**. In doing so, an accountable authority needs to actively manage risk in order to promote the efficient, effective, economical and ethical use of public resources. Further, under section 21 of the PGPA Act the accountable authority of a **non-corporate Commonwealth entity** must govern the entity in a way that is not inconsistent with policies of the Australian Government. The principles of sound risk management underpin the **resource management framework** and should inform decision-making. For example, the **Commonwealth Procurement Rule** and **Commonwealth Grant Rule**, identify risk management practices as core principles of **procurement** and **grants administration**.

The international standard on risk management (AS/NZS ISO 31000:2009) defines risk management as “coordinated activities to direct and control an organisation with regard to risk”. This requires accountable authorities to put in place appropriate frameworks to manage risk and maintain the appropriate control frameworks to manage the uncertainties faced by the entity.

To fulfil its obligations under the PGPA Act, the accountable authority of an entity should:

- have an appropriate system of oversight and maintain the entity’s risk management and control framework;
- articulate the roles and expectations of staff to manage risks; and
- ensure the responsibility for the management of risk and controls is determined assigned and monitored;

To support such an approach the accountable authority should clearly define the responsibility for managing risk in the following way:

- develop the requirements and approach to discussing the key risks, and the ability to manage these risks with the responsible Minister;
- implement the entity’s risk management framework and control framework.
- communicate the roles and expectations for all staff within the entity in relation to accountability and the responsibility for managing to individual risks;
- allocate responsibility for the management of risk to individual staff members;
- articulate the role of particular people or groups of people within the entity with specific responsibilities for supporting effective risk management, e.g. audit and/or risk committees;
- allocate responsibility to particular people or groups of people within the entity with specific responsibilities for supporting effective risk management, e.g. the risk team, and audit or risk committees; and
- allocate responsibilities for determining and implementing risk capability development programs (e.g. risk training).

Principles of solid risk management processes underpin the PGPA framework and should inform the behaviours and financial decisions of an entity.

| Key Guidance | Key References |
|--|---|
| <i>Resource Management Guide No X: Duties of Accountable Authorities</i> <i>Resource Management Guide No X: Fraud Control Guidance</i> <i>Resource Management Guide No X: Risk Management</i> <i>ANAO Better Commonwealth Procurement Rule</i> <i>Commonwealth Grant Rule</i> <i>Fraud Control Guide</i> <i>ANAO Better Practice Guide Fraud Control in Australian Government Entities</i> <i>ANAO Better Practice Guide Public Sector Internal Audit</i> | PGPA Act: s15, s16, s21, s45 PGPA Rule: s10, s17 |

MANAGING RISK

Accountability and responsibility for a **Commonwealth entity's** performance lies with the **accountable authority**. This includes accountability for the Commonwealth entity's management of risk. While senior managers and the accountable authority are ultimately accountable for the management of risks, it is the responsibility of all **staff members** to undertake the management of risk.

Instructions – All staff

- You must actively manage risks that are part of your day-to-day work by:
 - complying with the Commonwealth entity's **enterprise risk management framework**;
 - identifying key risks and responding to them; and
 - reporting key risks to the accountable person.

In developing additional entity instructions, you may wish to include instructions on:

- key principles of the Commonwealth entity's enterprise risk management framework;
- identifying the accountable person for reporting key risks;
- what are "key risks", in the context of your Commonwealth entity's activities;
- processes to assess risk for different types of activities (e.g. developing new policy proposals, undertaking **procurement**, developing **grant** guidelines, managing programs);
- templates to be used for risk assessment and management for different types of activities (e.g. implementing new programs, managing **payments**);
- processes for responding to identified risk in different circumstances;
- specific risk reporting requirements (e.g. **indemnities** register); and
- processes for maintaining the Commonwealth entity's risk management framework and business continuity plan.

Instructions – Staff responsible for risk management activities

Overall accountability for risk management is with the **accountable authority**. Responsibility for the implementation of the Commonwealth entity's risk management framework may be allocated to a risk manager or risk management team who have been appointed to sponsor or provide guidance to others on managing risk.

In developing entity instructions, you may wish to include instructions on:

- the objective and rationale for managing risk in the entity, including how this is communicated to the entity's relevant Minister;
- communicating the entity's tolerance and appetite for risk;
- an overview of the entity's approach to the management of risk and supporting key processes;
- the requirements to communicate and report risks both within the entity and with external stakeholders;
- how the management of risk interfaces with other governance and assurance programs within the entity;
- the entity's approach to integrating the management of risk into its existing business processes;

- how the entity appropriately contributes to managing shared or cross-portfolio/jurisdictional risks;
- the rationale by which the management of risk performance is measured; and
- ensuring the risk framework and entity risk profile are kept current and relevant.

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FRAUD RISK MANAGEMENT AND CONTROL

According to the Australian Government's *Fraud Control Guidance (FCG)*, fraud against the Commonwealth means "dishonestly obtaining a benefit, or causing a loss, by deception or other means". Fraud risk management and control involves all activities aimed at preventing, detecting, investigating and responding to fraud. These can include processes such as staff training, appointment of Fraud Control Officers and prosecuting offenders.

Section 10 of the PGPA Rule (Preventing, detecting and dealing with fraud) provides that the accountable authority must take all reasonable measures to prevent, detect, and deal with fraud relating to the entity. This includes conducting regular fraud risk assessments, developing and implementing a fraud control plan that deals with identified risks and ensuring that the risk of fraud is taken into account in planning and conducting the activities of the entity.

Further, section 10 of the PGPA Rule provides that the accountable authority must have appropriate mechanisms for:

- preventing fraud, including ensuring that officials in the entity are made aware of what constitutes fraud;
- detecting fraud, including a process for officials of the entity and other persons to confidentially report suspected fraud to the entity;
- investigating or otherwise dealing with fraud or suspected fraud; and
- recording and reporting incidences of fraud or suspected fraud.

The **Minister** for Justice has issued guidance (to be called *Fraud Control Guidance*) about the control of fraud, fraud risk assessments, fraud control plans and reporting of fraud.

The FCGs establish the fraud control framework for Commonwealth entities, and will provide the primary reference point for Accountable Authorities in relation to fraud control. Within this context, Commonwealth entities develop their own practices, plans and procedures.

Instructions – All staff

- You must act in accordance with section 10 of the PGPA Rule.
- You must act in accordance with the **Commonwealth entity's** fraud control plan.
- You should act in accordance with the better practice guidance which provides better practice principles and processes for fraud control.

In developing additional entity instructions, you may wish to include instructions on:

- the staff members responsible for developing, maintaining and updating the Commonwealth entity's fraud control plan;
- role of Fraud Control Officers (if applicable);
- the Commonwealth entity's fraud prevention processes, such as specific internal controls;
- how the Commonwealth entity's fraud control activities are monitored;
- the process for reporting suspected fraud;
- the process for investigating suspected fraud and when suspected fraud should be

referred to a law enforcement Commonwealth entity (e.g. the Australian Federal Police);

- the requirements that relate to recording suspected fraud, actions taken in handling the matter and the outcomes of subsequent investigations or actions taken;
- taking action following the identification of fraud (e.g. referring the matter for criminal prosecution, taking civil action, or applying administrative or disciplinary sanctions), and who is responsible for taking those actions;
- the requirements for staff members to undertake fraud awareness and prevention training, and where appropriate, fraud control or investigation training;
- who is responsible for coordinating the annual report to the **Minister** on fraud risk and fraud control in the Commonwealth entity;
- who is responsible for regularly coordinating the Commonwealth entity's fraud risk assessment, which should be undertaken at least once every two years;
- the measures a staff member should put in place to ensure that external service providers are aware of the Australian Government and the Commonwealth entity's position on fraud control, and to meet the standard of accountability required under the PGPA Act; and
- which Commonwealth entity's fraud control plan applies if staff members are undertaking activities for another Commonwealth entity.

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AUDIT

Section 45 of the PGPA Act requires **accountable authorities** of all **Commonwealth entities** to ensure that the entity has an audit committee. Section 17 of the **PGPA Rule** prescribes the minimum functions and membership of the audit committee. The audit committee helps the Commonwealth entity to comply with obligations under the **finance law** (the PGPA Act, the PGPA Rule and the **Finance Minister's Rule (FMR)**). The audit committee provides a forum for communication between the Accountable Authority, senior managers of the Commonwealth entity and the internal and external auditors of the Commonwealth entity (i.e. the Australian National Audit Office).

Instructions – All staff

- You must cooperate with:
 - your Commonwealth entity's **internal audit function** (if applicable);
 - your Commonwealth entity's audit committee; and
 - the **Commonwealth Auditor-General**.

In developing additional entity instructions, you may wish to include instructions on:

- processes for audit committee meetings, such as agenda papers, appearing before the committee, and the audit program;
- processes involving the external auditor, such as reporting audit activities and responding to audit findings; and
- processes for providing information to the Commonwealth Auditor-General.

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ACCOUNTS AND RECORDS

Section 41 of the **PGPA Act** requires an **accountable authority** to ensure that the **accounts** and records of their **entity** are kept that properly record and explain the entity's transactions and financial position. Section 41 also requires the form of these records conform with requirements in the rules and facilitates the preparation of annual financial statements and audit reports. It also establishes that the **Finance Minister** and the **responsible Minister** are entitled to full and free access to the accounts and records of each Commonwealth entity, subject to any Commonwealth law that prohibits disclosure of particular information.

Instructions – All staff

- You must maintain appropriate **accounts** and records to meet the requirements of the **PGPA Act, PGPA Rule** and **FMR**.
- You must comply with any lawful request by the **Finance Minister, the responsible Minister** and **Commonwealth Auditor-General** for access to the Commonwealth entity's accounts and records.

In developing additional entity instructions, you may wish to include instructions on:

- the staff members that have overall responsibility for ensuring that accounts and records are kept as required by the FMR (e.g. the **CFO**);
- the role of the unit assisting the staff member responsible for maintaining the Commonwealth entity's accounts and records;
- specific acquittal or reporting requirements that relate to particular activities or business units (e.g. end of day cash ups for payments areas, Cabcharge reconciliations);
- specific financial reporting requirements that apply to particular staff members (e.g. delegates, cost centre managers, branch/division managers);
- end of month processes;
- hard close processes;
- start/end of financial year processes;
- compliance reporting processes;
- annual report processes;
- additional performance reporting processes (e.g. for annual business reporting); and
- **FMIS** requirements (if any) to ensure that proper records are kept.

INSURANCE

Non-corporate Commonwealth entities are generally required to arrange insurance of insurable assets and liabilities through **Comcover**, and to arrange workers compensation insurance through **Comcare**. The risks normally covered include

- property loss, destruction or damage;
- legal liability claims;
- motor vehicle loss, destruction or damage;
- travel related claims;
- workers' compensation claims; and
- various other claims.

It is an entity's responsibility to ensure that appropriate coverage is maintained at all times and that changes to assets, liabilities and insurable risks generally are immediately notified to Comcover and incorporated into the insurance program. Comcover is not responsible for insurable risks that have not been included in the insurance program.

As with any insurance, this cover will have **liability caps**, excess thresholds and other conditions attached. For example, there is the usual insured person's duty to disclose matters relevant to an insurer's decision whether to accept the risk insured, and on what terms (i.e. the duty of full disclosure), and the requirement that they act in good faith. There will be circumstances where a Commonwealth entity is not covered, for example where a claim results from a contractual breach or an unlawful act.

Instructions – All staff

- You should manage **public resources** in a way that minimises the risk of an insurance claim.
- You must disclose any insurance risks and report any potential insurance claim or incident to **Comcover**.

In developing additional entity instructions, you may wish to include instructions on:

- the staff member that has responsible for the oversight and management of the entity's insurance with Comcover, **Comcare** or other insurers;
- consultation and obtaining advice from Comcover on recommended insurance coverage;
- insurance risk assessment processes;
- a requirement that **staff members** disclose to the entity's insurance managers, all changes to insurance declarations (e.g. purchases, leases and disposals of buildings and infrastructure) to enable adequate insurance cover to be obtained;
- processes to determine whether a risk will be covered by relevant current insurance policies and if a risk is not covered, processes to liaise with Comcover regarding further coverage or commercial insurance;
- key strategies to minimise the risks of insurance claims, such as quality assurance processes;
- insurance procedures with regards to contract management (e.g. preferred minimum public liability, professional **indemnity** and other insurance coverage to be obtained by contractors);
- policies relating to indemnification by or of the entity;
- insurance procedures with regards to committees (e.g. whether an indemnity will be

offered, or whether insurance will be required, paid for or provided);

- how your insurer is notified about key events, such as changes to risks, new **contingent liabilities**, or claims;
- a requirement that staff members report all claims and incidents that might lead to an unplanned financial loss and could result in a claim to the insurer, including the timeframe for doing so;
- maintaining records in relation to insurable risks, such as significant incidents, amounts claimed from insurers, amounts paid as excess and measures taken to manage and minimise insurable risks;
- insurance claims processes; and
- how legal claims against the Commonwealth are to be managed, including who should be consulted (e.g. the entity's internal legal area).

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APPROVAL AND COMMITMENT OF RELEVANT MONEY

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** on approving and committing **relevant money** and entering into, varying or **administering arrangements**. It includes instructions in relation to:

- approving proposed commitments of relevant money and entering into arrangements;
- guarantees, indemnities, warranties and other contingent liabilities;
- official travel; and
- official hospitality.

Proper use of public resources

Section 15 of the PGPA Act imposes a duty on accountable authorities to promote the **proper** use and management of **public resources** for which they are responsible. Consistent with this duty, accountable authorities should establish controls that ensure staff members consider the proper use (i.e. efficient, effective, economical and ethical use) of public resources when making decisions regarding the commitment of relevant money.

Before committing relevant money

Before you enter into an arrangement that may commit relevant money, you must be satisfied that:

- you have **authority** to enter into the arrangement;
- the commitment has been approved, in accordance with these instructions;
- you have acted in accordance with the **Commonwealth Procurement Rule** or **Commonwealth Grants Rule**, where relevant; and
- you have not acted inconsistent with the policies of the Australian Government.

For non-corporate Commonwealth entities, the authority to enter into, vary or administer an arrangement generally comes from legislation. The authority can come from section 23 of the PGPA Act or other specific legislation.

Accountable authorities usually delegate powers to staff members, or authorise staff members, to enter into, vary or administer an arrangement.

For non-corporate Commonwealth entities, where a commitment of relevant money relates to the **ordinary services and functions of government**, the authority to enter into, vary or administer an arrangement comes is conferred on accountable authorities by section 23 of the PGPA Act. Accountable authorities can delegate this power to officials.

Section 18 of the PGPA Rule (Approving commitments of relevant money) sets out the requirements that apply to all Commonwealth entity staff members approving the commitment of relevant money.

Expenditure for purposes other than the ordinary services and functions of government should be authorised by specific legislation (for example, section 32B of the FMA Act).

Staff members may need to be delegated powers, or authorised to exercise powers, under specific legislation to enter into and administer arrangements under that legislation. For example, section 32B of the FMA Act provides the Commonwealth with the power to enter into, vary or administer an arrangement or a grant of financial assistance **ONLY** if the arrangement or grant is either specified in, is in a class of arrangements or grants specified in, or is for the purposes of a program specified in Schedule 1AA or Schedule 1AB to the **FMA Regulations**. An official will need to be delegated powers under section 32B of the FMA Act to enter into, vary or administer an arrangement of this type.

What is a commitment of relevant money?

Relevant money becomes 'committed' when the Commonwealth entity enters into an arrangement under which that money will, or may, become payable. A commitment of relevant money occurs when a staff member enters into or varies an arrangement, such as a contract, grant agreement, deed or **guarantee**, under which relevant money is, or may become, payable.

Accountable authorities should establish controls that identify which proposed commitments require approval before the arrangement is entered into (or a payment is made), based on risk and proportionality appropriate to the circumstances of the entity. The approval of a proposed commitment of relevant money should be a separate step that occurs before a staff member enters into an arrangement (or a payment is made).

What is an arrangement?

Section 23 of the PGPA Act refers to an arrangement as including a contract, agreement, deed or understanding. This is a broad definition and includes a range of agreements, such as **MOUs**, standing offers and grant agreements. It also includes any arrangement that involves a **contingent liability** (i.e. a commitment that may give rise to a cost as a result of a future event), such as an indemnity or guarantee.

A staff member must be delegated powers to, or authorised to, enter into an arrangement.

Who can enter into an arrangement?

Arrangements may be entered into, varied and administered under section 23 of the PGPA Act or other specific legislation..

Section 23 of the PGPA Act provides an accountable authority of a non-corporate Commonwealth entity with the power to enter into, vary or administer an arrangement, on behalf of the Commonwealth, in relation to the affairs of the entity. It also allows Commonwealth entities to work cooperatively in a range of areas, including where one Commonwealth entity enters into an arrangement and the services can be accessed by other Commonwealth entities.

Delegations and authorisations are an important way in which accountable authorities enable staff members within their Commonwealth entity or another Commonwealth entity to enter into an arrangements.

| Key Guidance | Key References |
|--|---|
| <i>Resource Management Guide No X: Approval and commitment of relevant money</i> | PGPA Act: s 15, s21, s23, s 60 |
| <i>Resource Management Guide No X: Indemnities, Guarantees and Warranties</i> | FMA Act: s32B, |
| <i>Resource Management Guide No X: Best Fare of the Day for International Official Air Travel</i> | PGPA Rule: s18 |
| <i>Resource Management Guide No X: Use of the Lowest Practical Fare for Official Domestic Air Travel</i> | FMA Regulations: Schedule 1AA, Schedule 1AB |

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APPROVING COMMITMENTS OF RELEVANT MONEY AND ENTERING INTO ARRANGEMENTS

Section 15 of the **PGPA Act** imposes duties on **accountable authorities** regarding the governance of their entity; including managing their entity in a way that promotes the **proper** use and management of **public resources**.

Section 23 of the PGPA Act confers on accountable authorities of **non-corporate Commonwealth entities** the power to approve proposals for the commitment of relevant money.

Section 18 of the **PGPA Rule** (Approving commitments of relevant money) sets out the core legal requirements that apply to approvals for the commitment of **relevant money**. Section 18 of the PGPA Rule applies to all **Commonwealth entities** under the PGPA Act and to all **staff members** involved in the commitment of relevant money.

Approving Commitments of Relevant Money

Instructions – All staff

- You must not approve a proposed **commitment of relevant money**, unless you have been delegated powers, or authorised, to do so.
- Proposed commitments of relevant money must be approved consistent with any written requirements specified in these instructions or the terms of the relevant delegation or authorisation instrument.
 - When required, you must seek approval for a proposed commitment of relevant money under section 18 of the PGPA Rule (Approving commitments of relevant money) from a **delegate** or an **accountable authority**.
- Approvals for proposed commitments of relevant money must be properly recorded.

In developing additional entity instructions, you may wish to include instructions on:

- whether the Commonwealth entity has a policy that requires approval be obtained prior to entering into the arrangement being entered, based on risk and proportionality (e.g. if an arrangement is routine or complex, if certain types of arrangements must always be approved and any relevant dollar thresholds);
- who has the authority to approve different types of proposals for the commitment of relevant money;
- the timing for when a proposed commitment of relevant money should be approved (e.g. before approaching the market, or before a Ministerial announcement);
- the circumstances in which approval is required because an activity may result in a commitment of relevant money (e.g. releasing a Request for Tender (RFT));
- processes to identify whether a proposed commitment of relevant money will have tax consequences;
- any additional requirements that apply to arrangements that may result in a commitment of relevant money (e.g. what internal approvals are required before releasing RFT documentation); and
- what staff members should do to prepare relevant documentation to be forwarded to a delegate to seek approval under section 18 of the PGPA Rule (Approving commitments of relevant money).

Instructions – Staff who have been delegated power, or authorised, to approve proposed commitments of relevant money

- You must comply with the requirements of section 18 of the PGPA Rule (Approving commitments of relevant money), and approve the proposed commitment of **relevant money** consistent with any written requirements, specified in these instructions or the terms of the relevant delegation or authorisation instrument.
 - if a commitment of relevant money involves **procurement**, you must ensure it complies with the **CPR** (see RMI - Procurement).
 - if a commitment of relevant money involves a **grant**, you must ensure it complies with the **CGR** (see RMI - Grants).
- If you provide verbal approval for a commitment of relevant money, you must record in writing the approval **as soon as practicable** after giving it (section 18 of the PGPA Rule).
- You may approve a commitment of relevant money subject to conditions.

In developing additional entity instructions, you may wish to include instructions on:

- how to ensure that giving effect to a proposed commitment of relevant money would be a **proper use of public resources**;
- whether the Commonwealth entity has a policy that requires approval to be obtained prior to an arrangement being entered into;
- a requirement that **delegates** can only approve proposed commitments of relevant money within the limits specified in the Commonwealth entity's delegation or authorisation instruments;
- whether a staff member is able to approve proposed commitments of relevant money that relate to their own work duties (eg. **official travel**);
- whether additional approval requirements apply to proposed commitments of relevant money that relate to **official hospitality** and official travel;
- whether a delegate can provide overarching approval for a number of arrangements, the limit circumstances when this could occur and any additional requirements (e.g. acquitting expenditure to the approval provided);
- how approvals for proposed commitments of relevant money are to be recorded (e.g. are different types of records required for different types of commitments);
- how a delegate must later record verbal approval of a proposed commitment of relevant money for the purposes of section 18 of the PGPA Rule;
- the record keeping and reporting requirements for section 18 of the PGPA Rule approvals (e.g. should the terms or basis of the approval be recorded, based on proportionality);
- how the role played by a delegate, can support that the accountable authority in promoting the financial sustainability of the entity. For example:
 - the delegate may be required to assess whether there is available relevant money for the proposed commitment; and
 - the delegate may need to be able to access records of all liabilities, commitments and expenses against current and future funding;
- how to ensure that the proposed commitment of relevant money complies with relevant policies of the Australian Government, particularly the general financial management policies; and
- the key Australian Government policies that apply to different types of proposed

commitments of relevant money (e.g. what policies are most important for grants or different types of procurement).

Entering into arrangements

Instructions – Staff who have been delegated power, or are authorised, to enter into arrangements

- Before entering into an **arrangement**, you must ensure it is within the scope of your **delegation** or **authorisation**.
- If the arrangement involves **procurement**, you must act in accordance with the **CPR** (see RMI - Procurement).
- You must not vary an arrangement, unless:
 - it is within the scope of your delegation or authorisation; and
 - a new commitment of relevant money has been approved under section 18 of the PGPA Rule (Approving commitments of relevant money), if required by these instructions.
- Before entering into an arrangement, you *should*:
 - confirm that any expenditure under the arrangement would be consistent with the purposes of the appropriation; and
 - ensure that, if the arrangement is not for the **ordinary services and functions of government**, it is authorised by legislation (e.g. section 32B of the FMA Act).
- If the arrangement involves a **grant**, you must act in accordance with the **CGR** (see RMI - Grants).

In developing additional entity instructions, you may wish to include instructions on:

- how to ensure that entering into the arrangement will be a **proper** use of **public resources**;
- whether the Commonwealth entity has a policy that requires approval to be obtained prior to entering into the arrangement;
- a requirement that a signed contract, agreement or other arrangement is in place before work commences under the arrangement;
- whether an arrangement may provide for **payment** in advance of performance/delivery, and under what circumstances;
- the requirements relating to the administration and management of arrangements;
- who has the authority to enter into different types of arrangements;
- the requirements that apply where a delegate authorises another staff member to enter into arrangements on their behalf;
- who has the **authority** to vary arrangements;
- the reporting and/or publishing requirements for arrangements (including how to meet the additional procurement and grants reporting requirements); and
- the requirements that apply where staff members enter into contracts, agreements or other arrangements, which do not involve the commitment of **relevant money**;
- what process should be adopted to determine whether an arrangement is for the ordinary services and functions of government; and
- when delegations under section 23 of the PGPA Act can be relied upon and when delegations under section 32B of the FMA Act are required.

GUARANTEES, INDEMNITIES, AND WARRANTIES, ON BEHALF OF THE COMMONWEALTH

Section 60 of the PGPA Act authorises the **Finance Minister** to provide an **indemnity, guarantee or warranty** on behalf of the **Commonwealth**. This power has been delegated by the Finance Minister to accountable authorities of **non-corporate commonwealth entities**. However the **Finance Minister** has not delegated the power to enter into debt guarantees (including equity and loan guarantees), as these are significant and have whole-of-government and whole-of-economy impacts.

Contingent liabilities are commitments that may give rise to a cost as a result of a future event. They often result from indemnities, guarantees, warranties and certain **liability caps** in contracts. Contingent liabilities are generally used to allocate risk between parties to an arrangement. Often this involves the Commonwealth accepting additional risks and the other party experiencing reduced risks.

Instructions – All staff

- You must not enter into an **arrangement** that includes the giving of an **indemnity, guarantee or warranty**, unless this has been authorised by a **staff member** who has been delegated power or authorised to grant an indemnity, guarantee or warranty on behalf of the **Commonwealth**.

In developing additional entity instructions, you may wish to include instructions on:

- who can authorise an indemnity, guarantee or warranty to be given on behalf of the Commonwealth (i.e. the **staff member** delegated powers under section 60 of the PGPA Act); and
- the requirements that apply if a delegate authorises another staff member to enter into arrangements on their behalf (e.g. if the staff member is authorised to enter into an arrangement involving a contingent liability on behalf of the Commonwealth).

Instructions – Staff authorised to provide give a guarantee, indemnity or warranty

- When entering into an **arrangement** that involves an **indemnity, guarantee or warranty**, you must comply with the directions in the delegation.
- If the arrangement involves a **debt guarantee**, (including loan and equity guarantees) you must obtain authorisation from the **Finance Minister** for the debt guarantee under PGPA Act section 60 (this power has not been delegated to accountable authorities).
- You cannot enter into an arrangement that involves an indemnity, guarantee or warranty with another **non-corporate Commonwealth entity**.

In developing additional entity instructions, you may wish to include instructions on:

- who a **staff member** must consult with (e.g. the entity's legal section) prior to entering into an arrangement that may include indemnities, guarantees or warranties;
- what types of contingent liabilities are allowable;
- the circumstances where an indemnity, guarantee or warranty should be avoided (e.g. because it would set an undesirable precedent);
- a requirement that staff members assess the risks associated with an arrangement that consists of or includes an indemnity, guarantee or warranty prior to seeking authorisation for the proposed contingent liability and entering into the arrangement;
- a requirement that staff members do not enter into an arrangement that involves an indemnity, guarantee or warranty unless other options have been examined and the

benefits outweigh the risks;

- a requirement that staff members develop and implement a risk management plan based on the risk assessment;
- whether an arrangement that involves a contingent liability can be entered into if it does not comply with the *Resource Management Guide No X: [Indemnities]*;
- the provisions that should be considered for inclusion in an indemnity, guarantee or warranty instrument (e.g. financial limits, time limits, termination and subrogation clauses);
- how a staff member is to determine the likelihood of an indemnity, guarantee or warranty crystallising and the **most probable cost** that would result;
- the entity's arrangements for monitoring instruments involving indemnities, guarantees or warranties and managing associated risks;
- a requirement that a register of all material indemnities, guarantees or warranties is maintained, including details of who is responsible for maintaining the register;
- the security requirements that apply to indemnity, guarantee or warranty instruments and associated documents;
- the record keeping and reporting requirements relating to the indemnity, guarantee or warranty (e.g. the **FMR** and Budget Papers); and
- the process to be followed if an arrangement includes a **contingent liability** which is assessed as low-risk and low-value.

WORKING DRAFT

OFFICIAL HOSPITALITY

Official hospitality generally involves the use of public resources to provide **hospitality** to persons other than entity **staff members** to facilitate the achievement of one or more **Commonwealth entity** objectives. Official hospitality may include the provision of refreshments, entertainment, gifts, sponsorship, prizes or other benefits. In the majority of cases for non-corporate Commonwealth entities, providing official hospitality will be for the **ordinary services and functions of government** and entered into under section 23 of the **PGPA Act**. In limited cases, non-corporate Commonwealth entity staff may need to be delegated powers under section 32B of the FMA Act or other specific legislation to enter an arrangement for the purposes of providing official hospitality.

For instructions relating to the **gifting of relevant property**, see RMI–Managing relevant property.

Instructions – All staff

- You must not enter into an **arrangement** to provide **official hospitality**, unless you have been delegated, or authorised to exercise, power to enter into such an arrangement.
- You must not enter into an arrangement to provide official hospitality unless the requirements in these instructions have been met (see RMI - Approval and commitments of relevant money).
- you must act in accordance with the **CPR** when procuring **goods** or services to provide official hospitality (see RMI - Procurement).
- Any decision to spend **relevant money** on official hospitality must be publicly defensible.

In developing additional entity instructions, you may wish to include instructions on:

- how to access that an **arrangement** to provide **official hospitality** represent a **proper** use of public resources;
- what is considered official hospitality in the **entity** (e.g. whether business catering/sustenance, working lunches, celebratory events, the purchase of flowers or wreaths and/or staff development programs are included);
- what types of **hospitality** can be provided and to whom;
- who can approve official hospitality (including any limits);
- the process to approve an arrangement to provide official hospitality;
- whether additional approvals are required where an arrangement relates to the provision of official hospitality;
- whether special requirements apply for official hospitality involving a **Minister**;
- whether an delegate can approve official hospitality where they may personally benefit from that hospitality;
- the factors to be considered to satisfy a **staff member** that official hospitality is publicly defensible (e.g. the primary purpose of the hospitality is work-related, it facilitates the conduct of public business, and the costs are reasonable and appropriate for the situation);
- who is able to attend an official hospitality event (e.g. limited to those whose attendance would benefit the entity);
- whether alcohol can be provided as part of official hospitality and what rules, if any, apply to the provision of alcohol;

- whether **Commonwealth entity premises** can be used for the provision of official hospitality, and if so, under what circumstances;
- whether an entity staff member's premises can be used for the provision of official hospitality, and if so, under what circumstances;
- whether hospitality can be provided in circumstances where the majority of beneficiaries are staff members of the entity;
- the requirements that apply where a staff member receives official hospitality whilst also receiving a travel allowance;
- the requirements that apply to representation allowances for staff members posted overseas;
- how payment of gratuities (tips) are to be treated;
- how conflict of interest issues are addressed when providing official hospitality;
- the **FBT** requirements that apply to the provision of official hospitality;
- the acquittal requirements that apply to official hospitality; and
- the record keeping and reporting requirements that apply in relation to official hospitality.

WORKING DRAFT 13 MARCH

OFFICIAL TRAVEL

Official travel is any travel where a **Commonwealth entity** is responsible for any of the direct or indirect costs associated with that travel. This includes travel by **staff members**, contractors and consultants to undertake work duties to achieve one or more Commonwealth entity objectives. Arrangements for the purpose of official travel will generally be entered into under section 23 of the **PGPA Act**. In limited cases you may need to enter an arrangement for official travel under section 32B of the **FMA Act**, or other specific legislation.

Official travel should only be undertaken where there is a demonstrated business need and where other communication tools, such as teleconferencing and videoconferencing, are an ineffective option.

Instructions – All staff

- You must not enter into an **arrangement for official travel** unless you have been delegated, or authorised to exercise, power to enter into an arrangement of this type (e.g. under section 23 of the **PGPA Act** or specific legislation).
- You must not enter into an arrangement for official travel unless the requirements in these instructions have been met (see RMI - Approving commitments of relevant money and entering into arrangements).
- You must act in accordance with the **CPR** when procuring official travel (see RMI - Procurement).
- Where the Government has established **coordinated procurements** for a particular travel activity, non-corporate Commonwealth entities must use the arrangement established for that activity, unless an exemption has been provided or reimbursement is to be provided for airfares, accommodation and/or car rental or a travel allowance is to be provided for accommodation arrangements.
- You must
 - use your **entity's** contracted travel management company (TMC) to book domestic and ex-Australia international airfares the **Deed of Standing Offer for the Provision of Whole of Australian Government Travel Management Services**.
 - use the contracted accommodation program management services provider for accommodation arrangements under the **Deed for the Provision of Accommodation Program Management Services to the Australian Government**.
 - use the contracted car rental services providers for car rental arrangements under the **Deed for the Provision of Car Rental Services to the Australian Government**.
 - use the contracted travel card and related services provider for card payment services under the **Deed for the Provision of Travel Card and Related Services to the Australian Government**.
- For international travel, you must obtain approval for the need to travel in accordance with the approval requirements in the *Official International Travel - Approval and Use of the Best Fare of the Day* policy.
- The need for official international travel must be approved as follows, unless exempted. Where the total estimated cost (GST inclusive) of international travel, either individually

or for a delegation or group activity, is:

- \$20,000 or less, the travel must be approved by the relevant accountable authority;
- more than \$20,000 and less than \$50,000, the travel must be approved by the relevant Cabinet Minister;
- \$50,000 or more, the relevant Cabinet Minister must consult with the Prime Minister in writing before approving the travel.

In developing additional entity instructions, you may wish to include instructions on:

- who can approve different travel arrangements (e.g. hire cars, domestic airfares, international airfares);
- the circumstances where travel is appropriate;
- the approvals that are required for international travel;
- whether a **delegate** can approve their own travel;
- the entity's policy on airline lounge memberships and use;
- a requirement that frequent flyer points should generally not be accrued through official travel and must not be used for private purposes;
- the **entity's** policy on class of travel (i.e. business class, economy class), noting for **non-corporate Commonwealth entities**, the directions in the whole-of-government international travel policy for a business class or lower class airfare to be selected for international travel;
- the entity's policy on accommodation arrangements;
- the use of travel or booking agents, such as the contracted **TMC**;
- the use of travel cards or travel contracts;
- car hire arrangements;
- whether private vehicles can be used for official travel and if so, what rules apply (including insurance arrangements);
- passport arrangements (including circumstances where an official passport must be used);
- whether any medical requirements apply to official travel (e.g. vaccination requirements for international travel);
- the requirements relating to use of travel allowances and/or reimbursement arrangements;
- the use of **petty cash** for travel purposes;
- whether incidental private travel is allowed and, if so, what rules apply;
- whether a staff member's family can access accommodation or other benefits provided as part of official travel;
- the acquittal requirements that apply to official travel;
- the record keeping and reporting requirements that apply to official travel
- a requirement that **staff members**, contractors and consultants comply with the whole-of-government policies on domestic and international travel;
- whether it is better value for money to book and pay for the travel arrangements of other persons rather than reimbursing them for travel expenses;
- whether other persons should be required to adhere to the whole-of-government's travel policies, where the cost of travel is to be met by the entity (e.g. by way of reimbursement);

- international travel should be business class or economy and whether international accommodation should consist of a room (and not a suite); and
- the process to approve an arrangement for official travel.

WORKING DRAFT 13 MARCH

PROCUREMENT

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. This RMI, together with the RMI–Approval and committing relevant money provides instruction to entity **staff members** on undertaking a **procurement** and entering into a **procurement contract**.

What is procurement?

Procurement includes the whole process of acquiring **goods** or services. It begins when an **entity** has identified a need to procure a good or service, continues through to the signing of the procurement contract and its ongoing management, including expiry, termination and/or consideration of disposal.

Procurement also covers a situation where an entity acquires goods or services on behalf of another entity or a third party.

If you are unsure whether a particular financial **arrangement** is a procurement or another type of activity, see *Resource Management Guide No XX: Grants and other common financial arrangements*.

The procurement policy framework

The *Commonwealth Procurement Rule (CPR)* are a legislative instrument issued by the **Finance Minister** under section 102(c) of the PGPA Act. The CPR set out the rules that officials of non-corporate Commonwealth entities must comply with when they procure **goods** and services. Where a third party undertakes a procurement on behalf of the **Commonwealth entity**, the third party must comply with the CPR to the greatest extent possible.

The CPR set out the rules for Australian Government procurement and are underpinned by the PGPA Act. **Value for money** is the core rule of the CPR. It is achieved by encouraging competition and non-discriminatory processes; using public resources properly; making decisions in an accountable and transparent manner; considering the risks; and conducting a procurement process proportional to the scale and scope of the procurement.

Where the Government has established a **coordinated procurement**, non-corporate Commonwealth entities must use the coordinated procurement. Exemptions from a coordinated procurement can only be granted jointly by the requesting entity's Portfolio **Minister** and the **Finance Minister** where a special need for an alternative process can be demonstrated or where the coordinated procurement allows for an alternative approach.

Simplified procedures for non-corporate Commonwealth entities and low value procurement

The majority of procurement undertaken by non-corporate Commonwealth entities is low value and non-complex. A streamlined process for procurements valued below \$80,000, which complies with CPR and the PGPA Act, is available along with guidance on how to use the process. A [flowchart](#) of the simplified process and [additional guidance and templates](#) are available on the Finance website. Should an accountable authority instruct their staff to

follow the streamlined process (see instructions under “Procurement below the procurement threshold” in this RMI), this material may be useful when developing additional entity instructions and operational guidance.

See <http://www.finance.gov.au/procurement/index.html> for further information.

| Key guidance | Key references |
|---|--|
| <p><i><u>Resource Management Guide No X: Approval and commitment of relevant money</u></i></p> <p><i><u>Resource Management Guide No X:: Grants and other common financial arrangements</u></i></p> <p><u>Procurement-connected policies</u></p> <p><u>AusTender reporting requirements</u></p> <p><u>Procurement guidance material</u></p> | <p>PGPA Act: s23; s60; and s102 part (c)</p> <p><u>Commonwealth Procurement Rule</u></p> <p>FMA Act: s32B,</p> |

WORKING DRAFT 13 MARCH

ALL PROCUREMENT - PREPARATION

Instructions – All staff

- You must determine whether a proposed financial arrangement is a **procurement** prior to applying the **CPR**.

General requirements

Instructions – Staff involved with a procurement

- When undertaking a **procurement**, you must:
 - comply with the **CPR**; and
 - comply with the requirements of the PGPA Act and Rule.
- You must not use third-party arrangements to avoid the rules in the CPR when procuring **goods** and services.
- You must treat all **potential suppliers** to government **equitably**, subject to the CPR.
- You must act ethically throughout a procurement.
- You must not seek to obtain benefit from supplier practices that may be dishonest, unethical or unsafe.
- If a procurement does not involve the **ordinary services and functions of government**, you must ensure it is authorised by Schedule 1AA or Schedule 1AB to the FMA Regulations or other specific legislation, or that you have legal advice that the procurement can be done without legislative authority.

In developing additional entity instructions, in relation to the Australian Government Procurement Framework, you may wish to include instructions on:

- how to determine that the outcome will be a **proper** use of public resources;
- how the procurement thresholds apply to the entity;
- how to achieve value for money, consistent with Commonwealth policy (i.e. promoting efficient, effective, economical and ethical use of public resources; encouraging competition and non-discriminatory processes; and making decisions in an accountable and transparent manner);
- complying with relevant policies of the Commonwealth, including **procurement-connected policies** (see procurement-connected policies), when undertaking a procurement; and

In relation to entity specific requirements -

- the role of any internal procurement units, including when they should be consulted throughout a procurement;
- mechanisms for conducting a procurement valued at less than \$80,000 and assessed as a high-risk procurement;
- internal requirements relating to the approval of procurement documentation, such as timing, approval process and who can agree to different steps (for example, **approach to market**);
- internal requirements relating to approvals using system based forms, such as **FMIS**;
- internal templates and when they should be used; and
- internal requirements relating to **contract management**.

Planning a procurement

- Where there is a **coordinated procurement** for **goods** or services, you must use that procurement, unless exempted (see Whole-of-Government Procurement Contracts, Arrangements and Initiatives).
- You must determine the most efficient, effective and appropriate **procurement method**, proportional to the scale, scope and risk of the **procurement**.
- You must estimate the **maximum value** (including **GST**) of the proposed procurement prior to selecting a procurement method (i.e. **open tender, prequalified tender or limited tender**).
 - Where the maximum value of a procurement cannot be estimated, you must treat the procurement as being valued above the **relevant procurement thresholds**.
 - You must not divide a procurement into separate parts solely for the purpose of avoiding a relevant procurement threshold.
 - You must include the maximum value of all **procurement contracts** where a procurement is conducted in multiple parts, with contracts awarded either at the same time or over a period of time with one or more supplier.
- You must actively manage the risks (see RMI-Managing Risk and Internal Accountability) associated with a procurement, including:
 - identifying, assessing, allocating and treating the risks, proportionate to the scale and scope of the procurement;
 - generally not accepting risks which another party is best placed to manage; and
 - complying with the Commonwealth's policy on indemnities, guarantees and warranties (see RMI – Guarantees indemnities, guarantees and warranties on behalf of the Commonwealth).
- If you intend to use an existing procurement contract of another **entity**, the initial **request documentation** and the contract must have already specified potential use by other entities.
 - When using an existing procurement contract of another entity, you must ensure that value for money is achieved; the goods and services being procured are the same as provided for within the contract; and the terms and conditions of the contract are not being materially altered.

In developing additional entity instructions, you may wish to include instructions on:

- the role of the internal procurement unit;
- in determining the scale, scope and risk, you should consider the need for the procurement, together with the whole-of-life financial and non-financial costs;
- identifying the approvals required during the procurement process and when relevant approvals are required;
- processes relating to risk identification assessment and management, having regard to the risk profile of the procurement (i.e. risk treatment should be proportionate to the risk and scope of the procurement) including, where appropriate, the need for risk mitigation/management plans;
- internal probity and ethics requirements, such as notification procedures and, where appropriate, any processes relating to probity review;

- internal security and confidentiality requirements;
- when to seek specialist advice to help understand the capabilities and constraints of the market;
- the use of the Basic Contract Suite;
- when cooperative entity procurement may be appropriate, including the mechanisms to work with other entities to undertake cooperative procurement;
- associated contract management requirements, including procurement contract governance, performance, relationship and financial management; and
- if relevant, any requirements for establishing a complaints mechanism to manage procurement complaints in an equitable and non-discriminatory manner.

Procurement method

- You must comply with the **additional rules** for a **procurement** in the **CPR** for **goods** or services valued at or above \$80,000 (**GST** inclusive), except if the procurement is exempt from the additional rules by Appendix A in the CPR.
- You must undertake an **open tender** or **prequalified tender** process for all procurement valued at or above the **relevant procurement thresholds**, unless it:
 - meets the **conditions for limited tender** in the additional rules; or
 - is exempt from the additional rules in the CPR.

In developing additional entity instructions, you may wish to include instructions on (and internal approval processes for):

- when a prequalified tender process may be used, consistent with the three methods outlined in the CPR:
 - selection of **potential suppliers** from a **multi-use list**;
 - a two stage process (where potential suppliers have been shortlisted from an initial open approach to the market); or
 - a list of all potential suppliers with a specific licence or ability to meet a legal requirement that is essential to the procurement;
- when a panel arrangement can be established, the minimum requirements, if any, to be included (ie. cost per unit) and how a panel arrangement can be used;
- when a multi-use list can be established, the minimum requirements, if any, to be included and how a multi-use list can be used;
- when limited tender may be used; and
- requirements when undertaking construction services, particularly those valued at or above \$9 million (GST inclusive).

PROCUREMENT VALUED BELOW THE PROCUREMENT THRESHOLD

Instructions – Staff involved with a procurement

- You must ensure that any **procurement** will achieve a value for money outcome.
- If you chose an open tender approach, you must comply with the requirements in the next section of this RMI - Procurement valued at or above the procurement threshold.

In developing additional entity instructions, you may wish to include instructions on:

- when to use the streamlined process for procurements;
- the approvals required for the procurement, including any entity specific **delegations**; and

- if required, the need for quotes and the form and number of quotes required (usually based on different expenditure thresholds).

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PROCUREMENT VALUED AT OR ABOVE THE PROCUREMENT THRESHOLD

Instructions – All staff

In developing additional entity instructions, you may wish to include instructions on requirements relating to the internal procurement unit undertaking or advising on any **approach to market**, processing a tender and assessing a tender in accordance with the **CPR** where the **procurement** is valued at or above \$80,000.

OR

Instructions – Staff undertaking an approach to market

- If you chose an **open tender** (including expressions of interest, requests for tenders, other open approaches to the market and any addenda), you must use **AusTender** to publish the tender and, to the extent practicable, make relevant **request documentation** available.
 - You may use AusTender to make relevant request documentation available if you choose a **prequalified tender** or **limited tender approach to market**.
 - If you issue an additional notification through other avenues, such as print media, the details selected for inclusion in the notification must be the same as those published on AusTender.
 - Where you provide request documentation that is already published on AusTender in another form, the document must be the same as that published on AusTender.
 - If you establish a **multi-use list**, you must publish a notice of the multi-use list on AusTender.
 - ♦ Where a multi-use list is open to applications at any time, you must **publish continuously** on AusTender an approach to market inviting applications during the entire period of the multi-use list's operation.
 - ♦ Where a multi-use list is updated only at specific times and according to set deadlines, you must re-publish on AusTender at least once every 12 months an approach to market inviting applications.
- You must ensure that **potential suppliers** and tenderers are dealt with fairly and in a non-discriminatory manner when providing information leading to, or following, an approach to market.
- You must include all necessary information in the request documentation to enable potential suppliers to prepare and lodge **submissions**, including (but not limited to):
 - the nature and scope of the **goods** or services and any **requirements to be fulfilled**;
 - any **conditions for participation**;
 - any minimum content and format requirements;
 - evaluation criteria to be considered in assessing submissions; and
 - any other terms or conditions relevant to the evaluation of submissions.
- When prescribing specifications in request documentation you must:
 - not include any specification or conditions that create unnecessary obstacles to trade;
 - define specifications in terms of performance and functional requirements; and
 - ensure specifications are consistent with international standards, except

where the international standards would fail to meet the **entity's** requirements or would impose greater burdens than the use of recognised Australian standards.

- You must not use trademarks or trade names, patents, copyrights, designs or types, specific origins, producers or suppliers when specifying the features of goods or services being procured.
 - In exceptional circumstances, where there is no other sufficiently precise or intelligible way of describing the requirement you must include words such as “or equivalent” in the specification.
- If conditions for participation are included in a **procurement**, you must limit those conditions to the legal, commercial, technical and financial abilities necessary for the supplier to fulfil the procurement.
 - You must not include a condition for participation that a potential supplier has previous experience with your entity, the Australian Government or in a particular location.
- You must avoid a potential supplier, or group of potential suppliers, gaining an unfair advantage.
 - You must provide to all potential suppliers all modifications, amendments or reissued documents and allow adequate time, if required, for them to modify and re-lodge submissions, where the evaluation criteria or specifications set out in an approach to market or in request documentation is modified, or where an approach to market or request document is amended or reissued.
 - You must ensure that a supplier who has assisted in the design of specifications in a procurement does not have an unfair advantage over other potential suppliers.
- You must require potential suppliers to lodge submissions in accordance with a common deadline and provide sufficient time for potential suppliers to prepare and lodge submissions.
 - You must allow potential suppliers at least **25 days** from when the approach to market for an open tender or a prequalified tender is published (30 days if not issued electronically), unless a **condition to reduce the time limit** to no less than 10 days is met.
 - Each approach to market must comply with the time limit, including each approach in the case of a multi-stage procurement.
 - Where a registration procedure is a condition for participation you must state the time limit for responding to the registration in the approach to market and allow sufficient time for a potential supplier to complete the registration procedure within the time limit for the procurement.
- You must ensure that where a time limit is extended, the new time limit is applied equitably.
- You must not accept late submissions unless the submission is late as a consequence of mishandling by the entity.
 - You must not penalise a potential supplier if their submission is late as a consequence of mishandling by the entity.
- You must promptly reply to any reasonable request from a potential supplier for

relevant information about a procurement.

- You must receive and open submissions fairly and impartially.
 - Where you provide **tenderers** with an opportunity to correct unintentional errors of form between the opening of submissions and any decision, you must provide the opportunity equitably to all tenderers.
- You must treat all tender submissions as confidential before and after awarding the **procurement contract**.
- You must ensure that request documentation, tender assessment plans and tender assessment processes are consistent with the **CPR**.
- You must not cancel a procurement, or terminate or modify a procurement contract, to avoid the **additional rules**.
- You must ensure that any procurement will achieve a value for money outcome.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that the outcome will be a **proper** use of public resources;
- essential information that must be included in the documentation to be provided to potential suppliers;
- clearance processes to approach the market;
- confidentiality requirements, mechanisms to deal with potential conflicts of interest, and if/when a probity adviser should be involved;
- use of limitation of liability and standard clauses; and
- providing a draft procurement contract and statement of compliance with the request documentation.

Instructions – Staff assessing tenders

- You must ensure that any tender assessment is:
 - consistent with the **request documentation**; and
 - fair and equitable.
- When evaluating a **potential supplier's** suitability against the **conditions for participation**, you must limit the evaluation to the financial, commercial and technical abilities, as specified in either the **approach to market** or request documentation.
- Unless it is not in the public interest to award a **procurement contract**, you must award the procurement contract to the **tenderer** that:
 - satisfies the conditions for participation;
 - is fully capable of undertaking the contract; and
 - will provide the best value for money.
- Following the rejection of a **submission**, you must promptly inform all affected tenderers of the decision and provide debriefings on request.
- For unsuccessful tenderers, the debriefing must include the reasons the submission was unsuccessful.

In developing additional entity instructions, you may wish to include instructions on:

- dealing with unintentional errors;
- when to undertake a financial viability assessment of the preferred supplier;
- the processes for advising unsuccessful tenders;
- mechanisms to handle complaints from unsuccessful tenders; and
- the requirements to obtain approval for entering into the procurement contract.

ALL PROCUREMENTS – DOCUMENTING, REPORTING AND MANAGING

Entering into a procurement contract

Instructions - Staff responsible for developing a procurement contract

- You must determine if the terms in a **procurement contract** need to be kept confidential and identify in the contract the terms that must be kept confidential (see [Confidentiality Throughout the Procurement Cycle](#)).
- You must ensure the procurement contract requires contractors to agree to the public disclosure of the names of any subcontractors and to inform the relevant subcontractors that their names may be publicly disclosed.

In developing additional entity instructions, you may wish to include instructions on:

- when to use the [Basic Contract Suite](#) and **entity** specific templates;
- the requirements to obtain approval for entering into the procurement contract; and
- when you should seek legal advice on procurement contracts.

Instructions - Staff with a delegation to enter into or vary a procurement contract

- You must ensure that you have **authority** to enter into or vary a **procurement contract**.
 - The authority to enter into or vary a procurement contract can come from section 23 of the **PGPA Act** or section 32B of the **FMA Act** (for non-corporate Commonwealth entities), or other specific legislation (where it may be express or implied).
 - The authority to enter into or vary a procurement contract can be **delegated** by your accountable authority and the procurement contract must be within the scope of the **delegation**.
- You must be satisfied that the **procurement** achieves a value for money outcome.
- You must ensure that the procurement contract is consistent with the approval for the proposed commitment (see [RMI - Approval and commitment of Relevant Money](#)).
- You must not enter into a procurement contract where there is no end date, unless it allows for periodic review and the ability to be terminated by the entity where it no longer represents value for money.

In developing additional entity instructions, you may wish to include instructions on:

- who holds relevant delegations within your entity.

Reporting Contracts Awarded

Instructions – All staff

- You must ensure that appropriate documentation is developed and retained for each stage of a **procurement**, including **contract management**.
 - You should determine the level of documentation required, proportionate to the scale, scope and risk of the procurement.
 - You must ensure that there is sufficient documentation to justify the procurement, demonstrate the processes followed and record relevant decisions.
- You must ensure that details of a **procurement contract** or contract variation or extension, valued at or above \$20,000, is published on **AusTender** within **42 days** of entering into the procurement contract.
- You must report a **standing offer** on AusTender within 42 days of entering into or varying the standing offer and keep relevant details current.
- You must produce a written report outlining the value and description of goods or services procured and the justification for the use of **limited tender** for each procurement contract valued at or above the **relevant procurement threshold** resulting from a limited tender.

In developing additional entity instructions, you may wish to include instructions on:

- internal requirements to publish details on AusTender;
- minimum documentation requirements for the different types of **procurement methods**;
- templates for documentation;
- requirements for recording procurement decisions and documentation utilising a suitable record management system;
- requirements for the disposal of tender and procurement documentation; and
- determine what is sufficient documentation, such as **Cabcharge** or **petty cash** vouchers.

Contract management

Instructions – Staff with a delegation to administer a procurement contract

- You must ensure that you have **authority** to **administer a procurement contract**.
 - The authority to administer a procurement contract can come from section 23 of the **PGPA Act** or section 32B of the **FMA Act** (for **non-corporate Commonwealth entities**) or other specific legislation (and may be express or implied).
 - The authority to administer a procurement contract can be **delegated** by your **accountable authority** and the procurement contract must be within the scope of the delegation.
- You must have appropriate documentation with the supplier (for example, a written contract or purchase order).
- You must actively manage all procurement contracts.
 - Where there is non-compliance with a procurement contract, you should

take appropriate action consistent with the contract.

- You must make available, on request, the names of subcontractors engaged by a contractor in respect of a procurement contract.
- You must ensure that contract variations or extensions are approved and entered into by a relevant delegate.
- You must ensure that payments under the contract (which are part of the administration of the contract) are made or **authorised** by a relevant delegate.

In developing additional entity instructions, you may wish to include instructions on:

- who is responsible for ongoing **contract management**;
- internal requirements relating to contract management;
- appropriate documentation, such as procurement contract or purchase order;
- when to develop a contract management plan;
- when a variation to a procurement contract end date is allowable to provide for late delivery of **goods** or completion of services, providing the procurement contract allows for such a variation; and
- when a variation to a procurement contract end date is allowable to provide for late delivery of goods or completion of services, provided the variation does not lead to a material change in the scope of the procurement.

WORKING DRAFT 13 MARCH

GRANTS

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. Together with the RMI – Approval and commitment of relevant money, it provides instruction to **staff members** on the administration of **grants** and entering into a grant agreement.

What is a grant?

For the purposes of the **Commonwealth Grants Rules (CGR)** a 'grant' is an arrangement for the provision of financial assistance by the Commonwealth or on behalf of the Commonwealth:

- a) under which relevant money or other CRF money is to be paid to a recipient other than the Commonwealth; and
- b) which is intended to assist the recipient achieve its goals; and
- c) which is intended to help address one or more of the Australian Government's policy objectives; and
- d) under which the recipient may be required to act in accordance with specified terms or conditions.

However, there are various types of arrangements that may provide financial assistance, but are taken not to be grants. The CGR provides a list of these, which include procurement of property or services, certain compensation payments, **act of grace payments**, **tax concessions** or offsets, certain benefits payable under other legislation (such as payments of entitlements made through the *Social Security (Administration) Act 1999*), **payments** made to a State or a Territory under the *Federal Financial Relations Act 2009* and payments treated by the Commonwealth as Official Development Assistance.

If you are unsure whether a particular arrangement is a grant or another type of activity, see *Resource Management Guide No. XX: Grants, Procurements and Other Financial Arrangements*.

The grants policy framework

The objective of grants administration is to promote **proper** use and management of public **resources**, through collaborating with the non-government sector, to achieve government policy outcomes.

The PGPA Act and Rule provide the overarching accountability framework for grants administration. Accountable authorities and staff members need to consider their obligations under the PGPA Act when undertaking grants administration. The CGR establish the overarching Commonwealth grants policy framework and articulate the expectations for all non-corporate Commonwealth entities¹ in relation to grants administration. The CGR are a legislative instrument issued by the **Finance Minister** under section 102(c) of the PGPA Act. The CGR require staff members to act in accordance with the CGR when undertaking duties in relation to grants administration.

¹ Corporate Commonwealth entities are generally not subject to the CGR. However, the CGR apply to third parties, including members of advisory committees, non-government organisations and corporate Commonwealth entities, where they undertake grants administration on behalf of the Commonwealth.

Granting activities can take a variety of forms, including payments made: as a result of competitive or non-competitive selection processes; where particular criteria are satisfied; or on a one-off or ad hoc basis. The CGR apply to all forms of granting activity.

Grants administration covers all processes involved in granting activities and includes: planning and design; selection and decision-making; the making of a grant; the management of a grant agreement; the ongoing relationship with grants recipients; reporting; and review and evaluation. It also covers a situation where a third party is responsible for the administration of an entity’s granting activity.

Before entering into a grant

Before entering into a grant, you must be satisfied that:

- you have **authority** to enter into a grant;
- you have acted in accordance with the CGR; and
- the proposed commitment has been approved (see RMI – Approval and commitment of relevant money).

| Key guidance | Key references |
|--|---|
| <p><u>Commonwealth Grant Rule</u> <u>Resource Management Guide No. XX: Grants, Procurement and Other Financial Arrangements</u> <u>Resource Management Guide No. XX:: Australian Government Grants: Briefing and Reporting</u></p> | <p>PGPA Act: s102 FMA Act: s32B FMA Regulations: Schedule 1AA and 1AB</p> |

WORKING DRAFT 13 MARCH

Instructions – All staff

- You must establish and document whether a proposed activity is a **grant**, prior to applying the **CGR**.

Instructions – Staff involved with grants administration

General requirements

- When performing duties in relation to **grants administration** you must comply with relevant government policies and legislation. In particular, you must:
 - act in accordance with the **CGR**;
 - have regard to the seven **key principles** that apply to grants administration;
 - keep commercially sensitive information secure and never use it for personal gain or to prejudice grants administration processes;
 - disclose information that the Government requires to be notified;
 - disclose to your entity any form of current or prospective personal interest that might create a conflict of interest; and
 - not use clauses in grant agreements that seek to limit, prevent or ban a not-for-profit organisation from advocating on policy issues.
- When performing duties in relation to grants administration, you should:
 - use competitive, merit based selection processes to allocate grants, unless specifically agreed otherwise by a **Minister, accountable authority or delegate**, and where such processes are not used, you should document the rationale.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that the outcome will be a **proper** use of **public resources**;
- the role of any central grants policy area within the entity;
- a requirement that **staff members** identify and consider relevant risks when planning and designing grant programs;
- the steps staff members should take to address the seven **key principles** that apply to grants administration;
- a requirement to clearly define and document the operational objectives of a granting activity, which should be clearly linked to the delivery of government outcomes;
- applying the proportionality principle to appropriately design a granting activity so that its key features are commensurate with the scale, nature and complexity of the activity and with the risks involved;
- the collaboration and consultation arrangements that will occur within government and with non-government stakeholders, such as industry, small business and the not-for-profit sector, when developing or changing grants programs;
- steps to avoid requesting information from grant applicants and recipients that has been collected within your own, or by another, Commonwealth entity and is available to staff members;
- the entity's policy for advertising grants rounds;
- the items to be considered when determining the type of application and selection process, noting that a competitive, merit based selection process should be used, unless specifically agreed otherwise by a Minister, accountable authority or delegate;
- where a non-competitive selection process is proposed:
 - the most suitable selection processes that should be used for allocating grants

- who can decide on the type of selection process;
- the documentation required to support grant recipient selection;
- the choice of an appropriate form of grant agreement based on the assessed risk of the granting activity, noting that not all **granting activities** will require a grant agreement;
- the requirement to administer grants according to the terms and conditions of the relevant grant agreement;
- the key policies of the Commonwealth that apply to the entity's grants administration;
- the appropriate mechanisms for identifying and managing potential conflicts of interest for granting activities, which may include:
 - procedures for entity staff and potential grants recipients to declare interests;
 - procedures to manage potential conflicts of interest in all phases of grants administration; and
 - a register of staff interests.
- acquittal requirements for grants, having regard to proportionality, risk and availability of other information; and
- the entity's performance and financial monitoring framework that is used to determine the extent to which desired outcomes have been achieved and whether the relevant accountability procedures associated with the funds have been complied with.

Developing grant guidelines

- You must ensure that **grant guidelines** are:
 - developed for all new **granting activities**, and revised where significant changes have been made to the current granting activity;
 - consistent with the **CGR**; and
 - made publicly available (including on the **entity website**), except where there is a specific policy reason to not publicise the grant guidelines or the grant is provided on a one-off or ad hoc basis.
- When developing or revising guidelines, you must conduct a risk assessment on the granting activities and associated guidelines, in consultation with the relevant Entity Advice Unit in Finance and the Department of the Prime Minister and Cabinet to obtain agreement on the risk level of the granting activity. The assessed level of risk will determine the process for gaining approval to publish the guidelines.

In developing additional entity instructions, you may wish to include instructions on:

- the type of information that should be included in grant guidelines;
- who should be consulted within the entity and externally when developing new grant programs and grant guidelines;
- the consultation methods that could be used;
- the entity's processes for undertaking a risk assessment for the granting activity and guidelines;
- how a **staff member** can obtain approval for the release of grant guidelines, following the risk assessment (e.g. from the entity's **Minister**, the **Finance Minister** or Cabinet); and
- ensuring that grant guidelines clearly outline what constitutes a conflict of interest.

Entering into grants

- Before entering into a grant agreement (or making a grant payment where there is no agreement), you must ensure that:
 - you have **authority** to enter into the **grant**; and
 - the requirements for approval in these instruction have been met (see RMI - Approval and commitment of relevant money).
 - when the proposed commitment relates to a grant, the basis for awarding the grant (i.e. the substantive reasons) is recorded in writing, in addition to the approval itself.

In developing additional entity instructions, you may wish to include instructions on:

- circumstances where you would enter into a grant without an agreement;
- requirements to ensure that grant agreements do not contain provisions that would:
 - prevent the publication of grant information; or
 - seek to limit, prevent or ban a not-for-profit organisation from advocating on policy issues;
- when PGPA section 23 should be used or when FMA section 32B should be used to enter into the grant, including:
 - what process should be used to determine whether a grant is for the **ordinary services and functions of government**; and
 - what processes should be used to determine if a grant is **specified** in or is for the purpose of a program listed in Schedule 1AA or 1AB of the FMA Regulations;
- any requirements that grant agreements are reviewed internally prior to approval for the proposed commitment being sought;
- who has the authority to enter into a grant, including:
 - processes to ensure **delegates** consider **proper** use, whether a grant would be consistent with the purposes of the **appropriation**, or where there is authority to enter into the grant; and
 - any requirements that apply where a delegate authorises another staff member to enter into a grant on their behalf.

WORK

Supporting the Minister

- You must ensure that your **Minister** is advised of their responsibilities under the **PGPA Act and Rule** and the **CGR**.
 - Where a Minister approves a proposed expenditure of relevant money in relation to a **grant**, he or she must be satisfied, after making reasonable inquire, that the grant would be a **proper** use of public resources.
 - You must ensure that the Minister receives entity advice on the proposed grant, before the Minister makes a decision. Advice on the proposed grant must, at a minimum:
 - explicitly note that the proposed expenditure being considered for approval is a ‘grant’;
 - provide information on the applicable requirements of the PGPA Act, Rules and the CGR (particularly the requirement relating to proper use and any ministerial reporting obligations), together with the legal **authority** for the grant;
 - outline the application and selection process, including the selection criteria, that were used to select potential grant recipients; and
 - include the merits of the proposed grant or grants relative to the grant guidelines and the key consideration of achieving value with **relevant money**.
 - Each time a Minister, who is a member of the House of Representatives, approves a grant in respect to his or her own electorate, you must ensure that the Minister writes to the **Finance Minister** advising of the details. This requirement does not apply where grants are awarded Australia-, state- or region-wide on the basis of a formula, and any of those grants fall in the Minister’s electorate. Presiding officers of the Departments of the Parliament are not required to report to the Finance Minister.
- You must ensure that the Minister, whether from the Senate or the House of Representatives, reports annually (by 31 March for the preceding calendar year) to the Finance Minister on all instances where they have approved any grants which the entity recommended be rejected and, if so, outline the basis of the approval for each grant. Presiding officers of the Departments of the Parliament are not required to report to the Finance Minister.

In developing additional entity instructions, you may wish to include instructions on:

- how **staff members** can ensure that Ministers are advised of their responsibilities under the PGPA Act and Rule and CGR (e.g. identifying who is responsible for coordinating the reports on grants approved in the Minister’s electorate and grants approved where the entity recommended they be rejected);
- how a staff member can ensure that the Ministerial reporting requirements are met; and
- information that should be included, in addition to the minimum requirements for briefings to the Minister.

Managing grants

In developing entity instructions, you may wish to include instructions on:

- procedures and systems that can be used to identify and treat emerging risks continuously throughout a **grants administration** process;
- how a **staff member** can build and maintain productive relationships with grant applicants and recipients and achieve government policy outcomes collaboratively;
- steps a staff member should take to review proportionality decisions periodically, to ensure accountability and reporting requirements remain aligned to performance and risk considerations during grants administration; and
- any requirements that grant payments are not made unless and until a grant agreement is in effect, invoices received or other requirements met.

Grants reporting

- You must ensure that information on individual **grants** is published on the entity website within fourteen working days of the grant agreement taking effect. Once operational, entities must report on the whole-of-government register instead.
 - If public reporting of a grant would be contrary to the *Privacy Act 1988*, other statutory requirements, or the specific terms of the grant agreement, you must publish as much information as legally possible and must document the reasons for not reporting fully.
 - If publishing grant information could adversely affect the achievement of government policy outcomes, an exemption from public reporting can be sought from the **Finance Minister**.
- Grant information should be retained on the entity website for at least two financial years. Once operational, entities must report on the whole-of-government register instead. If this is not practicable, you must retain appropriate records of the information and ensure that these records are available on request.
- You must identify whether a grant agreement contains special confidentiality provisions.
- You must ensure that the entity complies with any other grant reporting requirements established by the Parliament.

In developing additional entity instructions, you may wish to include instructions on:

- how **staff members** can ensure that public reporting requirements are met (e.g. identifying who is responsible for publishing grant information on the website, or coordinating grant-specific reporting for the annual report);
- the other grant reporting requirements that staff members must comply with (e.g. **Senate Procedural Orders 11 and 14**);
- how staff members are to deal with personal information or sensitive information (in accordance with the *Privacy Act 1988*); and
- how a staff member can advise the accountable authority and record any non-compliance with the CGR.

COMMONWEALTH CREDIT CARDS AND CREDIT VOUCHERS

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** about the use of **Commonwealth credit cards** and **credit vouchers**.

What are Commonwealth credit cards and credit vouchers?

A Commonwealth credit card is a credit card issued to the **Commonwealth entity** to enable it to obtain cash, **goods** or services on credit (i.e. with **payment** deferred). A credit voucher, in a sense, is a paper based credit card that generally comes with an attached spending limit (e.g. a **Cabcharge voucher**).

Charge cards and **vendor cards** issued to the **Commonwealth entity** are both a form of Commonwealth credit card for the purposes of the PGPA Act.

- Charge cards authorise the holder to buy goods or services on credit, with payment in full required to be made at a later date (e.g. Diners card and AMEX).
- Vendor cards (sometimes called “limited-purpose purchase cards”) are charge cards provided by specific retailers (e.g. Cabcharge cards, travel cards and fuel cards).

Credit cards and credit vouchers issued to the Commonwealth are different from personal credit cards or vouchers, as they do not provide the holder with a revolving line of credit. Money borrowed by the Commonwealth through the use of a credit card or credit voucher must be paid in full within a specific timeframe.

Debit cards, pre-paid credit cards and gift vouchers issued to the Commonwealth entity are not Commonwealth credit cards. They should be treated as if they were **relevant money**.

How do Commonwealth credit cards and credit vouchers work?

The use of a Commonwealth credit card or credit voucher is a borrowing by the Commonwealth entity (i.e. an advance of money that must be repaid in accordance with contractually agreed terms).

The **Finance Minister** can enter into a limited range of borrowing agreements under section 56 of the PGPA Act. This includes entering into an agreement for the issue to, and use by, the Commonwealth of credit cards or credit vouchers, provided that the agreement requires the money borrowed to be repaid within 90 days. The Finance Minister has delegated this power to all accountable authorities of non-corporate Commonwealth entities.

Generally, an accountable authority or their **delegate** will enter into a single overarching borrowing agreement for each form of Commonwealth credit card or credit voucher. Staff members then act on the relevant borrowing agreement by using a card or voucher issued under that agreement – each Commonwealth credit card and credit voucher is not a separate borrowing agreement.

| Key Guidance | Key References |
|--|----------------|
| ANAO Report 37: Management of Credit Cards | PGPA Act: s56 |

Instructions – All staff

- Only an **official** may use a **Commonwealth credit card or credit voucher**.
- Only the person issued with a Commonwealth credit card or credit voucher, or someone specifically authorised by that person, may use that credit card, credit card number or credit voucher.
- You may only use a Commonwealth credit card or card number to obtain cash, **goods** or services for the **Commonwealth entity**.
 - You cannot use a Commonwealth credit card or card number for solely private expenditure.
- In deciding whether to use a Commonwealth credit card or credit voucher, you should consider whether it would be the most cost-effective **payment** option in the circumstances.
- Before using a Commonwealth credit card or credit voucher, you must ensure that the requirements in RMI - Approval and commitment of relevant money, have been met before entering into the **arrangement**.
- You must ensure that your use of a Commonwealth credit card or credit voucher is consistent with the approval given under section 18 of the PGPA Rule (Approving commitments of relevant money), including any conditions of the approval.
- You must ensure that any Commonwealth credit cards and credit vouchers issued to you are stored safely and securely.

In developing additional entity instructions, you may wish to include instructions on:

- whether Commonwealth credit cards can be used for private expenditure coincidental to the cardholders' work duties, including details of repayment requirements;
- whether Commonwealth credit cards can be used for cash withdrawals, including details of any additional approval and reporting requirements;
- when different types of Commonwealth credit cards and credit vouchers can or should be used (e.g. whether a travel card must be used for all **official travel**);
- whether there are any additional conditions on who can use a Commonwealth credit card or credit voucher (e.g. whether a contractor can use a Commonwealth credit card or credit voucher);
- the transaction limits for different types of Commonwealth credit cards and credit vouchers (e.g. if a **Cabcharge** can only be used for fares under \$200);
- the documentation required for credit card and credit voucher holders to acknowledge their responsibilities;
- how and when reconciliations against credit card or credit voucher statements must occur;
- the documentation required to confirm use of Commonwealth credit cards and credit vouchers;
- any additional approvals that are required for proposed commitments of relevant money that relate to allowances or benefits involving the card or voucher holder (e.g. approval of their own travel expenses);
- how Commonwealth credit cards and credit vouchers are to be stored, including the security requirements before the cards or vouchers are issued to **staff members**, as well as the security requirements imposed on holders;
- better practice storage requirements when a credit card is in a staff member's

- custody (e.g. keeping it in a separate part of a wallet to personal credit cards); and
- a requirement for staff members to return Commonwealth credit cards and credit vouchers when they are no longer required.

Instructions – Staff responsible for supervising credit card and credit voucher holders

In developing additional entity instructions, you may wish to include instructions on:

- when and how card and voucher holder delegations and credit limits are reviewed;
- a requirement to ensure that appropriate documentation and acquittal occurs; and
- a requirement to ensure that **staff members** are not exceeding transaction limits.

Instructions – Staff authorised to issue Commonwealth credit cards

In developing additional entity instructions, you may wish to include instructions on:

- who can issue different types of **credit cards** and **credit vouchers**;
- who is eligible to be issued with different types of credit cards and credit vouchers (e.g. who can use a **charge card**, fuel card or **Cabcharge voucher**);
- a requirement that **staff members** issued with a **Commonwealth credit card** sign the relevant agreement and acknowledgement form;
- maintaining a register of Commonwealth credit cards and credit vouchers issued to staff members, including the card or voucher holder's details; and
- the process for periodically reviewing entity credit card and credit voucher use.

Instructions – Staff with a delegation to enter into borrowing agreements for Commonwealth credit cards and credit vouchers

- When entering into a borrowing agreement for the issue to, and use by, the **Commonwealth entity of credit cards or credit vouchers**, you must:
 - have a valid **delegation** to enter into borrowing agreements;
 - ensure that the requirements in RMI - Approval and commitment of relevant money have been met; and
 - ensure that the **procurement** of the credit card and/or credit voucher services is in accordance with the **CPR** (see RMI - Procurement).
- You must:
 - comply with the directions in the delegation from the Finance Minister (under section 56) or any directions in the delegation from your accountable authority; and
 - ensure that the borrowing agreement requires the money borrowed to be repaid within 90 days of the Commonwealth being notified of the amount borrowed.

In developing additional entity instructions, you may wish to include instructions on:

- who is responsible for entering into borrowing agreements for Commonwealth credit cards and credit vouchers;
- the types of Commonwealth credit cards and credit vouchers that a delegate may enter into agreements for;
- any limits that apply to the number of borrowing agreements that a delegate may enter into; and
- if loyalty programs (e.g. Frequent Flyers) must be excluded from borrowing agreements.

MAKING PAYMENTS OF RELEVANT MONEY

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** on making **payments of relevant money**, the payment of **accounts**, discretionary compensation payments and taxation obligations.

Making payments of relevant money

Internal controls are the key mechanism by which an **accountable authority** of a Commonwealth entity controls who make payments on its behalf. You can only make a payment of relevant money if you have been **delegated power** or **authorised** to make the payment.

This requirement applies to all payments, including both manual and automated payments. A payment involves the transfer of cash, the issuing of instructions to process an Electronic Funds Transfer, the execution and issuing of a cheque, the use of a debit card or through another process.

For non-corporate Commonwealth entity **staff members**, any payment must also be supported by an **appropriation**. Before making a payment of relevant money staff members of these entities must ensure that there is legal authority to spend the relevant money, and that the payment of the money will be spent for the purpose for which it was appropriated. Staff members must also ensure that there is sufficient available appropriation to cover the proposed payment. These requirements apply regardless of whether a payment is made from a departmental or administered appropriation.

| Key Guidance | Key References |
|---|--|
| <i><u>Resource Management Guide No. XX: Payment of amount owed to person at time of death</u></i> | PGPA Act: s15, s16, s21, s23, s65, s76 |
| <i><u>Resource Management Guide No. XX Requests for Discretionary Financial Assistance under the Public Governance, Performance and Accountability Act 2013</u></i> | PGPA Rule: s11, s24, s25 |
| <i><u>Resource Management Guide No X: Procurement On-Time Payment Policy for Small Business</u></i> | FMA Act: s32B |
| <i><u>Resource Management Guide No X: Discounts for Small Business</u></i> | |
| <i><u>Resource Management Guide No X: Discounts for prepayment and early payment</u></i> | |

MAKING PAYMENTS

Section 16 of the **PGPA Act** imposes a duty on **accountable authorities** to establish an appropriate system of internal controls. Internal controls allow accountable authorities to set conditions and limits over who can make a **payment of relevant money**. To ensure that there are appropriate controls in place for **payments of relevant money**, some accountable authorities nominate particular **staff members** in their agencies to **authorise** or make payments. Other accountable authorities use **delegations** and guidance and/or controls linked to their automated payment systems to ensure payments of relevant money are made by appropriate persons.

For non-corporate Commonwealth entities, the **authority to administer an arrangement**, including authorising or making a payment in accordance with an arrangement, comes from section 23 of the PGPA Act, or other specific legislation (e.g. section 32B of the **FMA Act**). Accountable authorities usually delegate this function to staff members.

General requirements

Instructions – All staff

- You must not make a payment of relevant money unless you have been delegated power or been authorised to do so by the accountable authority.

In developing additional entity instructions, you may wish to include instructions on:

- the **Commonwealth entity's** processes for authorisation of payments, batch runs, or automated payments systems, where applicable, such as:
 - any checks that may be required before a **payment** can be made;
 - this could include checking the legal **authority** to make the payment, and/or whether it is supported by an **appropriation**;
 - who can authorise the payment of **accounts** or **statutory payments**, including batch runs;
 - any documents that must be provided before a **payment** where he or she previously approved the relevant arrangement being entered into, or where he or she may benefit from the payment;
 - whether a **staff member** may authorise an account for payment in which they have been involved (e.g. the PGPA section 23 **delegate** or a beneficiary);
 - the processes to ensure an account is paid in accordance with the terms and conditions specified in the relevant arrangement; and
 - any monetary limits that apply in relation to authorising the payment of an account.
- invoicing processes (e.g. the Commonwealth entity's requirements for a **correctly rendered invoice**);
- the Commonwealth entity's standard payment terms (e.g. within 30 days of the satisfactory receipt of goods and services and the receipt of a correctly rendered invoice);
- where payment terms and conditions are not specified in the arrangement, the processes to ensure an account is paid in accordance with your Commonwealth entity's standard payment terms;
- whether payments in advance of the delivery of goods and services may be made

and if so, in what circumstances;

- a requirement that staff members comply with the Government's On-Time Payment Policy for Small Businesses;
- the circumstances where it is appropriate to allow another Commonwealth entity or third party to make payments of relevant money on your Commonwealth entity's behalf (e.g. service delivery arrangements, salary packaging arrangements) see RMI - Arrangements relating to other CRF money;
- whether discounts on the payment of accounts should be accepted, and if so, in what circumstances;
- the Commonwealth entity's preferred methods for making a payment (e.g. electronically);
- how credit notes are to be handled (e.g. offset against the amount owing);
- how payments to an overseas entity are to be handled;
- the Commonwealth entity's requirements relating to reconciliation (e.g. whether staff members must reconcile their usage of mobile phones, credit cards or other items upon receipt of an account);
- maintaining records of payments (if applicable); and
- additional internal controls, such as
 - the use of charge codes or cost centres;
 - ensuring that the account has not already been paid; and
 - processes to confirm the identity of a payment recipient.

Instructions – staff who have been delegated power, or authorised, to make a payment

- You must exercise the power to make a **payment** in accordance with any limits and conditions imposed in relation to the relevant delegation or authorisation.
- If you are **administering** an **arrangement**, you must ensure that you have **authority** to do so.
 - The power to administer an arrangement can come from section 23 of the **PGPA Act** or other specific legislation.
 - The power to administer an arrangement must be **delegated** to you, or you must be authorised to exercise that power, by your accountable authority
 - The arrangement must be within the scope of the relevant delegation or authorisation.
- You must ensure that payments under the arrangement (which are part of the administration of the arrangement) are made or **authorised** by a relevant **delegate**.
- Before making a **payment** of **relevant money**, you must ensure that:
 - the payment is consistent with the purposes of the **appropriation** under which it is proposed to be made; and
 - there is sufficient available appropriation to cover the proposed payment.

In developing additional entity instructions, you may wish to include instructions on:

- the ability of one staff member to authorise another staff member to perform purely administrative tasks on their behalf, without requiring a delegation;
- a requirement that staff members who are delegated or authorised to exercise powers take relevant steps to ensure they are aware of, and understand their obligations (including any limits and conditions in relation to the delegation or authorisation);

- the record keeping and reporting requirements that apply when exercising a power that a person has been delegated or authorised to exercise;
- who holds relevant delegations and authorisations to administer arrangements within your Commonwealth entity (these people may be different to the people who can enter into an arrangement in relation to the affairs of the entity); and
- requirements for documenting **authorisations** for others to sign-off on invoices or make payments on your behalf.

Payment of amount owed to person at time of death (payment pending probate)

A **payment pending probate** relates to an amount which the **Commonwealth** owes to a person at the time of their death. Section 25 of the **PGPA Rule** (Payment of amount owed to person at time of death gives) the **Finance Minister** the power to **authorise payment** of such an amount to the person who the Finance Minister considers should receive the payment without requiring production of probate of the will or letters of administration of the deceased person's estate. This power has been delegated to all **accountable authorities** of non-corporate Commonwealth entities, who can sub-delegate it to non-corporate Commonwealth **entity staff members**.

Instructions – All entity staff

- You must not **authorise** a **payment pending probate** under section 25 of the **PGPA Rule**, unless you have been **delegated** the **authority** to do so.
- If a payment pending probate has been authorised by your **accountable authority** or a **delegate**, before making the **payment** you must ensure that there is an available **appropriation** for the payment and that you have the authority to allow the payment.

In developing additional entity instructions, you may wish to include instructions on:

- who in the Commonwealth entity has the power to authorise payments pending probate; and
- the information required to support a proposal to authorise a payment pending probate.

Instructions – Staff with a delegation to authorise payments pending probate

- When **authorising** a **payment pending probate**, you must comply with any directions in relation to the **delegation** from your **accountable authority**.
- If your **non-corporate Commonwealth entity** owes an amount to a person at the time of their death, you may authorise **payment** of that amount to the person who you consider should receive the payment, if you have been delegated the power to do so.
- When deciding who should be paid, you must consider the people who are entitled to the property of the deceased person under that person's will or the law relating to the disposition of the property of deceased persons. However, you are not bound to act in accordance with that law.
- You may authorise the payment without requiring production of:
 - probate of the will of the deceased person; or
 - letters of administration of the deceased person's estate.
- Before authorising the payment, you must ensure that the payment is not covered

by other legislation.

In developing additional entity instructions, you may wish to include instructions on:

- the types of payments covered by other legislation, which should not be authorised as payments pending probate (e.g. leave entitlements under the *Long Service Leave (Commonwealth Employees) Act 1976*);
- the circumstances where it is appropriate to authorise a payment pending probate;
- the factors to consider when determining who should receive the payment;
- what evidence of death is required;
- whether the non-corporate Commonwealth entity's internal legal area must be consulted prior to authorising a payment pending probate;
- what evidence is required from the person receiving the payment pending probate to prove their relationship to the deceased; and
- the record keeping and reporting requirements that relate to payments pending probate.

WORKING DRAFT 13 MARCH

DISCRETIONARY COMPENSATION MECHANISMS

Discretionary compensation mechanisms allow the Australian Government to provide assistance to individuals or other bodies that have no automatic entitlement to a **payment** or other financial relief. A decision under any of these mechanisms is at the discretion of the decision maker.

The absence of any entitlement to payment or relief distinguishes the discretionary compensation mechanisms from other mechanisms such as the settlement of claims for which there is at least a meaningful prospect of liability under the *Legal Services Directions 2005*, or the payment of compensation arising from a statutory entitlement.

The Scheme for Compensation for Detriment caused by Defective Administration (CDDA Scheme)

The **CDDA Scheme** allows **non-corporate Commonwealth entities** under the **PGPA Act** (except Departments of the Parliament) to compensate individuals or other bodies who have experienced **detriment** (i.e. quantifiable financial loss) as a result of an entity's **defective administration**, and who have no other avenues of redress.

The CDDA Scheme is established under the executive power in section 61 of the Constitution. While Portfolio **Ministers** have responsibility for decisions made under the CDDA Scheme, they may **authorise** entity **staff members** to approve payments under the CDDA Scheme on their behalf. As the CDDA Scheme generally relates to the **ordinary services or functions of government**, the legal **authority** for an accountable authority to enter into, vary or **administer** an **arrangement**, including the ability to make payments under that arrangement, is provided by section 23 of the PGPA Act. Accountable authorities may delegate this power to staff members.

Instructions – All staff

- You must refer claims for compensation arising from **defective administration** to the relevant **Minister** or a person with the **authority** to decide such claims.
- If a **CDDA** payment has been approved by a Minister, or a person authorised by a Minister, before making the payment the accountable authority must ensure that:
 - the requirements in these instructions for section 18 of the PGPA Rule have been met (see RMI – Approval and committing relevant money); or
 - the Minister has approved the payment under section 71 of the PGPA Act; and
 - there is an available **appropriation** for the **payment**.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that the CDDA payment would be a **proper** use of **public resources**;
- who within the entity has the authority to approve CDDA payments;
- what constitutes “defective administration” for the purposes of the CDDA Scheme, consistent with *Resource Management Guide No. XX Requests for Discretionary Financial Assistance under the Public Governance, Performance and Accountability Act 2013*;
- circumstances which may require an application to be treated as a request for an act of grace payment (e.g. where the claim relates to issues other than purely

administrative issues), consistent with Resource Management Guide No. XX, instead of an application under the CDDA scheme;

- what information should be provided by an applicant, and what form an application should take;
- what should be included in a proposal to support a decision to approve a CDDA payment;
- what meets the requirements of **detriment** and the evidence required to support the case for detriment (note that an **amount owing to the Commonwealth** cannot be detriment);
- when detriment is likely to have been caused by defective administration;
- how authorised staff members are to assess the level of compensation that should be provided (e.g. a level to restore the applicant to the position he or she would have been in had the defective administration not occurred), consistent with *Resource Management Guide No. XX*;
- whether legal advice should be sought prior to proposing a CDDA payment;
- ensuring CDDA scheme decisions are rational, defensible and evidence-based, and that applicants are afforded procedural fairness;
- implementing and documenting a decision relating to a CDDA claim;
- whether conditions need to be imposed in relation to an offer of a payment under the CDDA scheme (e.g. a **deed of release**);
- what appropriation CDDA payments must be paid from;
- maintaining a register of all claims approved and paid out;
- the information to be provided to a Minister to meet the requirements of section 71;
- ensuring that all amounts paid under the CDDA Scheme are reported in accordance with the **FMR**; and
- ensuring that the cause of an administrative defect is identified and corrected (including by determining which area of the entity is responsible for ensuring it is corrected).

Act of grace payments

Section 65 of the **PGPA Act** enables the **Finance Minister** to **authorise** the making of one-off or periodic **act of grace payments**. This power has been **delegated** with directions to the Finance Secretary and delegates within **Finance**.

If the Finance Minister or a delegate authorises ongoing act of grace payments or an act of grace payment which is subject to agreed conditions, the accountable authority of the relevant non-corporate Commonwealth entity will derive authority to enter into an **arrangement** under section 23 of the PGPA Act.

Act of grace payments may be authorised in **special circumstances**, where a non-corporate Commonwealth entity's conduct or Commonwealth legislation or policy has resulted in an unintended, inequitable, anomalous or otherwise unacceptable impact on the claimant's circumstances. Act of grace payments are made in circumstances where the main obligation to the applicant is moral, rather than legal.

[All non-corporate entities – except Finance]

Instructions – All staff

- You must not approve an **act of grace payment**.
- You must ensure that all requests for act of grace payments are referred to **Finance**.
- You must ensure when making the act of grace payment authorised by the **Finance Minister**, or a **delegate**, under section 65 of the **PGPA Act** that the payment is consistent with the decision.

[In those circumstance where there is an arrangement]

- Where an act of grace payment involves either ongoing payments or is subject to agreed conditions, before entering into the **arrangement** you must ensure that:
 - you have been **delegated the authority**, or authorised by a delegate, to enter into the arrangement under section 23 of the PGPA Act; and
 - the requirements in these instructions for section 18 of the PGPA Rule, have been met (see RMI - Approval and Commitment of Relevant Money).
- Before making an act of grace payment under an arrangement, you must ensure that:
 - you have been delegated the authority, or authorised by a delegate, to administer the arrangement under section 23 of the PGPA Act;
 - the requirements of the arrangement have been met; and
 - the act of grace payment is supported by an **appropriation**.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that an arrangement would be a **proper** use and management of **public resources**;
- who is responsible for coordinating requests for act of grace payments and referring them to Finance;
- preparing the relevant documentation to be forwarded to Finance in relation to an application for an act of grace payment;
- what information should be provided by an applicant, and what form an application should take;
- a requirement that staff members remain unbiased when discussing the act of grace mechanism with potential claimants;
- implementing a decision of the Finance Minister or a delegate to approve an act of grace payment;
- how conditions are to be imposed, if conditions are attached to any authorised act of grace payment;
- a requirement to maintain a register of all applications approved and paid out; and
- a requirement to report act of grace payments in accordance with the **FMR**.

[Only for Finance]

Instructions – All staff

- You must refer requests for an **act of grace payment** to a **delegate** with the power to decide such requests.
- You must ensure when making the act of grace payment authorised by the **Finance Minister**, or a **delegate**, under section 65 of the **PGPA Act** that the payment is consistent with the decision.

[In those circumstance where there is an arrangement]

- Where an act of grace payment involves either ongoing payments or is subject to agreed conditions, before entering into the **arrangement** you must ensure that:
 - you have been **delegated the authority**, or **authorised** by a delegate, to enter into the arrangement under section 23 of the PGPA Act; and
 - the requirements in these instructions for section 18 of the PGPA Rule have been met (see RMI - Approval and commitment of relevant money)
- Before making an act of grace payment under an arrangement, you must ensure that:
 - you have been delegated the authority, or authorised by a delegate, to administer the arrangement and make payments related to the arrangement under section 23 of the PGPA Act;
 - the requirements of the arrangement have been met; and
 - the act of grace payment is supported by an **appropriation**.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that an arrangement would be a **proper** use and management of **public resources**;
- who has the power to authorise act of grace payments within the entity;
- preparing the relevant documentation to be forwarded to the Discretionary Payments Section (within Finance) in relation to an application for an act of grace payment;
- what information should be provided by an applicant, and what form an application should take;
- a requirement that **staff members** remain unbiased when discussing the act of grace mechanism with potential claimants;
- implementing a decision of the Finance Minister or a delegate to approve an act of grace payment;
- a requirement to maintain a register of all applications approved and paid out; and
- a requirement to report act of grace payments in accordance with the **FMR**.

[Only for Finance]

Instructions – Staff with a delegation to authorise act of grace payments

- If you consider it appropriate to do so because of **special circumstances**, you may **authorise** a one-off or periodic **act of grace payment**.
- When authorising an act of grace payment, you must comply with the directions in the delegation from the Finance Minister or any directions in the **delegation** from your **accountable authority**.
- You may attach conditions to an act of grace payment.

In developing additional entity instructions, you may wish to include instructions on:

- the information required to consider an application for an act of grace payment, including its form;
- a requirement to ensure a decision is rational, defensible and evidence-based, and that the applicant has been given procedural fairness;
- how delegates are to assess the level of compensation that should be provided (e.g. a level to restore the applicant to the position he or she would have been in had the special circumstances not arisen);
- whether conditions need to be imposed on an offer of an act of grace payment, via an **arrangement** (e.g. a **deed of release**);
- a requirement that any conditions attached to an act of grace payment are accepted by the applicant in writing; and
- documenting a decision to authorise an act of grace payment.

WORKING DRAFT 13 MARCH 2014

TAXATION OBLIGATIONS

Instructions – All staff

- You must maintain appropriate records and provide information as requested to enable the **entity** to meet its taxation obligations.
- Before seeking approval for a proposed commitment of relevant money, you must:
 - consider the potential **FBT** implications of the proposed commitment;
 - ensure that the price to be charged for the goods and/or services is inclusive of **GST**, where applicable.
- You must ensure that a **valid tax invoice** is obtained for each purchase to enable the entity to claim **input tax credits** for the purposes of GST, where applicable.
- You must ensure that all contracts for the acquisition or sale of goods and services by the entity appropriately address taxation issues.

In developing additional entity instructions, you may wish to include instructions on:

- who is responsible for ensuring appropriate procedures are in place to meet the entity's taxation obligations, including payments and preparation of the entity's annual FBT return and monthly **BAS**;
- a requirement for an entity to hold an Australian Business Number (ABN);
- what types of accounts and records must be kept by **staff members** to enable the entity to meet its taxation obligations (including who is responsible for coding transactions in the entity's **FMIS**);
- the activities that staff members must provide information on for the purposes of FBT (e.g. car benefits, entertainment benefits, study assistance, car parking benefits);
- what must be included to make an invoice compliant for tax purposes (e.g. name of supplier, ABN, price of taxable supply, date of issue etc.);
- what staff members must do where a supplier does not provide an ABN; and
- how staff members are to address taxation issues in contracts (e.g. requiring that the contractor complies with relevant tax legislation).

WORKING DRAFT 13 MAR 2018

MANAGING RELEVANT MONEY

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** on the proper management of **relevant money**. This includes:

- receiving relevant money;
- banking;
- loss of relevant money;
- cash advances;
- investments and borrowings;
- special accounts; and
- fees and charges.

What is relevant money?

Section 8 of the PGPA Act defines relevant money as money that the Commonwealth or a corporate Commonwealth entity holds as cash or in their bank accounts. Relevant money does not include other CRF money – for money of that type see the RMI - Arrangements related to other CRF money.

Relevant money includes Australian currency, foreign currency and cheques in any currency. Money is raised by, or on behalf of, the Commonwealth in a variety of ways, including by appropriations, taxes, borrowings, loan repayments, rebates, levies and fees. Money held on trust by Commonwealth entities (for the benefit of persons outside of the Commonwealth or a Commonwealth entity) and money found on **Commonwealth entity premises** is also relevant money.

The PGPA legislation imposes obligations in relation to relevant money held by all Commonwealth entities, irrespective of whether the money is provided through the Federal Budget, a special **appropriation** or raised by an entity (such as through **cost recovery**).

| Key Guidance | Key References |
|--|---|
| <i>Resource Management Guide XX Approval and commitment of relevant money</i> | PGPA Act: s8; s23; s52 - s59; s68; s69; |
| <i>Resource Management Guide XX Banking of relevant money by Commonwealth entities</i> | s71; s74; s78; s80 |
| <i>Resource Management Guide XX Investment</i> | PGPA Rule: s18; s19; s20; s21; s22; s27 |

RECEIVING RELEVANT MONEY

Instructions – All staff

- If you receive **relevant money** you must ensure the safe custody of the money.
- If it is **bankable money** you must deposit the money in a bank:
 - Before the end of the next banking day; or
 - If the instructions of your **accountable authority** prescribe a period in which the money must be deposited – before the end of that period.
- You must ensure that relevant money is only ever deposited into an **entity bank account** unless the money is to be retained as cash for the purposes of making payments in relation to the Commonwealth entity in accordance with any requirements prescribed by the instructions of your accountable authority.
- If you receive relevant money that is not bankable money then you must deal with it in accordance with any requirements prescribed by the instructions of your accountable authority.
- If you are entering into an arrangement with a person outside the Commonwealth or a Commonwealth entity that involves the handling of **other CRF money**, you must comply with the instructions in RMI – Arrangements for other CRF Money.

In developing additional entity instructions, you may wish to include instructions on:

- the requirement to issue a receipt for the amount of the relevant money;
- passing received money to an appropriate **staff member** to ensure the proper banking of relevant money (including specific timeframes in which this must be done);
- safeguarding relevant money until it is banked or passed to an appropriate staff member;
- the approved banking period for different types of relevant money (e.g. money received in rural offices);
- which staff members can collect, or enter into arrangements to collect, relevant money;
- the circumstances where staff members must decline to receive money because receiving the money is not in the interests of the Commonwealth;
- any currencies which are considered to be not bankable money or where banking the money would be uneconomical as it would involve significant costs or administrative difficulty to bank;
- the treatment of currency that cannot be banked, including appropriate safeguards and storage arrangements;
- the handling of money found on the entity's premises (e.g. for non-corporate Commonwealth entities finding unidentified money, it should be treated as administered revenue and remitted to the **Official Public Account**, as per the **FMR**); and
- the record keeping and reporting requirements that relate to the receipt of relevant money.

Instructions – Staff responsible for receiving and handling relevant money

In developing additional entity instructions, you may wish to include instructions on:

- a requirement to issue a receipt (as appropriate) for money received;
- the handling of cheques (e.g. crossing them “not negotiable”); and
- a requirement to maintain adequate records for all money received.

BANKING

The accountable authorities of all non-corporate Commonwealth entities require the power to conduct banking business to be delegated to them by the Finance Minister.

Section 53 of the **PGPA Act** provides the **Finance Minister** with the power, on behalf of the Commonwealth, to enter into an agreement with a **bank** relating to the conduct of the banking business of the Commonwealth, including in relation to opening and maintaining bank accounts.

The Finance Minister has delegated the power to enter into transactional banking agreements, and to open and maintain bank accounts, in Australia to all non-corporate Commonwealth entity **accountable authorities** with directions. Some non-corporate Commonwealth entity accountable authorities also have the power to enter into agreements relating to bank accounts outside of Australia.

Section 55 of the **PGPA Act** requires officials of all Commonwealth entities who receive relevant money (including money that becomes relevant money upon receipt) that can be deposited in a bank (**bankable money**) to deposit the money in a bank within the period prescribed by the PGPA Rule, or if the Rule do not prescribe a period, as soon as is practicable, in accordance with any requirements prescribed by the Rule. Sections 19 and 20 of the PGPA Rule prescribe requirements in relation to banking or otherwise dealing with bankable money. Section 55 of the PGPA Act also addresses where an official of a Commonwealth entity receives money that is not bankable (**unbankable money**). Unbankable money must be dealt with in accordance with section 21 of the PGPA Rule (Dealing with unbankable money received by officials).

Instructions – All staff

- You must not deposit **bankable money** into any bank account other than an **entity account** unless the money is not required to be banked under section 20 of the PGPA Rule (Otherwise dealing with bankable money by officials).
- **Bankable money** must be deposited before the end of the next **banking day**, or in accordance with the instructions of the accountable authority of the entity (see section 19 of the PGPA Rule (Banking of bankable money received by officials)).
- You must not open, maintain or close an **entity bank** account, unless you have been **delegated** the power to do so by your accountable authority.
- You must not enter into an agreement with a bank for **banking business services**, unless you have been delegated the authority to do so under section 53 of the PGPA Act (entering into agreements with banks) by your accountable authority.

In developing additional entity instructions, you may wish to include instructions on:

- a time period in which bankable money must be deposited in a bank (i.e. where there

are special circumstances that mean that the money should not be banked before the end of the next banking day);

- dealing with bankable money that is not to be banked because it is to be held as cash for the purposes of making payments in relation to a Commonwealth entity;
- the requirements for dealing with unbankable money;
- what should happen for a **staff member** to open or close a bank account, including instructions on who can open or close a bank account;
- what should happen for a staff member to enter into an agreement for banking business services, including instructions who has the authority enter into such an agreement;
- record keeping and reporting requirements that apply to the use of bank accounts; and
- staff members reporting any non-compliance with the banking requirements under the **PGPA legislation**.

Agreements with Banks

[Entities that may only enter into agreements with banks relating to accounts in Australia]

Instructions – Staff with a delegation to enter into agreements with banks

- You may only enter into an agreement with a **bank** for **banking business services** in Australia.
- When entering into an agreement with a bank, you must comply with the directions in relation to the **delegation** from your **accountable authority**.
- You may only enter into an agreement with a bank for **overdraft drawings** if the agreement provides for each drawing to be repaid within 30 days.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that an arrangement would be a **proper** use and management of **public resources**;
- which banks an agreement for banking business services should be made with;
- what terms and conditions should be included in an agreement for banking business services, including the preferred duration of agreements; and
- **staff members** taking merchant fees and charges into account when considering whether to approve a proposed commitment of relevant money (under section 18 of the PGPA Rule) in relation to the entry of an agreement for banking business services.

[Entities that may enter into agreements relating to accounts outside Australia]

Instructions – Staff with a delegation to enter into agreements with banks

- When entering into an agreement with a **bank** for **banking business services**, you must comply with the directions in relation to the **delegation** from your **accountable authority**.
- You may only enter into an agreement with a bank for **overdraft drawings** if the agreement provides for each drawing to be repaid within 30 days.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that an arrangement would be a **proper** use of **public resources**;

- which banks an agreement for banking business services should be made with;
- what terms and conditions should be included in an agreement for banking business services, including the preferred duration of agreements; and
- **staff members** taking merchant fees and charges into account when considering whether to approve a proposed commitment of relevant money (under section 18 of the PGPA Rule) in relation to entry of an agreement for banking business services.

Managing Bank Accounts

[Entities that may only open and maintain bank accounts in Australia]

Instructions – Staff with a delegation to open and maintain bank accounts

- You may only open and maintain **entity bank accounts** in Australia.
- When opening and maintaining an entity bank account, you must comply with the directions in the **delegation** from your **accountable authority**.

In developing additional entity instructions, you may wish to include instructions on:

- the circumstances where it is appropriate to open or close an **entity account**;
- the requirements for establishing bank accounts (e.g. the appropriate types of accounts and which banks are suitable);
- the requirements for reconciliation of bank accounts, including frequency;
- which **staff members** can be given signing authority on a bank account; and
- how bank accounts that are accessed by persons outside of the Commonwealth are to be managed.

[Entities that may open and maintain bank accounts both in and outside Australia]

Instructions – Staff with a delegation to open and maintain bank accounts

- When opening and maintaining a **bank account**, you must comply with the directions in relation to the **delegation** from your **accountable authority**.

In developing additional entity instructions, you may wish to include instructions on:

- the circumstances where it is appropriate to open or close a **bank account**;
- the requirements for establishing bank accounts (e.g. the appropriate types of accounts and which banks are suitable);
- the requirements for reconciliation of bank accounts, including frequency;
- which **staff members** can be given signing authority on a bank account; and
- how bank accounts that are accessed by persons outside of the **Commonwealth** are to be managed.

LOSS OF RELEVANT MONEY IN THE CUSTODY OF AN OFFICIAL OR THROUGH MISCONDUCT

All **staff members** must ensure the security of any **relevant money** they have custody of. Section 68 of the **PGPA Act** sets out matters relating to the loss of relevant money in the custody of an official (or Minister). Section 69 of the PGPA Act applies if to the loss of relevant money occurs through misconduct by an official (or Minister).

A loss of relevant money may result in a **debt** owed to the **Commonwealth**. A person's liability to pay such a debt is not avoided if stop they working for the **entity**. For further information on the management of debt, see RMI - Managing Debt.

Instructions - All staff

- You must not **misuse** or **improperly dispose** of **relevant money**.
- You are responsible for the security of any relevant money you receive, or have custody of, and must take reasonable steps to safeguard the money from loss.
- If a loss of relevant money occurs whilst the money is in your **custody**, you will be liable to pay the **Commonwealth** an amount equal to the loss, unless you took reasonable steps to prevent the loss.
- If you cause or contribute to a loss of public money by misconduct, or a deliberate or serious disregard for reasonable standards of care, you will be liable to pay the Commonwealth an amount that reflects your share of the responsibility for the loss.

In developing additional entity instructions, you may wish to include instructions on:

- a requirement to report a loss of relevant money (e.g. "You must report any loss or deficiency of relevant money to the [relevant **staff member**] as soon as practicable after becoming aware of it");
- what constitutes "reasonable steps" to take to prevent a loss of relevant money;
- the entity's expectations for reasonable standards of care; and
- the security arrangements that must be implemented to minimise the loss or inappropriate use of relevant money.

Instructions – Staff responsible for coordinating reports on the loss of relevant money

In developing additional entity instructions, you may wish to include instructions on:

- which **staff members** are responsible for dealing with a loss of **relevant money** and deciding on appropriate follow-up actions;
- the **entity's** process for inquiries to be undertaken where a staff member may have contributed to the loss of relevant money;
- a requirement to notify an appropriate **delegate** to pursue recovery of a **debt**, where applicable; and
- the record keeping and reporting requirements that relate to a loss of relevant money.

CASH ADVANCES (INCLUDING PETTY CASH AND CASH FLOATS)

A **cash advance** (including **petty cash** and a change float) is **relevant money** that has been withdrawn from an entity **bank account** and provided to a specific **staff member** to make **payments** in cash. It also includes money received for the purposes of reimbursing the petty cash or change float. Cash advances are typically used as change floats or to cover minor expenses that cannot conveniently or cost effectively be processed for payment by cheque, Electronic Funds Transfer or a **credit card**.

Instructions – Staff who are authorised to hold cash advances

- You may receive an amount withdrawn from an **entity bank account** to establish or replenish a **cash advance** approved by your **accountable authority** (or their **delegate**).
- You are responsible for the cash advance and must take reasonable steps to safeguard the money from loss.
- You must comply with directions from your accountable authority in relation to the cash advance.
- You must not make a **payment** from a cash advance, unless you are authorised to do so and you comply with section 18 of the PGPA Rule (see RMI – Approval and commitment of relevant money).
- You must not make a payment for any purpose other than that for which the cash advance was established.

In developing additional entity instructions, you may wish to include instructions on:

- promoting the **proper** use and management of **public resources**;
- the requirements that apply to establishing, varying or closing a cash advance, including who has the **authority** to do so;
- the monetary limits for the use of each type of cash advance;
- the storage and security requirements for cash advances;
- the maintenance of records relating to a cash advance (including the need to periodically audit the advance); and
- a requirement to keep advance money separate from other money.

Instructions – Staff who are authorised to hold cash advances

- You must comply with instructions from your accountable authority.
- If you enter into an arrangement in relation to a cash advance you must be delegated the power to do so under section 23 of the PGPA Act
- If you authorise a proposed commitment of relevant money that will result in a payment of the cash advance you must be delegated the power, or authorised, to do so under section 23 of the PGPA Act.

In developing additional entity instructions, you may wish to include instructions on:

- promoting the **proper** use and management of **public resources**; and
- who has been delegated or authorised to exercise power under section 23 of the PGPA to enter into arrangements, approve commitments of relevant money, and make payments relating to cash advances.

Instructions – Staff with a delegation to approve the purpose of a cash advance

- You may approve the establishment of a **cash advance** for a specific purpose.
- You may approve the manner in which a cash advance must be maintained.

In developing additional entity instructions, you may wish to include instructions on:

- the purposes for which cash advances may be established (e.g. to provide change or to cover the minor running costs of the entity);
- a requirement to maintain a register of all cash advances;
- a requirement to periodically review cash advances held by **staff members** (including the reviewing need for and level of the advance); and
- the **appropriations** from which cash advances may be established (e.g. departmental only).

WORKING DRAFT 13 MARCH

INVESTMENTS AND BORROWINGS

Relevant money managed by non-corporate Commonwealth entities cannot generally be invested. Section 58 of the PGPA Act provides the **Finance Minister** and Treasurer with the power to invest relevant money in authorised investments on behalf of the Commonwealth. This power has been **delegated** to only a limited number of officials in non-corporate Commonwealth entities (in relation to specific moneys). The investments that are authorised under section 58 of the PGPA Act are limited to a specific list of conservative investments.

[Entities/officials that may invest relevant money]

Instructions – All staff

- You must not invest **relevant money** on behalf of the **Commonwealth**, unless you have been **delegated** the **authority** to do so by the Finance Minister or Treasurer under 58 of the **PGPA Act**.

In developing additional entity instructions, you may wish to include instructions on:

- who (if anyone) within an entity has been delegated the power to invest relevant money; and
- what processes delegates must follow to invest relevant money.

Instructions – Staff with a delegation to invest relevant money

- When investing **relevant money**, you must comply with any directions in relation to the **delegation** from your **accountable authority**.
- You must ensure that relevant money is only invested in **authorised investments**.
- You must ensure that the proceeds of an investment debited from a **special account** are, upon realisation, credited to that special account.
- When investing relevant money from a special account, you must ensure that the investment is consistent with the purposes of that special account.
- When investing relevant money that is **trust money**, you must ensure that the investment is consistent with the terms of the trust.
- Prior to an investment maturing, you may authorise the reinvestment of the proceeds, upon maturity, in an authorised investment with the same entity.
- You must take all reasonable steps to obtain the maximum return available on authorised investments.
- Prior to making an investment or authorising a reinvestment that involves an amount of \$15 million or more, you must provide details of the proposed investment or reinvestment to the Australian Office of Financial Management (AOFM).

In developing additional entity instructions, you may wish to include instructions on:

- the **appropriations** (e.g. special accounts) that an investment can be debited from;
- the total amount that may be invested and any related investment conditions (e.g. duration of investments, availability of working cash);
- the acceptable risk profile for the entity's investments;
- the record keeping and reporting requirements for investments, including obligations to report investments in the entity's financial statements, as per the **FMR**;
- [For AOFM and Future Fund] details of approved investment activities (section 58 of

the PGPA Act does not apply to these entities); and

- [For AOFM] the need for delegates to comply with the directions in relation to the delegation from the Treasurer.

Borrowing

Borrowing on behalf of the **Commonwealth** is extremely restricted. Section 56 of the **PGPA Act** allows the **Finance Minister**, to enter into borrowing agreements on behalf of the Commonwealth that meet certain conditions. The Finance Minister has **delegated** to all **accountable authorities** the power to enter into borrowing agreements for **Commonwealth credit card** or **credit voucher** services only. The Finance Minister has delegated power to the accountable authority of the Department of Foreign Affairs and Trade to enter into agreements for the provision of overdraft facilities with overseas banks in particular circumstances.

For instructions on borrowing in relation to Commonwealth credit cards and credit vouchers, see RMI - Commonwealth Credit Cards and Credit Vouchers.

Instructions – All staff

- You must not enter into a borrowing agreement on behalf of the **Commonwealth**, unless you have been **delegated the authority** to do so under section 56 of the **PGPA Act**.

In developing additional entity instructions, you may wish to include instructions on:

- the requirements that apply for entering into borrowing agreements, including who has the authority to enter into such agreements.

Instructions – Staff with a delegation to enter into borrowing agreements for credit card or credit voucher services

- You may only enter into a borrowing agreement for the issue to, and use by, staff members of the entity on behalf of the **Commonwealth** of a **credit card** or **credit voucher**.
- When entering into a borrowing agreement, you must comply with the instructions outlined in the RMI -Commonwealth Credit Cards and Credit Vouchers.

[Additional instructions for Department of Foreign Affairs and Trade]

Instructions – Staff with a delegation to enter into borrowing agreements for overdraft facilities

- You may enter into agreements for the provision of **overdraft facilities** with overseas **banks**, provided the agreements require the money to be repaid within 90 days.
- When entering into an agreement for the provision of overdraft facilities with an overseas bank, you must comply with the directions in the delegation from the Finance Minister or any directions in relation to the **delegation** from your **accountable** authority.

[Full directions in the delegation]

- You must ensure that any agreement is for a maximum amount of \$1 million, with the sum of all agreements not totalling more than \$10 million.
- You must ensure that the overdraft facility is only accessed in situations where funds

cannot be transferred from Australia in time for a specific **payment**.

- When an agreement for overdraft facilities provides for the charging of **fees** by the bank, you must ensure that:
 - the account incurs only the bank’s standard fees and charges; and
 - arrangements are put in place to debit any fees and charges to a departmental **appropriation** for the entity.
- You must, at least annually, review all of the **entity’s** overdraft facilities and be satisfied of the continuing need for those facilities.
- You must ensure that any use of the delegation is reported to **Finance** within one week of the use.

WORKING DRAFT 13 MARCH

SPECIAL ACCOUNTS

Special accounts are an **appropriation** mechanism to draw **money** from the **CRF** for particular purposes. They are not **bank** accounts.

Special accounts can be established by a determination made by the **Finance Minister** under section 78 of the **PGPA Act**, or by another Act (see section 80 of the PGPA Act).

A determination made by the Finance Minister establishing a special account will describe the purposes of the special account. This includes the purposes for which payments may be made (with the balance of the special account being reduced or debited) and, where appropriate, amounts that may or must to be credited to the special account (with the balance of the special account being increased or credited). The purposes of a special account established by another Act will be contained in that Act.

Instructions – Staff involved with the use and management of special accounts

- You must ensure that only those amounts that have been identified for crediting to a **special account** are credited to it.
- You must ensure that amounts are only debited from a special account in accordance with the purposes for which the account was established.
- You must obtain approval for the commitment of relevant money that will be debited from a special account (see RMI – Approval and Commitment of Relevant Money).
- You must not use money from a special account to make a **payment**, unless you are **authorised** to do so
 - Before making a payment, you must ensure that the balance of the special account is sufficient to cover the proposed payment (see RMI -Making Payments of Relevant Money).
- Moneys allocated to a special account must not be invested or earn interest, unless the **authority** to invest such moneys has been provided by the **Finance Minister** under section 58 of the PGPA Act.
- You should consult with **Finance** prior to establishing a special account.

In developing additional entity instructions, you may wish to include instructions on:

- the requirement that **staff members** consult with the entity's **CFO** area, prior to requesting the establishment of a special account;
- the requirement that only authorised staff members should make a payment from the special account;
- the requirement to ensure that a special account never has a negative (notional) balance; and
- the record keeping and reporting requirements for special accounts, including reporting special accounts in the **entity's** financial statements as per the **FMR**.

USER CHARGING

User charging involves **Commonwealth entities** charging individuals, non-government organisations and other government entities in respect of regulatory activities or for the provision of goods and services. The Commonwealth Government may direct entities to charge for some or all of their activities in a specific manner and/or apply a specific policy framework.

Accountable authorities of Commonwealth entities should establish and maintain internal charging policies that set out who can approve charges (if the charges do not require a policy approval from Cabinet or Prime Minister). The policies should also include principles and/or requirements for stakeholder consultation and documentation of costs and charges.

Instructions – all staff members

- In considering whether individuals, non-government organisations or other government entities should, or may, be charged for the provision of **goods**, services or regulatory activities, you must:
 - identify whether there is a Government decision that sets out how to charge for a specific activity (e.g. in accordance with the Commonwealth Cost Recovery Guidelines);
 - consider whether charging requires express statutory authorisation (this may not be required in relation to payments between Commonwealth entities);
 - apply relevant government policy frameworks (e.g. Commonwealth Property Management Framework);
 - apply the entity’s internal charging policies; and
 - determine whether revenue raised should be returned to the Official Public Account or whether it is able to be retained by the entity.

In developing additional guidance you may wish to include instructions on:

- how to assess whether it is appropriate to charge for specific activities, e.g. the entity may have been appropriated to deliver this activity free of charge to the users;
- principles to apply when charging, e.g. efficiency, effectiveness and accountability;
- when to seek advice from government entities that are responsible for relevant policy frameworks, e.g. Department of Finance;
- when it may be appropriate to seek legal advice in relation to the ability to charge;
- processes for consultation within the entity and with stakeholders who may be, or are being charged;
- methods for costing and pricing of activities that are being charged for;
- appropriate documentation of costs and charges (e.g. content and level of detail); and
- how frequently costs and charges should be reviewed.

ARRANGEMENTS RELATING TO OTHER CRF MONEY WITH PERSONS OUTSIDE OF THE COMMONWEALTH

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** about **arrangements** where a person outside of the **Commonwealth** handles **other CRF money**.

Who handles other CRF money?

Any person who is not an **official** or a **Minister** (i.e. any person outside of the Commonwealth or a Commonwealth entity) who acts for or on behalf of the Commonwealth in relation to money (i.e. as an agent of the Commonwealth) will handle other CRF money. For example, a person may handle other CRF money because they have entered into a contractual arrangement to provide **goods** or services (e.g. administrative or management services) to the Commonwealth. A person who handles other CRF money may be an individual or an organisation.

Arrangement with persons outside the Commonwealth

Before entering into any **arrangement**, it is important for staff members to consider whether it could involve a person outside of the Commonwealth or a Commonwealth entity handling other CRF money.

Other CRF money is defined in section 105(2) of the PGPA Act. It is money that forms part of the CRF, other than **relevant money** or any other money of a kind prescribed by the rules. That is, other CRF money is not relevant money. An amount of money that is in the physical possession of, or in the bank account of, a person other than the **Commonwealth** or a **Commonwealth entity**, who is acting on behalf of the Commonwealth in relation to that money, will be other CRF money. It is not uncommon for persons outside the Commonwealth to handle other CRF money. For example, any person authorised through an arrangement to act for and on behalf of the Commonwealth to collect fees or levies and make payments of the amounts collected will handle other CRF money.

People who handle other CRF money are not subject to the same requirements that apply to officials who handle relevant money. Rather, people who handle other CRF money are required to handle that money in accordance with the terms and conditions set out in their arrangement with the Commonwealth. Therefore, it is essential for **non-corporate Commonwealth entities** to mitigate risk to the Commonwealth by properly identifying circumstances where an arrangement for the handling of other CRF money is appropriate, developing an applicable arrangement, and managing it closely.

Persons outside the Commonwealth may be authorised to handle other CRF money under an 'arrangement'

The power for the accountable authority of a non-corporate Commonwealth entity to enter into, vary or administer an arrangement is derived from legislation. It may come from section 23 of the PGPA Act, section 32B of the FMA Act, or other specific legislation. Accountable authorities usually delegate powers to staff members, or authorise staff members, to enter into, vary or administer an arrangement.

Officials should not enter into, vary or administer arrangements, including those related to other CRF money, unless they have been delegated power or authorised to do so.

In entering into and administering arrangements related to other CRF money, and deciding which staff members should be delegated powers or authorised to perform these functions, accountable authorities are subject to their duties and obligations contained in the PGPA legislation.

Section 29(1) of the PGPA Rule requires that when entering into an arrangement relating to other CRF money an accountable authority (or their delegate) must ensure the arrangement complies with section 29(2) of the PGPA Rule.

Beyond the mandatory requirements listed in section 29(2) of the PGPA Rule, the terms and conditions of the arrangement made with a person outside of the Commonwealth to handle other CRF money are subject to the judgement of the staff member with the power to enter the arrangement. The staff member should consider carefully whether additional terms and conditions should be included to ensure that the other CRF money will be appropriately handled and the arrangement will be properly managed. He or she should consider whether any Commonwealth policy requirements should be incorporated into the terms and conditions of the arrangement. Consideration should also be given to what information will be required from the person handling other CRF money to enable the entity to meet its reporting requirements under the PGPA framework (such as the crediting and debiting of relevant appropriations, and information required for grants reporting).

Special appropriation in relation to other CRF money

In most cases where a person outside of the Commonwealth or a Commonwealth entity spends other CRF money an existing appropriation administered by the relevant non-corporate Commonwealth entity would be likely to support that expenditure. For example, where expenditure relates to the ordinary functions of an entity, the entity's departmental appropriation should support that expenditure. Or, where expenditure relates to grants, an administered appropriation should be available to support that expenditure. It is important for an entity to identify which, if any, existing appropriation administered by the entity would support any expenditure of other CRF money.

In rare cases where no existing appropriation would support a payment of other CRF money, section 105(3) of the PGPA Act contains a special appropriation for the expenditure of other CRF money by a person other than the Commonwealth or a Commonwealth entity. This appropriation will support the expenditure of other CRF money provided that the expenditure is in accordance with any requirements prescribed by the rules, and the Finance Minister is satisfied that the expenditure is not authorised by another appropriation. It is not envisioned that this special appropriation will be relied upon in many situations and the Finance Minister has not delegated his or her power under the section. If an entity believes that it may need to rely upon the special appropriation to support a payment of other CRF money it should contact Finance for advice.

| Key guidance | Key references |
|---|---|
| <i>Finance Resource Management Guide XX – other CRF Money</i> | PGPA Act: s23, s105 |
| <i>Finance resource Management Guide XX – Approval and commitment of relevant money</i> | PGPA Rule: s29. |
| <i>Finance Resource Management Guide XX – General duties of Accountable Authority</i> | FMA Act: s32B and FMA Regulations: Schedule 1AA and |

Instructions – all staff

- You must not enter into an **arrangement** for the receipt, custody or payment of **other CRF money** by a person outside the **Commonwealth** or a **Commonwealth entity**, unless:
 - you have the authority to enter into the arrangement;
 - the terms of the arrangement are, at a minimum, compliant with the requirements of section 29 of the PGPA Rule (other CRF money); and
 - the arrangement would be a proper use and management of public resources and would not be inconsistent with the policies of the Australian Government.
- You should ensure the requirements in section 18 of the PGPA Rule have been met (see RMI –Approval and commitment of relevant money) where the arrangement will involve the commitment of relevant money.
- You should not make an arrangement unless you are satisfied that the risks that might arise from the way in which other CRF money is to be handled under the arrangement will be managed in the best interests of the Commonwealth.

In developing additional entity instructions, you may wish to include instructions on:

- the entity's policy for deciding whether to allow persons outside of the Commonwealth to handle other CRF money;
- the processes, including documentation, to regulate the handling of other CRF money by persons outside of the Commonwealth and the circumstances where this is appropriate;
- whether the accountable authority has delegated the power to make an arrangement involving the handling of other CRF money;
- what requirements should apply to persons outside of the Commonwealth who handle other CRF money under an arrangement, in addition to the mandatory requirements in section 29 of the PGPA Rule (other CRF money) (e.g. should they comply with the entity's RMIs or procedures, should other Commonwealth policies be included in the terms and conditions of the arrangement, and what information should be provided by the person to the entity etc.).

Instructions – staff with a delegation to make arrangements with persons outside the Commonwealth or a Commonwealth entity in relation to the handling of money

- When making an **arrangement** for the receipt, custody or payment of **other CRF money** by a person outside of the Commonwealth or a Commonwealth entity you must comply with any directions relating to the **delegation** from your **accountable authority**.
- When making an arrangement for the receipt, custody or expenditure of other CRF money with a person outside of the Commonwealth or a Commonwealth entity you should be satisfied that the arrangement promotes the **proper** use and management of the **other CRF money**:

- complies with the requirements in section 29 of the **PGPA Rule** (Other CRF Money);
 - require the other party to the arrangement to keep records that properly record and explain the receipt, custody or expenditure of the other CRF money and to allow those records to be audited;
 - ensures that other CRF money remains in a non-Commonwealth **entity bank account** for the shortest time reasonable; and
 - achieves the most efficient and effective transmission of other CRF money to a Commonwealth entity bank account, or, in the case of a **payment** to a third party, to the recipient.
- You should not make an arrangement unless you are satisfied that the risks which might arise from it will be managed in the best interests of the Commonwealth.

In developing additional entity instructions, you may wish to include instructions on:

- how to identify and consider the risks that might arise in relation to an arrangement involving the handling of other CRF money. For example, it is advisable for the agreement to specify how other CRF money will be identified and accounted for separately to other money held by the person;
- the requirement for arrangements involving the handling of other CRF money to include sufficient reporting requirements to allow the entity to meet all its own reporting requirements under the PGPA legislation;
- which elements, if any, of the CPR and CCR should be incorporated, to the greatest extent practicable, into the arrangement to be complied with by a person handling other CRF money;
- requirements in relation to the duration of arrangements involving the handling of other CRF money. Generally, an arrangement should not be for longer than five years. The duration will depend on the need for certainty, balanced against the need for flexibility if circumstances change (such as price increases or decreases);
- requirements that should be imposed on the termination of the arrangement. It is advisable that the Commonwealth should be able to give notice to terminate the arrangement at any time, and that the person should be required to return any other CRF money in their custody to the entity in a timely manner;
- requirements that should be imposed where the person outside the Commonwealth becomes insolvent. It is advisable that the arrangement contain requirements on how other CRF money that remains in the custody of the person will be dealt with if the person becomes insolvent;
- appropriation arrangements (noting the special appropriation provided in section 105 of the PGPA Act will be rarely, if ever required), such as which appropriation administered by the entity will be debited and credited in relation to payments and receipts of other CRF money; and
- requirements to comply with any other Commonwealth legislation that should be imposed on the person handling other CRF money; whether subcontracting should be permitted by a person handling other CRF money. If the person outside the Commonwealth is permitted to subcontract, controls could be specified to ensure that the subcontractor either does not handle other CRF money, or handles it appropriately. If it is contemplated that subcontractors will be handling other CRF money, the terms and conditions of the arrangement should specifically address the management of the money by the subcontractor;

- matters relating to potential for misuse or mismanagement of the money. Requirements in respect of fraud safeguards and the entity's fraud control plan may be found in section 10 of the PGPA Rule (Preventing, detecting and dealing with fraud) and guidance issued by the Minister for Justice. It may be prudent in some circumstances for an arrangement to specify the individuals or positions in the person's organisation that will be responsible for handling other CRF money. Procedures for notifying the Commonwealth of changes to these individuals or positions could also be outlined.

WORKING DRAFT 13 MARCH

MANAGING DEBT

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the PGPA Act and is relevant to **non-corporate Commonwealth entities**. It provides guidance to **staff members** on the management of **debts** and **amounts owing to the Commonwealth**.

What is a 'debt' and an 'amount owing to the Commonwealth'?

Amounts may owed to the **Commonwealth** or a **Commonwealth entity**, for a number of reasons, such as money owing as a result of an **agreement**, a transaction or legislation.

The PGPA legislation refers to 'debts' and 'amounts owing to the Commonwealth'. Generally, a 'debt' is a sum of money owing to the Commonwealth, which is known (or capable of being objectively determined) and not being disputed, due for payment now, and capable of being recovered in an action for debt. For example, a staff member who has been overpaid a salary, or a person who has been overpaid a social security **payment**, may owe a debt to the Commonwealth or a Commonwealth entity as a result of the overpayment. An 'amount owing to the Commonwealth' includes all debts owed to the Commonwealth, as well as amounts that are not yet due for payment (e.g. an invoice has been issued but payment is not due until next month).

It is important that you can identify and distinguish between a debt and an amount owing. If you are unsure in a particular case, you should seek advice from your **CFO** Unit.

Principles of debt recovery

Debts and amounts owing to the Commonwealth, including any incorrect payments or overpayments of money, represent a cost to taxpayers if not recovered and should therefore be pursued to the greatest possible extent.

The management of debts and amounts owing to the Commonwealth and Commonwealth entities are part of the wider duties of an accountable authority to properly use and manage public resources in particular, section 15 (Duty to govern the Commonwealth entity) and section 16 (Duty to establish and maintain systems relating to risk and control) of the PGPA Act.

For additional clarity section 11 of the PGPA Rule (Recovery of debts) prescribes requirements for the recovery of debts by the **accountable authority** of a non-corporate Commonwealth entity. It requires the accountable authority to pursue recovery of all debts for which they are responsible, unless the debt has been written off as authorised by an Act, or they consider that the debt is not legally recoverable, or that recovery is not economical to pursue. An accountable authority is responsible for debts owing to the Commonwealth in relation to the operations of their entity.

In relation to amounts owing to the Commonwealth, the general principle is that such amounts should immediately be paid in full when they become due for payment. However, in certain circumstances it may be appropriate to defer the time for payment, allow payment by instalments, waive the amount owing to the Commonwealth, or set-off the amount owing to the Commonwealth. Section 63 and section 64 of the PGPA Act provides the Finance Minister with the power to make such decisions (these powers have been

delegated in some circumstances – see “Non-recovery (write off) of debts” and “Waiver of amounts owing to the Commonwealth” in this RMI).

| Key guidance | Key references |
|---|--|
| <i><u>Resource Management Guide No. XX requests for Discretionary Financial Assistance under the Public Governance, Performance and Accountability Act 2013</u></i> | PGPA Act: s63 and s64, PGPA Rule: Rule 11 (Recovery of debts) |

WORKING DRAFT 13 MARCH

RECOVERY OF DEBTS

Section 15 of the **PGPA Act** places requirements on all **accountable authorities** about how the authority governs their entity; including managing their entity in a way that promotes the financial sustainability of their entity and the **proper** use and management of public resources.

These obligations should guide decision-making about **debt** management, such as the extent to which possible debts are investigated and identified and the methods by which debt recovery is pursued by the accountable authority (or their delegate) of a non-corporate Commonwealth entity under section 11 of the PGPA Rule (Recovery of debts).

Instructions – Staff with a delegation/authorisation to pursue debt recovery

- You must cease any incorrect or ongoing over payments as soon as you are made aware of them, and determine the **amount owing to the Commonwealth** or Commonwealth entity.
- You must pursue recovery of each **debt** for which your **accountable authority** is responsible, except debts which are:
 - written off as authorised by an Act;
 - not legally recoverable; or
 - not economical to pursue.

In developing additional entity instructions, you may wish to include instructions on:

- the proper account and record keeping obligations for each **debtor**;
- the requirement to pursue debts that are not paid within the entity's normal terms and conditions (including timeframes for commencing pursuit); and
- the appropriate accounting and reporting treatment of outstanding and doubtful debts.

WORKING D

NON-RECOVERY (WRITE OFF) OF DEBTS

Section 11 of the **PGPA Rule** (Recovery of debts) obliges an **accountable authority** of a **non-corporate Commonwealth entity** to pursue recovery of each **debt** for which they are responsible. However, there are certain circumstances where an accountable authority (or their **delegate**) can approve the **non-recovery of a debt**.

For non-corporate Commonwealth entities, non-recovery (write off) of a debt is permitted where the non-recovery has been authorised by an Act, or it would not be economical to pursue the recovery of the debt, or where the debt is not legally recoverable. A decision to write off a debt does not legally extinguish the debt. For example, if the **debtor's** circumstances change in the future the debt can be reinstated and pursued. The only way to legally extinguish a debt or other **amount owing to the Commonwealth** is for the **Finance Minister** to waive the amount owing under section 63 of the PGPA Act (see RMI- Waiver of amounts owing to the Commonwealth).

Instructions – All staff

- You must ensure that a decision not to pursue the recovery of a **debt** is approved by your **accountable authority** or a **delegate** under section 11 of the **PGPA Rule** (Recovery of debts).

In developing additional entity instructions, you may wish to include instructions on:

- who has the **authority** to decide not to pursue recovery of a debt; and
- what should be included in a proposal to support a delegate's decision not to pursue the recovery of a debt.

Instructions – Staff with a delegation/authorisation to approve non-recovery of a debt

- You may approve the **non-recovery of a debt** where:
 - the non-recovery has been authorised by an Act;
 - you are satisfied that the **debt** is not legally recoverable; or
 - you consider that it is not economical to pursue recovery of the debt.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that a decision not to pursue the recovery of a debt is in accordance with the proper use and management of public resources;
- the entity's policy on how a decision is made as to whether a debt is legally recoverable, including whether legal advice should be obtained;
- the threshold for debts to be considered not economical to pursue;
- the documentation required to support a decision not to pursue the recovery of a debt; and
- the appropriate accounting and reporting treatment of debts that have been written off.

WAIVER OF AMOUNTS OWING TO THE COMMONWEALTH

A **waiver** is a special concession granted to an individual or other body that extinguishes a **debt** or other **amount owing to the Commonwealth**. This means that the amount owing is completely forgiven and can no longer be recovered (even if the **debtor's** circumstances change in the future). Waivers are a last resort where it is considered appropriate because the recovery of the debt would be inequitable or cause ongoing financial hardship.

Section 63 of the **PGPA Act** allows the **Finance Minister** to waive an amount owing to the Commonwealth (subject to some additional requirements for large amounts; see section 24 of the PGPA Rule). This power has been **delegated** with directions to the **accountable authority** of **Finance**, and to the accountable authorities of the Australian Securities and Investments Commission and ComSuper for use in limited circumstances.

[Agencies that cannot waive amounts owing]

Instructions – All staff

- You must not approve the **waiver** of an amount owing under the **PGPA Act**.
- You must ensure that all requests for waiver of a debt are referred to **Finance**.

In developing additional entity instructions, you may wish to include instructions on:

- who is responsible for coordinating requests for waiver of debts;
- preparing the relevant documentation to be forwarded to Finance in relation to an application for debt waiver;
- implementing and documenting a waiver decision; and
- the requirement to report waived debts in accordance with the **FMR**.

[Agencies that may waive amounts owing – Finance, ASIC, ComSuper]

Instructions – All staff

- A decision to waive an amount owing to the Commonwealth should be made in accordance with the duties on **accountable authorities** in particular under section 15, read with section 21, of the PGPA Act.
- You must refer requests for **waiver** of an **amount** owing to your accountable authority or a **delegate** with the power to waive the amount owing under section 63 of the **PGPA Act**.

In developing additional entity instructions, you may wish to include instructions on:

- who has the **authority** to waive a amount owing within the entity, including circumstances where it is appropriate;
- preparing relevant documentation to be forwarded to the Discretionary Payments Section in Finance, or relevant area in the Australian Securities and Investments Commission or ComSuper in relation to an application for waiver (where the waiver is beyond the scope of the power delegated to the entity's Accountable Authority);
- implementing and documenting a waiver decision; and
- the requirement to report waived amounts in accordance with the **FMR**.

Instructions – Staff with a delegation to waive amounts owing

- When **waiving** an amount owing under the **PGPA Act**, you must comply with the directions in the delegation from the Finance Minister or any directions in the **sub-delegation** from your **accountable authority**.

- The waiver may be conditional as modified by the Finance Minister or delegate.

In developing additional entity instructions, you may wish to include instructions on:

- the types of amounts that may be waived, including relevant limits;
- the circumstances where waiver of an amount owing is appropriate;
- the circumstances where a partial waiver of an amount owing is appropriate;
- the information required to consider an application for waiver, including its form; and
- the requirement to ensure a decision is rational, defensible and evidence-based, and the applicant has been given procedural fairness.

WORKING DRAFT 13 MARCH

PAYMENT BY INSTALMENTS OR DEFERRAL OF THE TIME FOR PAYMENT

Amounts owing to the Commonwealth should generally be paid in full immediately when they become due. However, there may be circumstances that warrant allowing a **payment** to be made by instalments, or deferring the time for payment.

Section 63 of the **PGPA Act** gives the **Finance Minister** the power to modify the terms and conditions on which an amount owing to the Commonwealth is to be paid to the **Commonwealth**. These powers have been **delegated** with directions to all **accountable authorities**, who in most cases have sub-delegated them to certain **staff members** in their **entities**.

Instructions – All staff

- You must refer requests to:
 - allow the **payment** by instalments of an **amount owing to the Commonwealth**; or
 - defer the time for payment of an amount owing to the Commonwealth, to your **accountable** authority or a **delegate** with the relevant power under section 63 of the **PGPA Act**.

In developing additional entity instructions, you may wish to include instructions on:

- who has the **authority** to allow payment by instalments or defer the time for payment of an amount owing to the Commonwealth;
- what should be included in a proposal to support a delegate's decision to allow payment by instalments or defer the time for payment of an amount owing; and
- that decisions made should be made with regard to the duties of an accountable authority, in particular the duties in sections 15 and 21 of the PGPA Act.

Instructions – Staff with a delegation to allow payment by instalments or defer the time for payment

- When allowing payment by instalments or deferring the time for **payment** of an **amount owing to the Commonwealth**, you must comply with the directions in the delegation from the Finance Minister or any directions in the sub-delegation from your **accountable authority**.

[Full directions in the delegation]

Cases of hardship

- When considering cases of claimed hardship, you must require that the **debtor** provide evidence sufficient to satisfy you that it would be unreasonable to require repayment of the amount owing other than by instalments or at a deferred date.
 - You must also have regard to the **Commonwealth's** interests not being subordinate to other creditors of the same ranking.

Instalments

- When allowing payment by instalments, you must impose conditions to ensure recovery of the amount owing as soon as reasonably practicable, having regard to the debtor's ability to pay.

Interest

- When allowing payment by instalments or deferring the time for payment, you must impose interest on the amount owing at the 90 day bank-accepted bill rate (available

from the **RBA**).

- However, if this would cause undue financial hardship, you may impose a lesser rate of interest, or no interest, provided you record in writing your reasons for doing so.

Information to be given to debtor

- When allowing payment by instalments or deferring the time for payment, you must inform the debtor in writing of:
 - the amount owing to the Commonwealth;
 - the date/s when payment is due;
 - the interest rate (if any);
 - any other matter you consider relevant; and
 - the conditions of acceptance contained in the delegation from the Finance Minister.
- You must also obtain written confirmation from the debtor that they accept all of the matters listed above.

In developing additional entity instructions, you may wish to include instructions on:

- the type of evidence required for a **delegate** to make a decision in cases of claimed hardship;
- how a decision is made as to whether the Commonwealth's interests are being made subordinate to other creditors (e.g. a delegate should not allow payment by instalments or defer the time for payment simply because the debtor owes someone else money and wants to pay them first);
- the types of conditions a delegate must impose on a debtor when allowing payment by instalments; and
- the record keeping and reporting requirements relating to a delegate's decision to allow payment by instalments or defer the time for payment.

WORKING DRAFT

MANAGING RELEVANT PROPERTY

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** on the **proper** use and management of **relevant property**, including acquisition, disposal, custody, use and loss.

What is relevant property?

Section 8 of the PGPA Act defines relevant property as property (other than relevant money) that is owned or held by the **Commonwealth** or a **corporate Commonwealth entity** or any other thing prescribed by the PGPA Rule. The PGPA Rule currently do not prescribe any additional things as relevant property. Relevant property includes leased property and property held by the Commonwealth or a corporate Commonwealth entity on behalf of someone else. Relevant property also encompasses gifts given to the **Commonwealth entity** and its employees.

Relevant property can include real property (i.e. land and buildings) and other goods or assets, such as:

- equipment and furniture;
- stationery and office supplies;
- vehicles and fuel;
- clothing and uniforms;
- IT and telecommunications assets;
- intellectual property and other intangible items;
- heritage and cultural assets;
- military equipment;
- shares, bonds, debentures and other securities; and
- **accounts** and records.

Additional requirements applying to particular types of relevant property

There are specific legislation and policies that apply to the acquisition, ownership, management and disposal of particular types of relevant property. For example, relevant property which involves land, buildings and/or public works is subject to the following:

- the *Lands Acquisition Act 1989*;
- the *Public Works Committee Act 1969*;
- the *Commonwealth Property Management Framework*; and
- the *Commonwealth Property Disposals Policy*.

See <http://www.finance.gov.au/property/index.html> for further information.

| Key Guidance | Key References |
|--|--|
| <i>Resource Management Guide No X: Duties of officials</i> <i>Australian Government Intellectual Property Manual</i> <i>Resource Management Guide No X: Funding Arrangements for Commonwealth Property</i> | PGPA Act: s15; s66-70; s72 PGPA Rule: s18 |

ACQUIRING RELEVANT PROPERTY

Commonwealth entities acquire or come to hold **relevant property** in a number of ways, such as procuring the property (by lease or purchase), being given the property as a gift or donation, finding the property on **Commonwealth entity premises** or through compulsory acquisition of the property.

Acquisition of property under specific legislation, such as the acquisition of any interest in real property under the *Lands Acquisition Act 1989*, is subject to the provisions of that legislation.

Procuring Relevant property

Instructions – Staff responsible for procuring relevant property

When procuring **relevant property**, you must:

- act in an efficient, effective, economical and ethical manner;
- comply with the requirements section 18 of the PGPA Rule when approving proposed commitments of **relevant money** (see RMI - Approval and commitment of relevant money); and
- act in accordance with the **CPR**, if relevant (see RMI - Procurement Processes).

In developing additional Commonwealth entity instructions, you may wish to include instructions on:

- the requirement that the **procurement** of an interest in land (e.g. by lease or purchase) must be handled in accordance with the *Lands Acquisition Act 1989* (subject to the exceptions created by that Act), including any **delegations** under the **PGPA Act**; and
- how to ensure that procuring the relevant property would be a **proper use of public resources**.

Finding Property on Commonwealth Entity Premises

Property found on **Commonwealth entity premises** must be dealt with in a proper manner consistent with section 15 of the PGPA Act. The same is true of property found in an aircraft, vessel, vehicle, container or receptacle that is under the control of the **Commonwealth entity**.

Instructions – Staff who find property on Commonwealth entity premises

- You are responsible for the security of any property that you find on the **Commonwealth entity premises** or in other containers and vehicles that are under the control of the **Commonwealth entity**.
 - You must take reasonable steps to safeguard any found property from loss.
- You must not **misuse** or **improperly dispose of** any found property (see instructions under “Disposing of Property Found on Commonwealth Premises” in this RMI).

In developing additional entity instructions, you may wish to include instructions on:

- who a **staff member** must notify when property is found;
- a requirement to pass found property onto an appropriate staff member, including the timeframe for doing this (e.g. on the day the property is found, or if not practical, on the next working day);

- a requirement that an appropriate staff member make reasonable efforts to locate the owner of any found property; and
- the appropriate storage and safeguarding requirements for found property.

Receiving Gifts and Benefits

Staff members, in the course of their work, may be offered gifts such as souvenirs, bottles of wine and personal items, or benefits, such as sponsored travel, hospitality, accommodation or entertainment.

Generally, staff members should not accept gifts or benefits in the course of their work. However, there may be circumstances where it is appropriate to accept a gift or benefit. For example, where refusal could cause cultural offence or where attendance at an event is an important means of developing and maintaining relationships with key stakeholders. Staff members should carefully consider the appropriateness of a gift or benefit, before accepting or rejecting it.

Gifts provided to staff in the course of their work immediately become **relevant property** when received.

Instructions - All staff

- You must not ask for, or encourage, the giving of gifts to yourself or other **staff members**.
- You must not accept a gift of money (except in exceptional circumstances).
- You must not accept a gift or benefit which influences, or could be perceived to influence, your decision or action on a particular matter.
- If you decide to accept a gift or benefit, your decision must be defensible and able to withstand public scrutiny. You should have regard to the the general duties on officials in deciding whether to accept a gift.

In developing additional entity instructions, you may wish to include instructions on:

- the **Commonwealth entity's** policy for receiving gifts and benefits (including clarifying in what circumstances accepting a gift or benefit may be appropriate), hospitality or sponsorship;
- any restrictions on the acceptance of gifts and benefits by members of a **staff member's** family;
- a requirement to inform an appropriate staff member when offered gifts or benefits;
- a requirement to maintain a register of gifts and benefits accepted (including estimated value);
- whether gifts or benefits can be received in relation to tenders or contract negotiations;
- whether gifts of an inconsequential nature may be retained, or purchased from the Commonwealth entity, by the staff member (including relevant thresholds); and
- [For Commonwealth entities where it is relevant] the exceptional circumstances where a staff member may receive a gift of money and the process for handling such money (e.g. return it to the Commonwealth entity) or, if a commemorative coin, whether it may be kept.

DISPOSING OF RELEVANT PROPERTY

Commonwealth entities dispose of **relevant property** in a number of ways, such as by sale, gift, trade-in, transfer to another Commonwealth entity, destruction, recycling or dumping.

For **non-corporate Commonwealth entities**, the Commonwealth's general policy on the disposal of relevant property is that, wherever it is economical to do so, the property should be sold at market price or transferred (with or without payment) to another Commonwealth entity with a need for the property.

Disposal of property under specific legislation, such as the disposal of any interest in real property by the Commonwealth under the *Lands Acquisition Act 1989*, is subject to the provisions of that legislation.

General Requirements

Instructions – All staff

- You must not **improperly dispose of relevant property**.
- You must not make a gift of relevant property, unless it complies with the instructions under “Gifting Relevant property” in this RMI.
- You must not dispose of relevant property found on **Commonwealth entity premises**, except in accordance with the instructions under “Disposing of Property Found on Commonwealth Premises” in this RMI.

In developing additional entity instructions, you may wish to include instructions on:

- a requirement to obtain approval from an appropriate **staff member** prior to disposing of relevant property (including who is able to approve disposal);
- the information that must be provided to support a proposal to dispose of relevant property; and
- the requirement that the disposal of land is handled in accordance with the *Lands Acquisition Act 1989*, including any **delegations** under the Act.

Instructions – Staff responsible for the disposal of relevant property

- You must ensure that, where economical to do so, **relevant property** is disposed of by:
 - transferring the property (with or without payment) to another **Commonwealth entity** with a need for the property; or
 - selling the property at market price.

In developing additional entity instructions, you may wish to include instructions on:

- a requirement that if the property cannot be transferred or sold, any disposal of the property should be a **proper** use of public resources;
- a requirement that **staff members** obtain the best net financial outcome for the entity or Commonwealth when disposing of property;
- the appropriate avenues for selling relevant property (e.g. whether the internet may be used);
- how staff members are to determine market price;
- a requirement to update the asset register following disposal of relevant property

(including who is responsible);

- how proceeds of a disposal are to be managed; and
- the record keeping and reporting requirements that relate to the disposal of relevant property (including documentation required to support the disposal).

Disposing of Property Found on Commonwealth Entity Premises

Property found on **Commonwealth** entity **premises** must be retained and disposed of in accordance with an entity's internal controls. This extends to property found in an aircraft, vessel, vehicle, container or receptacle that is under the control of the **Commonwealth entity**.

Instructions – Staff responsible for the disposal of found property

- You may only dispose of property (other than money) found on **Commonwealth entity premises** or in other containers or vehicles that are under the control of the **Commonwealth entity**, if the property is not claimed by its owner within a reasonable timeframe.
- You must dispose of the property by sale, unless doing so is impracticable or undesirable in the public interest.

In developing additional entity instructions, you may wish to include instructions on:

- a requirement to document the disposal of found property;
- how long should found property be held before disposed of it;
- what constitutes a reasonable timeframe for an owner to claim the property before it can be disposed of;
- what should be done with live plants, animals, perishable goods, or articles that are, or could be, dangerous or noxious;
- what constitutes dangerous or noxious property;
- instances where it would be impracticable or undesirable to dispose of property by sale; and
- the requirements relating to assessing a claim of a previous owner and determining the amount payable (including who is responsible for doing so).

Gifting Relevant property

Section 66 of the **PGPA Act** sets out the circumstances where a gift of **relevant property** may be made by a **Minister** or a **staff member** of a **non-corporate Commonwealth entity**. This section also provides the **Finance Minister** with the power to approve a gift of relevant property. This power has been **delegated** with directions to all **non-corporate Commonwealth entity accountable authorities**, who in most cases have sub-delegated it to certain non-corporate Commonwealth entity staff members.

Instructions– All staff

- You must not make a gift of **relevant property** unless:
 - the property was acquired or produced to be used as a gift; or
 - the making of the gift is expressly authorised by law; or
 - the Finance Minister or a **delegate** has given written approval to the gift being made under section 66 of the **PGPA Act**.

- If you make an unauthorised gift of **relevant property** you must personally pay the Commonwealth the value of the **relevant property**.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine that a gift of relevant property would be a **proper** use and management of **public resources**;
- the circumstances where particular staff members are able to gift relevant property;
- any approvals that are required before a staff member acquires property to be used as a gift;
- the requirements for seeking approval to make a gift of relevant property (including who has the **authority** to approve a gift);
- the processes for determining the value of the relevant property; and
- the information that must be provided to a delegate to support their decision to approve a gift of relevant property.

Instructions– Staff with a delegation/authorisation to approve a gift of relevant property

- When approving a gift of **relevant property**, you must comply with the directions in the **delegation** from your **Accountable Authority**.
- You must have regard to the **Commonwealth’s** general policy for the disposal of relevant property, as outlined in the delegation from the Finance Minister.

[Full directions in the delegation]

- Despite the Commonwealth’s general policy for the disposal of public property, you may approve a gift of public property where the property is:
 - genuinely surplus to the **entity’s** requirements and of historical or symbolic significance to the proposed recipient; or
 - holds other special significance for the proposed recipient and there are compelling reasons to justify its **gifting** to that recipient.
- You must not approve:
 - a gift of military firearms; or
 - a gift that would create an onerous or undesirable precedent.
- You need to ensure that the grounds on which you approve a gift to a selected recipient are publicly defensible and documented.
- You must provide written approval for the gifting of relevant property.
- You must obtain a reasonable estimate of the value of the property before approving it to be gifted.
 - If this is not possible, you must assign a notional value and record the basis for determining the value of the property.

In developing additional entity instructions, you may wish to include instructions on:

- the circumstances where gifting relevant property is acceptable;
- [For entities where it is relevant] the circumstances where gifting **relevant money** is acceptable;
- what constitutes an undesirable precedent for the Commonwealth entity;
- a requirement to maintain a register of all gifts of relevant property;
- the record keeping requirements to support a decision to gift relevant property;
- how to determine the appropriateness of a gift to a foreign national, foreign

organisation or foreign government, and whether DFAT should be consulted.

CUSTODY, USE AND MANAGEMENT OF RELEVANT PROPERTY

Accountable authorities should ensure that **staff members** promote the **proper** use, management and security of any **relevant property** they receive or have custody of.

General Requirements

Instructions – All staff

- You must not **misuse** or **improperly dispose of relevant property**.
- You are responsible for the security of any relevant property you receive, or have **custody** of, and must take reasonable steps to safeguard the property from loss.
- You may only use relevant property for official purposes, unless permission for private use has been given.

In developing additional entity instructions, you may wish to include instructions on:

- what types of relevant property are to be in the “**custody**” of **staff members**;
- establishing “**custody**” where applicable (i.e. requiring staff to sign a written acknowledgement, when receiving relevant property, that they will take strict care of the property);
- whether incidental private use of relevant property is allowed (e.g. use of IT resources and telephones) and who has the **authority** to agree to this;
- the circumstances where a staff member may remove relevant property from **Commonwealth entity premises** and the relevant conditions (e.g. taking home work laptops);
- a requirement for staff members to report improper use of relevant property to an appropriate staff member;
- the record keeping and reporting requirements relating to the use of relevant property;
- a requirement to maintain an asset register (including who is responsible);
 - who is responsible for preparing and approving a property management plan (in relation to real property) for the **non-corporate Commonwealth entity**;
 - a requirement to collect and provide specific data relating to real property to Finance, and
 - a requirement that staff members who are involved with managing real property familiarise themselves and comply with the Commonwealth Property Management Framework, issued by **Finance**.

Use of Commonwealth Entity Vehicles

Most **Commonwealth entities** have vehicles that are owned or leased by the Commonwealth entity to be used for official purposes by **staff members**. This does not include private plated vehicles, which are provided as part of a remuneration package, such as those under the Executive Vehicle Scheme, where separate arrangements exist.

Accountable authorities should ensure that staff members promote the **proper** use, management and security of any Commonwealth vehicles they have custody of.

Instructions – All staff

- You must not drive a **Commonwealth entity** vehicle, unless prior agreement has been obtained.
- When driving a Commonwealth entity vehicle you must:
 - hold a valid driver's licence appropriate for the class of vehicle and country where you are driving; and
 - comply with all relevant traffic laws, ordinances and regulations, including parking restrictions, of the country where you are driving.
- You must not drive a Commonwealth entity vehicle if you are not medically fit to drive or are taking prescribed or non-prescribed drugs that can impair your driving ability.
- You may only use a Commonwealth entity vehicle for official purposes, unless permission for private use has been given.

In developing additional entity instructions, you may wish to include instructions on:

- who is responsible for the management of Commonwealth entity vehicles (including agreeing to their use);
- which **staff members** are allowed to drive Commonwealth entity vehicles and under what circumstances;
- whether incidental private use of a Commonwealth entity vehicle is allowed and who can approve this;
- whether a Commonwealth entity vehicle can be garaged at a staff member's home or other private premises and who can approve this;
- what staff members are to do if they are involved in an accident (e.g. report the accident to police, complete a Commonwealth entity accident report);
- the Commonwealth Entity's policy regarding traffic or parking infringements, or circumstances where a person is found not to have been fit to drive a Commonwealth vehicle;
- a requirement to use Ethanol blended fuel (E10) in vehicles, where appropriate;
- a requirement that staff members issued with a fuel card use it wherever possible (this may include a link to the RMI- Commonwealth Credit Cards);
- whether private vehicles can be used for official travel and if so, what rules apply (this may include a link to the RMI-Official travel);
- the requirement that all vehicle leasing and fleet management services are sourced under the contractual arrangements administered by the Fleet Monitoring Body within **Finance**, where appropriate;
- the insurance arrangements that must apply to all Commonwealth vehicles (including insurance arrangements where private vehicles are used for Commonwealth entity purposes); and
- the record keeping (e.g. log book) and reporting requirements for the use of the Commonwealth entity vehicles.

Accountable Forms

An **accountable form** is a form that, once completed, can be exchanged or negotiated for a benefit such as money, goods or services. Accountable forms include cheques, credit notes, official manual receipts, **credit vouchers**, and miscellaneous charge orders.

While **Cabcharge vouchers** are accountable forms, they are also **Commonwealth credit vouchers** for the purposes of the **PGPA Act**. For instructions on using Cabcharge vouchers, see RMI - Commonwealth Credit Cards.

Instructions – All staff

- You must ensure the safe custody and control of any **accountable forms** in your possession.

In developing additional entity instructions, you may wish to include instructions on:

- which forms within the **Commonwealth entity** are deemed to be accountable forms;
- which **staff members** may be issued with accountable forms;
- the requirements placed on staff members who are issued with accountable forms; and
- the Commonwealth entity's policy on the management and control of, and accounting for, accountable forms (including acquisition, security, stocktake, loss and disposal).

Bonds, Debentures and Other Securities

Bonds, debentures and other securities are written documents that are evidence of an obligation to pay money to fulfil a debt or other obligation. "Other securities" in this context means other documents similar to bonds and debentures, such as shares. When a **staff member** receives a bond, debenture or other security in the course of their work, it immediately becomes **relevant property**.

Instructions – All staff

If you receive any bonds, debentures or other securities, you must ensure that:

- a receipt is issued for the securities received;
- a register is maintained of all securities received; and
- all reasonable steps are taken to safeguard the securities.

In developing additional entity instructions, you may wish to include instructions on:

- who is responsible for the custody of bonds, debentures and other securities;
- the requirement to pass a bond, debenture or other security onto an appropriate **staff member** to allow the issuing of a receipt and the updating of the register (including timeframe);
- the treatment of bonds, debentures and other securities, including appropriate safeguards and storage arrangements; and
- the record keeping and reporting requirements that relate to bonds, debentures and other securities.

Acquiring Shares and Commonwealth Involvement in a Company

Shares become **relevant property** when they are acquired by the **Commonwealth entity**. Shares may be represented by a certificate, but more generally are in electronic form only. Section 72 of the PGPA Act places a special requirement on **Ministers** to inform the Parliament of any involvement in a company by a **Commonwealth entity**.

Instructions – Staff who become aware of changes to the Commonwealth entity’s involvement in a company

You must ensure that your **Minister** is advised that he/she must inform the Parliament if your Commonwealth entity:

- forms, or participates in forming, a company or a **relevant body**;
- becomes, or ceases to be, a member of a company or a relevant body;
- acquires shares in a company (either by purchase or subscription) or disposes of shares in a company;
- has its rights attaching to company or relevant body shares varied; or
- has its rights as a member of a company or relevant body varied.

In developing additional Commonwealth entity instructions, you may wish to include instructions on:

- how **staff members** are to assist the Minister in informing the Parliament of the **Commonwealth entity’s** involvement in a company (including who is responsible).

WORKING DRAFT 13/11/17

LOSS AND RECOVERY OF RELEVANT PROPERTY

Section 68 and 69 of the **PGPA Act** deals with who is responsible for the loss of **relevant property**. In relation to relevant property, loss also includes deficiency, destruction or damage. A **staff member** of a **non-corporate Commonwealth entity** can be held responsible for a loss of relevant property, whether or not the property was in their **custody** at the time when it was lost.

A loss of property may result in a **debt** owed to the **Commonwealth entity** by a staff member or **Minister**. A person's liability to pay such a debt is not avoided just because they stopped working for the **non-corporate Commonwealth entity** after the loss occurred. For further information on the management of debt see RMI - Managing Debt.

Instructions - All staff

- You are responsible for the security of any **relevant property** you receive, or have custody of, and must take reasonable steps to safeguard the property from loss.
- If you do not take reasonable steps to prevent a loss of relevant property, if the loss occurs whilst the property is in your **custody**, you will be liable to pay the **Commonwealth entity** an amount equal to the loss.
- If you cause or contribute to a loss of relevant property by misconduct, or a deliberate or serious disregard for reasonable standards of care, you will be liable to pay the Commonwealth an amount that reflects your share of the responsibility for the loss.

In developing additional Commonwealth entity instructions, you may wish to include instructions on:

- a requirement to report a loss of relevant property (e.g. "You must report any loss (including loss of value), destruction or damage of relevant property to the [relevant **staff member**] as soon as practicable after becoming aware of it");
- the **Commonwealth entity's** expectations for reasonable standards or care; and
- the security arrangements that must be implemented to minimise the loss or improper use of relevant property (including any special requirements for particular types of property).

Instructions – Staff responsible for coordinating reports on a loss of relevant property

In developing additional entity instructions, you may wish to include instructions on:

- which **staff members** are responsible for dealing with a loss of **relevant property** and deciding on appropriate follow-up actions (including restitution);
- the **Commonwealth entity's** policy for inquiries where a staff member may have contributed to the loss of relevant property;
- a requirement to notify an appropriate **delegate** to pursue recovery of a **debt**, where applicable; and
- the record keeping requirements that relate to a loss of relevant property.

WORKING WITH OTHER COMMONWEALTH ENTITIES

About this Resource Management Instruction (RMI)

This RMI is issued under section 23A of the **PGPA Act** and is relevant to **non-corporate Commonwealth entities**. It provides instruction to **staff members** about working cooperatively with other **Commonwealth entities**.

On a day-to-day basis, staff members from different Commonwealth entities work collaboratively to undertake a number of activities, including the delivery of government services, the making of **payments**, the formulation of national policies, the implementation of complex reforms and the exchange of information and a range of specialist expertise. The PGPA Act recognises the importance of cooperation with others.

Duties

Accountable authorities are obligated to comply with the duties upon them in sections 15-19 in relation to any work undertaken with other Commonwealth entities. In particular, sections 17 and 18 impose particular obligations which are relevant to working with others.

Section 17 of the PGPA Act requires an accountable authority to encourage officials of the entity to cooperate with others to achieve common objectives, where practicable.² This includes cooperation between Commonwealth entities. The section aims to encourage cooperation, where practicable, where two or more organisations are working towards common goals.

Section 18 of the PGPA Act places a duty on an accountable authority to ensure that the compliance, reporting and other obligations imposed on others in relation to the use or management of **public resources** must take into account the risks associated with that use or management and the effects imposing those requirements may have. This section aims to encourage accountable authorities to think carefully about the administrative requirements they impose on others.

The duty is intended to encourage accountable authorities not to over-prescribe 'red-tape' requirements on others in a joint relationship where those requirements do not go to ensuring the proper use and management of public resources. Over-prescribing requirements for the management of public resources can have negative impact on the efficient and economical use of public resources. Where compliance and reporting requirements are imposed on others they should be necessary and focus on areas of significant risk.

Officials involved in working with other Commonwealth entities should also observe the general duties contained in sections 25-29 of the PGPA Act.

² It is sometimes the case that the statutory functions of entities may make cooperation difficult or even unlawful in particular circumstances. Examples include the Reserve Bank of Australia when setting monetary policy and the Australian Broadcasting Corporation and Special Broadcasting Services when determining editorial content. Therefore, this duty must be read in light of specific limitations in enabling legislation. Limitations on cooperation should also be considered in light of requirements in legislation such as the *Privacy Act 1988* and arrangements that involve commercial confidentiality.

Inter-entity agreements

It is important that proper procedures are established to ensure the effective coordination of, and accountability for, inter-entity activities. In many cases, a formal **inter-entity agreement** is an important mechanism for establishing and clarifying the way in which agencies work together. Accountable authorities need to be satisfied that such agreements will allow them to meet their individual accountabilities under the **PGPA framework**.

Inter-entity agreements are diverse in their purpose, form and content, with entities tailoring each agreement to suit a specific situation and range of requirements. For example, an agreement between two entities for the exchange of data might be represented by a simple exchange of letters. However, the provision of services, such as IT services may be undertaken through a service level agreement, while the respective responsibilities of entities involved in a cross-portfolio reform (e.g. Closing the Gap) may be outlined in an **MoU**.

Inter-entity agreements are generally entered into and administered under section 23 of the PGPA Act, as they usually involve the **ordinary services or functions of government**.³ When the agreement is made between 2 (or more) non-corporate Commonwealth entities they are generally not legally binding, as they are between parts of the same legal entity (i.e. the Commonwealth). However, they need to be managed according to sound governance principles, including program effectiveness, accountability and transparency. The success of such agreements is dependent on effective relationship management and cooperation between the parties.

For non-corporate Commonwealth entities there are a number of mechanisms to facilitate inter-entity activities with other non-corporate Commonwealth entities. These mechanisms include:

- one or more entities accessing an **appropriation** administered by another entity through a written agreement between accountable authorities;
- a number of entities being able to pool separately appropriated money through the use of a **special account**; and
- joint contracting, such as one entity entering into a contract on behalf of the Commonwealth, where the services can be accessed by other entities.

Non-corporate Commonwealth entities should not enter into an agreement with a corporate Commonwealth entity that allows the corporate Commonwealth entity to access an appropriation, including a special account, administered by a non-corporate Commonwealth entity.

| Key guidance | Key references |
|--|--|
| Audit Report No.41 2009-10: <i>Effective Cross-Agency Agreements</i> | PGPA Act: s 15, s17, s18, s21, s23, s78, s80. FMA Act: s32B FMA Regulations: Schedule 1AA and 1AB. |

³ S.32B and FMA regulation 16 and Schedule 1AA and 1AB may also be relevant for the power to enter an arrangement when the arrangement relates to services that are not the ordinary services or functions of government, e.g. a grants arrangement.

Instructions – All staff

- You must not enter into an **arrangement** that commits your, or another, non-corporate Commonwealth **entity's** current or future **appropriation**, unless you have been **delegated** the **authority**, or **authorised** by a **delegate**, to do so under section 23 of the PGPA Act, section 32B of the **FMA Act**, or other specific legislation.
- When using a **special account** to facilitate inter-entity activities, you must comply with the instructions in the RMI on special accounts (see RMI-Managing Relevant Money).
- When undertaking activities that commit or might commit **relevant money**, you must comply with the requirements of PGPA Rule 18 (see RMI- Approval and Commitment of Relevant Money).

In developing additional entity instructions, you may wish to include instructions on:

- the circumstances where it is appropriate to allow another entity to draw on your entity's appropriation;
- the specific limits and conditions that must be imposed in circumstances where another entity is authorised to make payments on your entity's behalf and/or where your entity makes payments on behalf of another entity (e.g. GST issues, timing for payments, who is responsible for any debt recovery, free of charge resourcing implications); and
- the accountability requirements that must apply when your entity accesses another entity's appropriation, or where another entity accesses your entity's appropriation.

Instructions – All staff

- When developing an **inter-entity agreement**, you should ensure that it clearly articulates:
 - the objectives of the arrangement, including desired outcomes and timeframes;
 - the roles and responsibilities of the parties;
 - the details of the activities, including specifications of services or projects to be undertaken;
 - resources and timeframe to be applied by parties and **PGPA** framework issues;
 - the approach to identifying and sharing the risks and opportunities involved;
 - agreed modes of review and evaluation; and
 - agreed dispute resolution arrangements.
- You should ensure that an inter-entity agreement addresses accountability requirements, including the requirements in the PGPA Act, to enable your **accountable authority** to meet their responsibilities under the PGPA framework.

In developing additional entity instructions, you may wish to include instructions on:

- how to determine which entity's RMIs will apply to staff members when undertaking inter-entity activities;
- a requirement that inter-entity agreements contain appropriate provisions to allow the entity to meet its requirements under the PGPA framework (e.g. requirements relating to appropriations, outcomes, performance reporting, financial statements, and Certificate of Compliance);
- any entity policies for developing, endorsing and managing inter-entity agreements;
- how staff members are to determine whether an inter-entity agreement needs to be formalised;
- who has the authority to enter into inter-entity agreements, including any limits;
- the internal scrutiny requirements that apply to inter-entity agreements;
- situations where legal advice must be sought before entering into an inter-entity agreement;
- a requirement that the Accountable Authority be provided with all inter-entity agreements entered into by the entity;
- a requirement that inter- entity agreements clearly state whether or not the agreement is legally binding (in full or in part, and which parts);
- a requirement that staff members adhere to the Better Practice Principles in the ANAO's Audit Report: Effective Cross-Agency Agreements, when developing inter-entity agreements;
- a requirement to maintain an up to date register of all inter- entity agreements to improve consistency and monitor the progress of agreements;
- monitoring and reviewing inter- entity agreements, including termination of agreements;
- a requirement that inter- entity agreements are endorsed (e.g. by signature of relevant parties) prior to activities commencing; and
- the reporting requirements that relate to inter-entity activities, including performance reporting, Certificate of Compliance, Senate Estimates information and financial reporting in accordance with the **FMR**.

WORKING

MODEL RMIs

Glossary of Terms

This Glossary has been prepared to assist staff members to understand the meaning of some of the concepts in the Model RMIs. This Glossary is not a source of legal definition.

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A

Account (in relation to the payment of accounts) can mean an invoice, claim or any legitimate request for the payment of moneys made on an **entity**.

Accountable authority for a Commonwealth entity is the person or group of persons that has the responsibility for, and control over, the entity's operations. In the case of a Department of State the accountable authority will be the Secretary of the Department. In the case of a statutory authority with a board of directors, generally the board will be the accountable authority. See section 12 PGPA Act.

Accountable forms are forms that, once completed, can be exchanged or negotiated for a benefit such as money, goods or services. Accountable forms include items such as **Cabcharge vouchers**, cheques, credit notes, official manual receipts and miscellaneous charge orders (see RMI -Managing Public Property).

Act of grace payment is a payment made to an individual or other body in **special circumstances**. Act of grace payments must be **authorised** by the **Finance Minister** or a **delegate** under section 65 of the **PGPA Act**. They may be appropriate where an **entity's** conduct or **Commonwealth** legislation or policy has resulted in an unintended, inequitable, anomalous or otherwise unacceptable outcome. Act of grace payments are used where the main obligation to the applicant is moral, rather than legal (see RMI -Making Payments of Relevant Money).

Additional rules are the requirements in Division 2 of the **CPR** that apply to a **procurement** where the estimated value of the procurement is at or above the **relevant procurement threshold**.

Administer is defined in section 32B of the **FMA Act**.

In section 32B of the FMA Act, administer is defined to mean:

- (a) in relation to an **arrangement**—includes give effect to; or
- (b) in relation to a grant—includes make, vary or administer (i.e., give effect to) an arrangement that relates to the grant.

The Explanatory Memorandum to the *Financial Framework Legislation Amendment Bill (No. 3) 2012* (which inserted section 32B into the FMA Act) states that giving effect to an arrangement or grant agreement includes making a **payment** in accordance with that arrangement or grant agreement. Giving effect also includes making decisions required by the arrangement, such as whether milestones have been met.

Amount owing to the Commonwealth is a sum of money which is owing to the **Commonwealth** that is ascertainable and certain (i.e. known or able to be determined objectively) but not necessarily due for **payment**. For example, an amount owing to an **entity** from a supplier where an invoice has been issued, but payment is not due until next month.

Approach to market is defined in Appendix C of the CPR as any notice inviting **potential suppliers** to participate in a **procurement** including, but not limited to a request for tender, request for quote, request for expression of interest, request for application for inclusion on a **multi-use list**, request for information and request for proposal.

Appropriation means an **authority** provided by the **PGPA Act** or another Act of the Commonwealth Parliament to draw money from the **CRF**. It restricts cost to the particular purpose and amount, or criteria for payment, specified in the relevant legislation.

Arrangement is broadly defined in section 32B of the **FMA Act**, and, section 23 of the **PGPA Act**.

In section 32B of the FMA Act, arrangement is defined to include a contract, agreement or deed. In section 23 of the PGPA Act arrangement is defined to include a contract, agreement, deed or understanding.

An arrangement, for PGPA Act purposes includes an arrangement under which relevant money is, or may become, payable in the form of a **notional payment** between non-corporate Commonwealth entities.

ATO is the acronym for the Australian Taxation Office.

AusTender is defined in Appendix C of the CPR as the central web-based facility for the publication of Australian Government **procurement** information, including business opportunities, annual procurement plans and **procurement contracts** awarded.

Authorisation is a means of devolving **authority** whereby statutory power is not transferred (i.e. the power remains with the issuing official). Authorised **officials** only act for and on behalf of the person issuing the authorisation – they do not operate in their own right. In performing the specified task or function, they are required to think and act as though they were the person who gave the authorisation and comply with any conditions attached to the authorisation. The person who gave the authorisation continues to be responsible for the particular task or function as though he/she actually carried it out and remains accountable for any decisions and actions in exercising the relevant power.

Authorised investment is defined in section 58(8) of the **PGPA Act** to mean:

- (a) in relation to both the **Finance Minister** and the Treasurer:
 - i. securities of, or securities guaranteed by, the Commonwealth, a State or a Territory; or
 - ii. a deposit with a bank, including a deposit evidenced by a certificate of deposit; or
 - iii. any other form of investment prescribed by the rules;
- (b) in relation to the Treasurer – debt instruments with an investment grade credit rating that:
 - i. are issued or guaranteed by the government of a foreign country; or

- ii. are issued or guaranteed by a financial institution whose members consist of foreign countries (which may also include Australia); or
- iii. are denominated in Australian currency.

In addition, for the purposes of section 58(8)(a)(iii) the PGPA rules at rule XX prescribe the forms of investment that the Finance Minister and Treasurer are authorised to make on behalf of the Commonwealth

Each of the following forms of investment are an authorised investment:

- (a) a bill of exchange that is accepted or endorsed only by a bank;
- (b) a professionally—managed money market trust, but only if the Finance Minister or the Treasurer is satisfied that:
 - (i) the only investments managed by the trust are those referred to in paragraph (a) of this section or subparagraph 58(8)(a)(i) or (ii) of the Act; and
 - (ii) a charge over trust assets does not support any borrowing by the trustee in relation to the trust;
- (c) a dematerialised security that:
 - (i) is deposited in the Austraclear System; and
 - (ii) is the equivalent of an investment referred to in paragraph (a) of this section or subparagraph 58(8)(a)(ii) of the Act.

Note: Information about the Austraclear System can be found on the Australian Securities Exchange's website (www.asx.com.au).

Authority means the legal authority (where express or implied) to exercise a power or function that can be given directly through legislation (e.g. **Accountable Authorities'** powers under section 23 PGPA Act and section 32B of the **FMA Act** or other specific legislation) or through a **delegation** or **authorisation**.

B

Bank is defined in section 8 of the **PGPA Act** to mean:

- (a) an authorised deposit-taking institution (within the meaning of the *Banking Act 1959*);
or
- (b) the Reserve Bank of Australia; or
- (c) a person who carries on the business of banking outside of Australia.

Banking day is defined in PGPA rule 19(2) as a day other than a Saturday, a Sunday or a day that is a public holiday in the place where the money was received.

BAS is the acronym for **Business Activity Statement (BAS)**

Business Activity Statement (BAS) is the form used to report and pay a number of taxation obligations, including **GST**, **PAYG** instalments, PAYG withholding and **FBT** instalments. Agencies must lodge a BAS with the **ATO** for each tax period.

C

Cabcharge card see **Commonwealth credit card**.

Cabcharge voucher see **credit voucher**.

Cash advance. This includes amounts held as “**petty cash**” (see RMI - Managing Relevant Money).

CDDA Scheme see **Scheme for Compensation for Detriment caused by Defective Administration**.

CFO is the acronym for Chief Financial Officer or Chief Finance Officer.

CGR is the acronym for the **Commonwealth Grant Rule** made under PGPA Act section 101.

Charge is the price or cost imposed. It generally relates to the financial transaction of providing a good and/or service. A charge imposed or to be imposed by an **entity** may come within the scope of either the Australian Government's policy on **cost recovery** or **competitive neutrality**.

Charge card is a **credit card** that **authorises** the holder to buy goods or services on credit, with payment in full required at a later date. Examples include MasterCard, Visa and AMEX. Charge cards issued to the **Commonwealth** are a form of **Commonwealth credit card**.

Coincidental private expenditure (in relation to **Commonwealth credit cards**) means private expenditure incurred by an **official** in direct connection with their work duties. An official may use a Commonwealth credit card to pay a claim that includes both official and coincidental private expenditure, only if this has been authorised by the **Accountable Authority** (see RMI-Commonwealth Credit Cards and Credit Vouchers).

Comcover is the **Commonwealth** Government's general insurance fund. All non-corporate Commonwealth entities are insured through Comcover. Entities purchase cover for all normally insurable risks, with the exception of workers' compensation, which remains the responsibility of the Australian Government's **Comcare**.

Comcare is the workers' compensation insurer for the Australian **Commonwealth** Government, providing safety, rehabilitation and compensation services to Commonwealth employees (and employees of the ACT Government) under the auspices of the safety, rehabilitation and compensation services to Commonwealth employees.

Commonwealth means the Commonwealth of Australia.

Commonwealth credit card means a **credit card** issued to the **Commonwealth** to enable the Commonwealth to obtain cash, goods or services on credit. For the purposes of the **PGPA**

framework, a Commonwealth credit card number is subject to the same requirements as a Commonwealth credit card. Credit cards and **credit vouchers** issued to the Commonwealth are different from personal credit cards or vouchers, as they do not provide the holder with a revolving line of credit. Money borrowed by the Commonwealth through the use of a credit card or credit voucher must be paid in full within a specific timeframe (see RMI - Commonwealth Credit Cards and Credit Vouchers).

Commonwealth entity is defined by section 10 of the PGPA Act to mean:

- (1) A Commonwealth entity is:
 - (a) a Department of State; or
 - (b) a Parliamentary Department; or
 - (c) a listed entity; or
 - (d) a body corporate established by a law of the Commonwealth.
Note: Paragraph (d) does not cover bodies corporate, such as Commonwealth companies, that are established under, but not by, a law of the Commonwealth.
- (2) However, the High Court and the Future Fund Board of Guardians are not Commonwealth entities.

See further, below, at **Corporate Commonwealth entity, non-corporate Commonwealth entity, Department of State, Parliamentary Department** and **listed entity**.

Commonwealth entity premises mean all premises owned or leased by a Commonwealth entity, or in the care, custody or control of the Commonwealth. This includes land and buildings, as well as aircraft, vessels, vehicles, containers or receptacles.

Commonwealth Fraud Guidance issued by the Minister of Justice to assist accountable authorities to implement their obligations under section 10 of the PGPA Rule. The purpose of the guidance is to promote high standards of governance, performance and accountability by establishing non-binding better practice principles and processes for effective fraud control for all Commonwealth entities and their employees and contractors.

Commonwealth Grant Rule (CGR) are issued by the **Finance Minister** under PGPA Act section 101. The CGR establish the legislative and policy framework within which **entities** determine their own specific **grants administration** processes. All **officials** performing duties in relation to grants administration must act in accordance with the CGR (see RMI-Grants).

Commonwealth Procurement Rule (CPR) are issued by the **Finance Minister** under PGPA Act section 101. The CPR establish the core **procurement** legislative and policy framework within which **entities** govern and undertake their own procurement. All **officials** performing duties in relation to procurement must act in accordance with the CPR (see RMI – Procurement).

Commonwealth's external auditor is the Auditor-General.

Competitive neutrality is a policy principle aimed at removing any net advantages that a government business activity may have over its private sector competitors by virtue of its public ownership.

Conditions for limited tender are the circumstances when a **procurement** at or above the **relevant procurement threshold** can be conducted using a **limited tender** process. The circumstances are listed in the **CPR**.

Conditions for participation are defined in Appendix C of the **CPR** as the minimum conditions that **potential suppliers** must demonstrate compliance with in order to participate in a procurement process or for **submissions** to be considered. This may include a requirement to undertake an accreditation or validation procedure.

Conditions to reduce the time limit are the circumstances when you may establish a time limit for **potential suppliers** to lodge a **submission** that is less than 25 **days** but no less than 10 days. The circumstances listed in paragraph 10.19 of the **CPR** are:

- (a) where the entity has published details of the procurement in an annual procurement plan on **AusTender**, at least 30 days and not more than 12 months in advance, and those details include a description of the **procurement**, the timing of the **approach to market** and the procedure to obtain **request documentation**;
- (b) where the entity procures commercial **goods** and services;
- (c) in the case of second or subsequent approaches to the market for recurring procurements; or
- (d) where a genuine state of urgency renders the normal time limit impracticable.

Consolidated Revenue Fund (CRF) is established by section 81 of the Constitution and consists of all revenues and moneys raised or received by the Executive Government of the **Commonwealth**. The CRF is self-executing in nature, which means that all money forms part of the CRF automatically upon receipt by the Commonwealth or a private person outside the Commonwealth acting for or on behalf of the Commonwealth.

Contingent liability means a commitment that may give rise to a cost as a result of a future event. They often result from **indemnities, guarantees, warranties** or other commitments of this type which are included in contracts (see RMI-Indemnities).

Contract management is the active management throughout the life of a **procurement contract** to ensure a contractor's performance is satisfactory, stakeholders are well informed and all contract requirements are met. It includes managing the contractual relationships and ensuring that deliverables are provided to the required standard, within the agreed timeframe and achieve value for money.

Coordinated procurement contracting arrangements see **Coordinated Procurements**.

Coordinated Procurements are goods and/or services that the Australian Government has decided should be procured at the whole-of-government level. Entities must use Coordinated Procurement **arrangements** where they exist, unless an exemption has been granted (see RMI - Procurement).

Correctly rendered invoice means a **valid tax invoice** that also includes **entity** specific information as defined in the contract, agreement or other **arrangement**.

Corporate Commonwealth entity is defined in the PGPA Act at section 11 to mean:

- (a) a corporate Commonwealth entity that is a body corporate.

Note: Corporate Commonwealth entities are legally separate from the Commonwealth, whereas non-corporate Commonwealth entities are part of the Commonwealth.

Cost recovery is used by **entities** to recover some or all of the costs of particular government activities. The Australian Government's cost recovery policy encompasses **fees** and levies related to the government provision of goods and services to the non-government sectors of the economy. See RMI-Managing Relevant Money.

CPR is the acronym for the **Commonwealth Procurement Rule**.

Credit card see **Commonwealth credit card**.

Credit voucher is essentially a paper based **credit card** that enables the holder to buy goods or services on credit, with payment in full required at a later date. Credit vouchers generally come with an attached spending limit. A **Cabcharge voucher** is an example of a credit voucher (see RMI - Commonwealth Credit Cards and Credit Vouchers).

CRF is the acronym for **Consolidated Revenue Fund** referred to in section 81 of the Constitution.

Custodian means a Minister or an official of a non-cooperate Commonwealth entity who has taken custody of relevant money **or** relevant property.

Custody of relevant money section 68 of the **PGPA Act** states that a person has custody of **relevant money** if the person:

- (a) holds the money by way of a petty **cash advance**, change float or other advance; or
- (b) has received the money, but has not yet dealt with it as required by section 55 (which is about banking of relevant money).

Custody of relevant property section 68 of the **PGPA Act** states that, a person has custody of **relevant property** if:

- (a) the person has taken delivery of the property and has not returned it to another person entitled to receive the property on behalf of the **Commonwealth**; and
- (b) when the person took delivery of the property the person signed a written acknowledgement that the property was delivered on the express condition that the person would at all times take strict care of the property

D

Days means calendar days.

Debt (for the purposes of the **PGPA** framework) generally means a sum of money owing to the Commonwealth which is known and not being disputed, due for **payment** now and capable of being recovered. For example, a **staff member** who has been overpaid a salary, or a person who has been overpaid a social security payment, may owe a debt to the Commonwealth as a result of the overpayment (see RMI - Managing Debt).

Deed of Release is a document that is signed by a claimant acknowledging that an offer of compensation has been accepted and that no future claims can be made against the **Commonwealth** in relation to the particular claim.

Deed of Standing Offer for the Provision of Whole of Australian Government Travel Management Services means the Deed between the **Commonwealth** (represented by **Finance**) and the travel management companies under the WoG travel arrangements.

Debtor means an individual or other body who owes a **Commonwealth entity** money.

Defective administration (in relation to the **CDDA Scheme**) is defined as:

- a specific and unreasonable lapse in complying with existing administrative procedures; or
- an unreasonable failure to institute appropriate administrative procedures; or
- an unreasonable failure to give to (or for) an applicant, the proper advice that was within the official's power and knowledge to give (or reasonably capable of being obtained by the official to give); or
- giving advice to (or for) an application that was, in all circumstances, incorrect or ambiguous.

Delegate means an individual who has been given statutory **authority**, by an instrument of **delegation**, to make particular decisions or perform particular functions. A delegate is constrained by any limitations expressed in the delegation instrument.

Delegation is a statutory procedure permitting a person (the delegator) to entrust his or her statutory **authority** to another person (the delegate). Delegates personally hold and possess the powers and responsibilities that they have been given and are personally accountable for their decisions and actions in the exercise or performance of the powers and responsibilities that they have been given. A delegation is distinct from an **authorisation**, which provides a person with the capacity to exercise a particular power or function, but only for and on behalf of the person giving the authorisation. A delegate who decides to retain responsibility for a power or function but wants another person to exercise that power or function on their behalf should provide that person with an authorisation.

Detriment (in relation to the **CDDA Scheme**) means quantifiable financial loss that an applicant has suffered. There are three types of detriment:

- detriment relating to a personal injury including mental injury (personal injury loss);
- economic detriment that is not related to personal injury (pure economic loss); and
- detriment relating to damage to property.

Department of State for the purposes of the PGPA Act is defined in section 8 of the PGPA Act to mean:

- (a) includes any body (except a body corporate), organisation or group of persons that is prescribed by the rules in relation to a specified Department of State (within the ordinary meaning of that expression)
- (b) excludes any part of a Department of State (within the ordinary meaning of that expression) that is a listed entity.

E

Enterprise risk management framework generally involves a plan and/or systems designed to identify potential events that may affect the entity and its activities and manage risks within the entity's risk appetite, to provide reasonable assurance regarding the achievement of the entity's objectives.

Equitably means treating an entity or person impartially, based on their commercial, legal, technical and financial abilities and not discriminating against them due to their size, degree of foreign affiliation or ownership, location or the origin of the **goods** or services.

Enabling legislation for a Commonwealth entity that is established by or under an Act or legislative instrument means that Act or legislative instrument.

Entity see Commonwealth entity, corporate Commonwealth entity and non-corporate Commonwealth entity.

F

FBT is the acronym for **Fringe Benefits Tax**.

Fee (also known as a fee for service) is a payment for goods or services provided to, or at the request of, the person providing the goods or services. There is generally a direct

relationship between the cost of delivering the service and the fee itself. A fee may come within the scope of the Australian Government's policy on **cost recovery**.

Finance means the Department of Finance.

Finance law is defined in section 8 of the PGPA Act to mean:

- (a) the **PGPA Act**; or
- (b) the rules; or
- (c) any instrument made under this Act; or
- (d) an Appropriation Act.

The rules include the **PGPA Rule**, the **Commonwealth Procurement Rule (CPR)**, the **Commonwealth Grant Rule (CGR)** and The Finance Minister's Rule on Financial Reporting (**FMR**).

Instruments made under this Act include The PGPA (Finance Minister to Accountable Authorities) Delegation 2014, The PGPA (Finance Minister to Finance Secretary) Delegation 2014, Determinations establishing special accounts made under section 78 of the Act, Determinations Transferring Functions Between Non-Corporate Commonwealth Entities made under section 75 of the Act, and government policy orders made under section 22 or 93 of the PGPA Act.

Finance Minister means the Minister who administers the **PGPA Act** (see section 8 of the PGPA Act).

Finance Minister's Rule (FMR) means the rule made under section 101 of the **PGPA Act**, which outline the requirements and guidance for the annual financial statements prepared by the **accountable** authority of an **entity**.

Financial framework is the framework that underpins the **appropriation**, expenditure and use of money and resources within the Australian Government. The financial framework includes financial management legislation and policy, delegations and directions, guidelines, performance reporting guidance, outcome and programs policy guidance and associated governance arrangements for government entities.

FMA Act means the *Financial Management and Accountability Act 1997*.

FMA legislation comprises the **FMA Act** and the **FMA Regulations**.

FMA Regulations means the *Financial Management and Accountability Regulations 1997*.

FMIS means an **entity's** Financial Management Information System.

Fraud against the Commonwealth is defined by the **Commonwealth Fraud Guidance** as 'dishonestly obtaining a benefit, or causing a loss, by deception or other means' fraud against the Commonwealth may include (but is not limited to):

- theft
- accounting fraud (false invoices, misappropriation etc)
- unlawful use of, or obtaining property, equipment, material or services causing a loss, or avoiding and/or creating a liability
- providing false or misleading information to the Commonwealth, or failing to provide it when there is an obligation to do so
- misuse of Commonwealth assets, equipment of facilities
- cartel conduct
- making, or using false, forged or falsified documents, and
- wrongfully using Commonwealth information or intellectual property.

Fringe benefits are benefits, other than salaries and wages, which are provided to an employee or an associate of the employee (usually a family member) by an employer or third party arranger. For example, where a car owned or leased by the **Commonwealth** is made available to an official for private use.

Fringe Benefits Tax (FBT) is a **tax** on **fringe benefits** provided in respect of employment during the year of the tax. An entity must report to the **ATO** on all fringe benefits provided to **officials**.

G

Gifts means **Commonwealth** property given without payment or condition (see RMI - Managing Public Property).

Goods are defined in Appendix C of the **CPR** as every type of right, interest or thing which is legally capable of being owned. This includes, but is not restricted to, physical goods and real property, as well as intangibles such as intellectual property, contract options and goodwill.

Goods and Services Tax (GST) is a broad based tax of 10 per cent on the sale of most goods and services consumed in Australia. GST is claimable through the submission of **Business Activity Statements** to the **ATO** as **input tax credits**. non-corporate Commonwealth entities are notionally liable to pay GST and account for it to the ATO through the submission of Business Activity Statements.

Government policy order under section 22 of the PGPA Act the Finance Minister may make a government policy order that specifies a policy of the Australian Government that is to apply to one or more Corporate Commonwealth entities. Under section 93 of the PGPA Act the Finance Minister may make a government policy order that specifies a policy of the Australian Government that is to apply to one or more wholly-owned Commonwealth companies.

Grant is defined in Commonwealth Grant Rule to mean an **arrangement** for the provision of financial assistance by the **Commonwealth**:

- (a) under which **relevant** money is to be paid to a recipient other than the Commonwealth;
- (b) which is intended to assist the recipient achieve its goals;
- (c) which is intended to help to address one or more of the Australian Government's policy objectives; and
- (d) under which the recipient may be required to act in accordance with specified terms or conditions.

However, the following arrangements are taken not to be grants:

- (a) the **procurement** of property or services by an **entity**, including the procurement of the delivery of a service by a third party on behalf of an entity;
- (b) an **act of grace payment** approved under section 65 of the PGPA Act;
- (c) a **payment** of compensation under:
 - (i) an arrangement relating to **defective administration**; or
 - (ii) an arrangement relating to employment conditions; or
 - (iii) an arrangement established by legislation;
- (d) a payment to a person of a benefit or an entitlement established by legislation;
- (e) a **tax** concession or offset;
- (f) an investment or loan;
- (g) financial assistance provided to a State in accordance with section 96 of the Constitution;
- (h) a payment that is made to a State or a Territory that is made for the purposes of the *Federal Financial Relations Act 2009*, including the following:
 - (i) General Revenue Assistance;
 - (ii) Other General Revenue Assistance;
 - (iii) National Specific Purpose Payments;
 - (iv) National Partnership Payments;
- (i) a payment that is made for the purposes of the *Local Government (Financial Assistance) Act 1995*;
- (j) a payment that is made for the purposes of the *Schools Assistance Act 2008*;
- (k) a payment that is made for the purposes of the *Higher Education Support Act 2003*;
- (l) a payment of assistance for the purposes of Australia's international development assistance program, which is treated by the Commonwealth as official development assistance.

Granting activities refers to the process of providing relevant money to potential grant recipients, whether through a grant program or other grant giving exercise.

Grants administration covers the entire process of granting activity and includes: planning and design; selection and decision-making; the making of a **grant**; the management of a grant agreement; reporting; and review and evaluation. It also covers a situation where another **entity** or third party is responsible for the administration of an entity's granting activity.

GST is the acronym for the **Goods and Services Tax**.

Guarantee means a promise whereby one party assumes responsibility for the **debt**, or performance obligations, of another party should that party default in some way. For example, where an entity guarantees **payment** of **bank** borrowings by a third party. A guarantee may give rise to a **contingent liability**.

H

Hospitality see **official hospitality**.

I

Improperly dispose of generally means to dispose of **relevant** money or **relevant property** in a way that is not consistent with the provisions of the PGPA legislation, including the duty on an accountable authority to ensure **proper use and management** of **public** resources.

Indemnity means a legally binding promise whereby a party undertakes to accept the risk of loss or damage another party may suffer. For example, where an **entity** hires a venue to host a conference it may indemnify the owner of that venue against losses that may be suffered if attendees damage the venue. An indemnity may give rise to a **contingent liability**.

Input tax credits are amounts that can be claimed as a refund from the **ATO** in respect of **GST** paid on goods and services acquired in carrying on an enterprise.

Inter-entity agreement is a documented relationship for the provision of services, exchange of information or other administrative function or support, signed between two or more **entities**. Examples include: a **MoU**, Exchange of Letters, Business Partnership or a Service Level Agreement (see RMI-Working with Other Commonwealth Entities).

Internal audit function is the unit or auditors that are responsible for the delivery of the internal audit services of an **entity**.

K

Key principles are the seven key principles for grants administration that apply to all forms of granting activity and all processes and phases of grants administration, as set out in the **Commonwealth Grant Rule**. These key principles are:

- robust planning and design;
- collaboration and partnership;
- proportionality;
- an outcomes orientation;
- achieving value with public money;
- governance and accountability; and
- probity and transparency.

L

Legal Services Directions 2005 are directions issued by the Attorney-General under the *Judiciary Act 1903*. These directions set out the requirements for **Commonwealth** legal work.

Letter of comfort means an instrument that is used to facilitate an action or transaction, but is made with the intention of not giving rise to a legal obligation. Many **entities** prohibit the use of letters of comfort. A letter of comfort may give rise to a **contingent liability**.

Levy is a form of **tax**. It is often used to refer to a tax that is imposed on a specific industry or class of persons, rather than a tax of general application. A levy may come within the scope of the Australian Government's policy on **cost recovery**.

Liability cap is a legally binding commitment whereby a contractor's liability for damage or loss is limited to a certain amount.

Limited tender is defined in Appendix C of the CPR as an **entity** approaching one or more **potential suppliers** to make **submissions**, where the process does not meet the rules for **open tender** or **prequalified tender**.

Listed entity in section 8 of the PGPA Act means

any of the following that is prescribed by the rules:

(a) any body (except a body corporate), person, group of persons or organisation;

(b) any combination of bodies (except bodies corporate), persons, groups of persons or organisations;

whether or not part of a Department of State:

M

Maximum value of a proposed procurement contract includes any options, extensions, renewals or other mechanisms that may be executed over the life of the contract. For goods and services being procured, it must include:

(a) all forms of remuneration, including any premiums, fees, commissions, interest, allowances and other revenue streams that may be provided for in the proposed contract;

(b) the value of the goods and services being procured, including the value of any options in the proposed contract; and

(c) any **taxes** or charges.

Memorandum of Understanding (MoU) is a written agreement between two or more parties that defines the working relationship, expectations and responsibilities. MOUs are usually not legally binding on the parties. They are commonly used for **arrangements** between non corporate **Commonwealth entities**.

Minister includes a **Presiding Officer** of a Parliamentary Department.

Misuse means to use **public resources** (including **relevant money** and **relevant property**) in a way that is not efficient, effective, economical or ethical. For **non-corporate Commonwealth entities** this includes use in a way that is inconsistent with the policies of the **Australian Government**.

Model RMIs means the **RMIs**, developed by **Finance** in consultation with other **Commonwealth entities**, which state the core requirements of the **resource management framework**.

MoU is the acronym for **Memorandum of Understanding**.

Multi-use list is defined in Appendix C of the **CPR** as a list, intended for use in more than one procurement process, of pre-registered suppliers who have satisfied the conditions for participation on the list. Each approach to a multi-use list is considered a new **procurement**.

N

Non-corporate Commonwealth entity is one of two types of Commonwealth entity and is defined at sub section 11(b) of the PGPA Act as:

(b) a non-corporate Commonwealth entity, which is a Commonwealth entity that is not a body corporate.

Note: Corporate Commonwealth entities are legally separate from the Commonwealth, whereas non-corporate Commonwealth entities are part of the Commonwealth.

Non-recovery (write off) of a debt is permitted under section 11 of the PGPA Rule where the **accountable authority** (or **delegate**) considers it would not be economical to pursue the recovery of a **debt**, a debt is not legally recoverable or the debt has been written off as authorised by an Act. A decision to write off a debt does not legally extinguish the debt. For example, if the **debtor's** circumstances change in the future the debt can be reinstated and pursued (see RMI - Managing Debt).

Notional payments and receipts, Section 76 of the **PGPA Act** deals with transactions that do not actually involve money leaving the **CRF**, because both parties to the transaction are part of the **Commonwealth**, or acting on behalf of the Commonwealth. For example, where one non-corporate Commonwealth entity pays another for services, or where one part of non-corporate Commonwealth entity pays another part of that entity. The PGPA Act treats these notional payments and receipts as real **payments** and receipts and as such, the appropriation relied on for the transaction should be debited/credited as appropriate.

Notional receipts see **notional payments and receipts**.

O

Official is defined in section 13 of the **PGPA Act** to mean:

- (1) Each Commonwealth entity has officials.
- (2) An official of a Commonwealth entity is an individual who is in, or forms part of, the entity.
- (3) Without limiting subsection (2), an official:
 - (a) includes an individual who:
 - (i) is, or is a member of, the accountable authority of the entity; or
 - (ii) is an officer, employee or member of the entity; or
 - (iii) is an individual, or an individual in a class, prescribed by the rules; and
 - (b) does not include an individual who:
 - (i) is a Minister; or
 - (ii) is a judge; or
 - (iii) is a consultant or independent contractor of the entity (other than a consultant or independent contractor of a kind prescribed by the rules for the purposes of subparagraph (a)(iii)); or
 - (iv) is an individual, or an individual in a class, prescribed by the rules.

See also **staff member**.

Official hospitality generally involves the use of public resources to provide hospitality to persons other than **staff members** to facilitate the achievement of one or more **Commonwealth** policy objectives (see RMI – Approval and Commitment of Relevant Money).

Official Public Account (OPA) means the group of bank accounts, known as the Official Public Account Group, the aggregate balance of which represents the daily cash position of the government.

Official travel is any travel where the **Commonwealth** is responsible for any of the direct or indirect costs associated with that travel (see RMI – Approval and Commitment of Relevant Money).

OPA is the acronym for **Official Public Account**.

Open approach to market is defined in Appendix C of the CPR as any notice inviting all potential suppliers to participate in a procurement which may include a request for tender, request for quote, request for expression of interest, request for application for inclusion on a multi-use list, request for information and request for proposal.

Open tender is defined in Appendix C of the CPR as publishing an open approach to market and inviting submissions.

Ordinary services and functions of government means spending relating to the running costs of a **non-corporate Commonwealth entity**, such as the payment of staff salaries or building rental. Generally, payments relating to the ordinary services and functions of government will come from departmental **appropriations**, however there can be situations where they are paid from administered appropriations. Similarly, some payments from departmental appropriations may cover matters that are not ordinary services and functions of government, and thus the arrangement needs to be authorised by section 32B of the **FMA Act** and Schedule 1AA or Schedule 1AB to the **FMA Regulations** or specific legislation. **Entities** will need to identify the relevant appropriation before committing to spend **relevant money**.

Other CRF money is defined in the PGPA Act at sub section 105(2):

- (2) **Other CRF money** is money that forms part of the CRF other than:
- (a) relevant money; or
 - (b) any other money of a kind prescribed by the rules.

Overdraft drawing is an **arrangement** where a **bank**, at its own discretion, honours a drawing on an **entity's** account when there are insufficient funds in the account to meet the drawing. Agreements entered into under section 53 of the **PGPA Act** can allow overdraft drawings, as long as they are repaid within 30 days (see RMI – Managing Relevant Money).

Overdraft facility is an **arrangement** for advances set up between an **entity** and a **bank**, with a defined borrowing limit. The bank is obliged to honour payments that put the account into negative balance, up to the agreed limit. An overdraft facility represents a borrowing on behalf of the **Commonwealth** and as such, the use of overdraft facilities is extremely restricted (see RMI – Managing Relevant Money).

P

Parliamentary Department means a Department of the Parliament established under the *Parliamentary Service Act 1999*.

PAYG is the acronym for Pay As You Go.

Payment see RMI - Making Payments of Relevant Money.

Payment of amount owed to person at time of death relates to an amount which the **Commonwealth** owes to a person at the time of their death. Section 25 of the PGPA Rule gives the **Finance Minister** the power to authorise a **payment** to a person's without requiring production of a will or letter of administration. In authorising the payment the Finance Minister must have regard to the persons who are entitled to the property of the deceased person under the deceased person's will or under the law relating to the disposition of the property of deceased persons (see RMI - Making Payments of Relevant Money).

Petty cash means money used for small, incidental and one-off expenses, such as emergency stationery. See **cash advance**.

PGPA Act is the *Public Governance, Performance and Accountability Act 2013*

PGPA Rule is the Rule issued under section 102 of the **PGPA Act**.

PGPA framework is a subset of the **financial framework** and is made up of:

- the **PGPA Act**;
- the **PGPA Rule**;
- the *PGPA (Finance Minister to Accountable Authorities) Delegation 2014*;
- the *PGPA (Finance Minister to Finance Secretary) Delegation 2014*.
- the **FMR**;
- the **CGR**;
- the **CPR**;
- Ministerial determinations and authorisations ; and
- other financial management policies of the **Commonwealth** including government policy orders applicable to corporate Commonwealth entities and wholly owned Commonwealth companies.

Potential supplier is defined in Appendix C of the **CPR** as an **entity or person who may respond to an approach to market**.

Prequalified tender is defined in Appendix C of the **CPR** as publishing an **approach to market** inviting **submissions** from all **potential suppliers** on:

- (a) a shortlist of potential suppliers that responded to an initial **open approach to market** on **AusTender**; or
- (b) a list of potential suppliers selected from a **multi-use list** established through an open approach to market; or
- (c) a list of all potential suppliers that have been granted a specific licence or comply with a legal requirement, where the licence or compliance with the legal requirement is essential to the conduct of the **procurement**.

Presiding Officer means the President of the Senate or the Speaker of the House of Representatives.

Procurement is defined in Appendix C of the **CPR** as encompassing the whole process of acquiring **goods** or services. It begins when an **entity** has identified a need and decided on its procurement requirement. Procurement continues through the processes of risk assessment, seeking and evaluating alternatives, the awarding of a **procurement contract**, delivery of and payment for the goods or services and, where relevant, ongoing **contract management** and consideration of disposal of goods. Procurement does not include:

- (a) **grants**;
- (b) investment (or divestment);

- (c) sales by tender;
- (d) loans;
- (e) procurements of goods or services for resale or of goods or services used in the production of goods for resale;
- (f) any property right not acquired through the expenditure of public money - for example, a right to pursue a legal claim for negligence;
- (g) statutory appointments;
- (h) appointments made by a Minister using the executive power – for example, the appointment of a person to an advisory board; or
- (i) the engagement of employees – such as under the *Public Service Act 1999*, the *Parliamentary Services Act 1999*, an entity's enabling legislation, or the common law concept of employment.

Procurement-connected policies mean the policies of the **Commonwealth** for which **procurement** has been identified as the means of delivery.

Procurement method means one of the three methods used to conduct a **procurement** – **open tender**, **prequalified tender** or **limited tender**.

Proper use when used in relation to use or management of **public resources** means efficient, effective, economical and ethical. See section 8 **PGPA Act**. For the **accountable authority** of a **non-corporate Commonwealth entity** proper use and management of public resources also means in a way that is not inconsistent with the policies of the Australian Government. See section 15 and 21 of the PGPA Act.

Public resources means **relevant money**, **relevant property**, or **appropriations**. See section 8 PGPA Act.

Publish continuously in relation to a **multi-use list** that is open to application at any time means an **approach to market** inviting applications to use the multi-use list must appear on **AusTender** for the entire period of the multi-use list's operation.

Purposes when used in relation to a Commonwealth entity or a Commonwealth company includes the objectives, functions or role of the entity or company. See section 8 PGPA Act.

R

RBA is the acronym for the Reserve Bank of Australia.

Relevant money in section 8 of the PGPA Act means:

- (a) money standing to the credit of any bank account of the Commonwealth or a corporate Commonwealth entity; or
- (b) money that is held by the Commonwealth or a corporate Commonwealth entity.

Relevant procurement thresholds are defined in Appendix C of the CPR as the amount (including GST) of a procurement when procurements are subject to the additional rules in the CPR. These thresholds are:

- (a) for non-corporate Commonwealth entities other than for procurements of construction services, \$80,000;
- (b) for relevant corporate Commonwealth entities, other than for procurements of construction services, \$400,000; or
- (c) for procurements of construction services by non-corporate Commonwealth entities or relevant corporate Commonwealth entities, \$9 million.

For the purpose of these RMI, the relevant thresholds are only those thresholds that apply to non-corporate Commonwealth entities.

Relevant property in section 8 of the PGPA Act means:

- (a) property (other than relevant money) that is owned or held by the Commonwealth or a corporate Commonwealth entity; or
- (b) any other thing prescribed by the rules.

Request documentation is defined in Appendix C of the CPR as meaning documentation provided to potential suppliers to enable them to understand and assess the requirements of the procuring entity and to prepare appropriate and responsive submissions. This general term includes documentation for expressions of interest, multi-use lists, open tender, prequalified tender and limited tender.

Requirements to be fulfilled includes any technical specifications, conformity certification, plans, drawings, or instructional materials.

Responsible Minister means in relation to an entity, the Minister responsible for that entity or the Minister responsible for a function within an entity.

Rules for all procurement are the requirements in Division 1 of the CPR that apply to all procurement.

S

Scheme for Compensation for Detriment caused by Defective Administration

(CDDA Scheme) is an administrative scheme that allows non-corporate Commonwealth entities to compensate individuals or other bodies who have experienced detriment (i.e. quantifiable financial loss) as a result of an entity's defective administration, and who have no other avenues of redress (see RMI -Making Payments of Relevant Money).

Senate Procedural Order 11 (the Murray Motion) requires information on specific contracts entered into by each non-corporate Commonwealth entity that provide for consideration to the value of \$100,000 or more (which, in extraordinary circumstances, may include grants), to be tabled in the Senate by the relevant Minister not later than 2 calendar months after the last day of the financial and calendar year.

Senate Procedural Order 14 (the Minchin Order) requires a list of all grants approved in each portfolio or non-corporate Commonwealth entity to be tabled in the Senate by the relevant Minister at least 7 days before the commencement of budget estimates, supplementary budget estimates and additional estimates hearings. The information to be tabled must include the value and recipient of each grant, and the program from which the grant was made.

Special Account is an **appropriation** mechanism to draw **money** from the **CRF** for particular purposes. Special Accounts are established under section 78 of the **PGPA Act**, or through separate legislation as recognised under section 80 of the PGPA Act. They should not be confused with entity bank account (see RMI - Managing Relevant Money).

Special circumstances are not defined for the purposes of section 65 of the **PGPA Act**, and are ultimately a matter for the decision maker to assess. Generally these circumstances are considered to apply where the decision maker is satisfied that:

- a loss has arisen directly from an alleged act or omission on the part of an **entity** /agent of the Australian Government:
 - a) that the allegations relate to involvement by the agent/entity that was the direct cause of the loss; and
 - b) that the loss was not caused by the relevant agent/entity initiating processes that were consistent with its responsibilities and in accordance with the Administrative Arrangements Orders; or
- the application of **Commonwealth** legislation or policy is alleged to have had an unintended, anomalous, inequitable or otherwise unacceptable result in the applicant's circumstances, and that those circumstances were:
 - a) specific to the applicant;
 - b) outside the parameters of events for which the applicant was responsible or had the capacity to adequately control; and
 - c) consistent with what could be considered to be the broad intention of the relevant legislation; or
- the matter is not covered by legislation or specific policy, but the Australian Government intends to introduce such legislation or policy, and it is considered desirable in a particular case to apply the benefits of the relevant policy prospectively.

Specification is a description of the features of the **goods** and services to be procured.

Specified means listing an **arrangement** or **grant**, a class of arrangements or grants, or a program, under which an arrangement or grant is made, in Schedule 1AA to the **FMA Regulations**.

Staff member means an **official**.

Standing offer is defined in Appendix C of the **CPR** as an **arrangement** setting out the terms and conditions, including a basis for pricing, under which a supplier agrees to supply specified **goods** and services to an **entity** for a specified period.

Statutory Payments means an amount that is a **payment** of a benefit to a person, including a payment of an entitlement established by legislation or by a government program or a **tax** concession or offset.

Submission is defined in Appendix C of the CPR as any formally submitted response from a **potential supplier** to an **approach to market**. Submissions may include tenders, responses to expressions of interest, applications for inclusion on a **multi-use list** or responses to request for quote.

Supplier is defined in Appendix C of the CPR as an entity or person who has entered into a **procurement contract** with the **Commonwealth**.

T

Tax is classically defined (for Constitutional purposes) as a compulsory exaction of money by a public authority for public purposes, which is enforceable by law and not a **payment** for services rendered. However, this is not a reliable guide for identifying taxes in all cases. The payer of a tax does not have a real choice about whether to pay the tax or not.

Tax invoice see **valid tax invoice**.

Tenderer is defined in Appendix C of the CPR as an entity or person who has responded with a **submission** to an **approach to market**.

Travel see **official travel**.

V

Valid tax invoice is a document, generally issued by a supplier, which contains specific information to satisfy legal requirements to enable an **entity** to claim an **input tax credit** (it may include a recipient-created tax invoice).

Vendor card is a **credit card** issued by a specific retailer that authorises the holder to buy goods or services on credit, with payment in full required at a later date. Examples include **Cabcharge cards**, travel cards and fuel cards. Vendor cards issued to the **Commonwealth** are a form of **Commonwealth credit card**.

W

Waiver is a special concession granted to an individual or other body that extinguishes a **debt** or other amount owing to the **Commonwealth**. Waivers are granted by the **Finance Minister** (or a **delegate**) under section 63 of the **PGPA Act** (see RMI - Managing Debt).

Warranty means a promise whereby one party provides certain assurances to another party. Warranties often relate to asset and sales agreements. For example, where an entity sells an asset to a third party it may provide a warranty that the entity has a right to sell the

asset, the asset is fit for use and defective parts will be replaced within a specified period. A warranty may give rise to a **contingent liability**.

Write off of a debt see **non-recovery of a debt**

WORKING DRAFT 13 MARCH



Resource Management Guide No. <XX>

Resource Management Instructions

WORKING DRAFT 13 MARCH

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WORKING DRAFT 13 MARCH

Resource Management Guide No. <XX>

Resource Management Instructions

Audience

This Guide is relevant to all non-corporate Commonwealth entities. It is particularly relevant to Chief Financial Officers (CFOs) and their staff, and officials of an entity who are responsible for the entity's internal controls and processes.

Key points

This Guide:

- is relevant to non-corporate Commonwealth entities.
- gives guidance on using the Model Resource Management Instructions (RMIs) – a tool designed to assist non-corporate Commonwealth entities in developing their accountable authorities' internal instructions.
- outlines the nature and purpose of RMIs and how accountable authorities employ these instructions in their entity to help them meet their obligations under the PGPA Act.
- gives key information for entities in developing and maintaining RMIs.
- is available on the Finance website at <add Finance website hyperlink>.

Relevant resources

[Related guidance](#)

[Factsheets](#)

[Q&As](#)

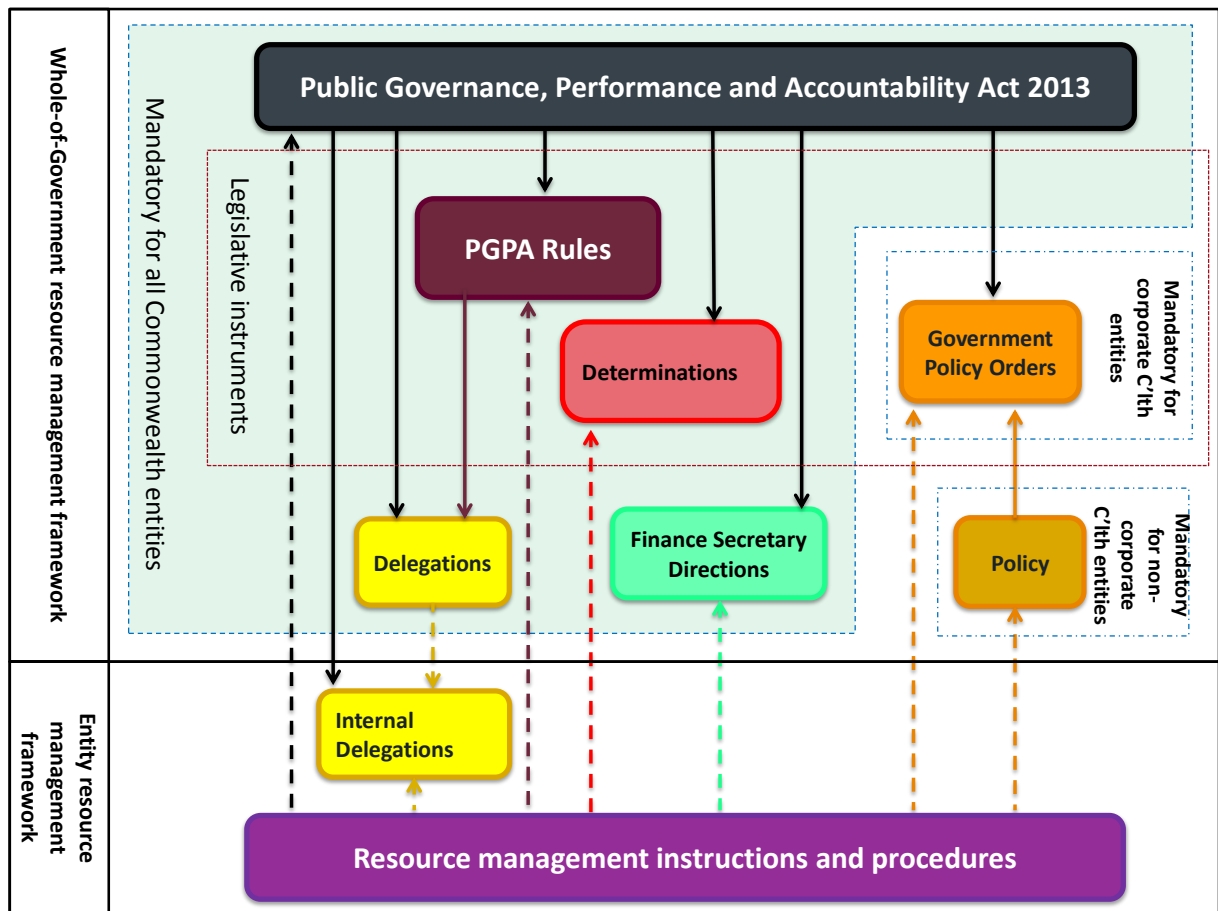
[Other tools, templates & checklists](#)

[Contact information](#)

Part 1 – The Commonwealth’s resource management framework

1. Non-corporate Commonwealth entities operate within an environment that is made up of legislation, legislative instruments and government policy. Within this context, the resource management framework consists of the legislation and policy governing the management of Commonwealth resources.
2. Resource Management Instructions (RMIs) provide a mechanism for accountable authorities to apply the key principles and requirements of the resource management framework to the operations of their respective entities.

The Commonwealth’s resource management framework



Part 2 – Key legislative requirements

Duties of Accountable Authorities

3. The PGPA Act, requires an accountable authority to ensure systems and processes are in place to properly manage public resources. Of particular relevance is the duty to govern a Commonwealth entity in particular ways (section 15) and the duty to establish and maintain systems relating to risk and control (section 16). For further information on the duties of accountable authorities, see *Resource Management Guide No. XX: Duties of accountable authorities*.
4. Section 16 requires an accountable authority to establish and maintain appropriate systems of risk oversight and management and an appropriate system of internal controls. The accountable authority is expected to create an operating environment that supports the proper use and management of public resources, without stifling innovation, in pursuit of both the public good and the purposes of the entity for which it is responsible. At a minimum, entities need to have controls and processes for identifying, measuring, managing and reporting material risks.
5. Accountable authorities commonly issue RMIs and associated operational guidance, such as business rules or guidelines, to meet their obligations under the PGPA Act.

Section 23A of the PGPA Act - RMIs

- (1) The accountable authority of a non-corporate Commonwealth entity may issue instructions to officials in their entities on any matter on which rules may be made under this Act.
 - (a)
 - (b)
- (2) An instruction is not a legislative instrument.

S23A is a proposed amendment to the Act and the actual text will be included above when available

6. Section 23A of the PGPA Act authorises accountable authorities to give instructions to officials in their entities on any matter necessary or convenient for carrying out or giving effect to the Act or the rules.
7. In effect, an accountable authority may issue instructions on any matter that promotes the efficient, effective, economical and ethical use of the public resources for which he or she is responsible. This includes instructions relating to the proper use of relevant money, relevant property and other resources.
8. As instruments made under the authority of the PGPA Act, RMIs are part of finance law and are binding on all officials. They can compel officials to comply with particular processes or additional requirements, but should not seek to vary the application of the PGPA Act and rules.

Part 3 – Scope of the RMIs

9. As the authority to issue RMIs comes from the PGPA Act, RMIs should only be made on matters that are within the scope of the Act and rules. An accountable authority may also issue RMIs on matters covered by the resource management policies of the Commonwealth, such as travel and cost recovery, to the extent that these matters are within the scope of the PGPA Act and rules (i.e. involve the management of public resources).
10. CEIs apply to all officials of an entity. That said, it may be appropriate for certain instructions to apply only to particular areas or officials within an entity. Any instruction that applies to specific officials or areas, such as an instruction directed at delegates, should clearly specify who it applies to.
11. Where an official of one Commonwealth entity performs a task for one or more other Commonwealth entities, the relevant accountable authority should determine which entity's RMIs apply when that task is being performed. The agreed approach should be incorporated into the Memorandum of Understanding (MOU) or other agreement that establishes the arrangement between the entities.

Part 4 – Developing and maintaining RMIs

12. RMIs should be accessible to all officials at all levels of the entity. They should be written in simple, plain language and provide clear instructions on the key requirements of the resource management framework and the rules that apply to resource management within the particular entity. The Model RMIs are based on these principles. For example, the more understandable term 'staff members' is used throughout the Model RMIs instead of the term 'officials'.
13. Ideally, RMIs should not contain detailed procedural requirements. This information should be provided through other documents that provide step-by-step operational guidance.
14. Entities should ensure that RMIs are closely aligned with the internal financial delegations and authorisations issued to officials of the entity. In particular, officials who exercise a delegation under the PGPA legislation should be provided with clear instructions on the relevant policies and rules that apply to them.
15. Ideally, RMIs should be supported by complementary operational guidance that details specific entity processes and procedures. As RMIs give effect to the PGPA Act and rules, only the key matters that apply to resource management should be included in RMIs. Detailed step-by-step procedures should be included in operational guidance.
16. Officials should be able to rely on RMIs and any related operational guidance to undertake a particular task, rather than be required to read the relevant legislation and a range of related guidance documents.
17. Entities should regularly review their RMIs and operational guidance to ensure that they remain relevant and appropriate. These reviews provide an opportunity to analyse templates, forms and processes to ensure that current instructions and guidance are suitable and up-to-date.

Introduction

18. The Model RMIs cover the core topics that are applicable to the majority of officials in most non-corporate Commonwealth entities. As a tool, the Model RMIs seek to improve consistency across entities and help all staff members to understand and comply with the key requirements of the resource management framework. They are essentially a summary of the key requirements of the resource management framework.
19. The Model RMIs are not designed to be prescriptive or exhaustive, as individual entity requirements may differ and RMIs should be tailored to meet these requirements. The Model RMIs provide accountable authorities with the flexibility to issue additional instructions commensurate with the entity's needs and with the risks involved with undertaking particular functions.
20. Staff members, who are responsible for developing an entity's RMIs, are encouraged to use the Model RMIs as the basis for their instructions, rather than attempting to interpret the PGPA legislation themselves. Using the Model RMIs will reduce the risk of misinterpreting the requirements of the resource management framework. The Model RMIs are also designed to promote consistency across the Commonwealth, to allow staff members to easily work, or transfer, between entities.
21. Each of the Model RMIs contains three parts:
 - an introduction, providing background information on the topic, the authority to issue it and links to key guidance and references
 - the model instructions (text in the grey shaded boxes) on the core requirements of the topic
 - suggestions on additional entity guidance (grey text in the boxes) that may be included where relevant to suit an entity's specific needs.

Using the Model RMIs

22. The wording of the model instructions, in the grey text boxes, should generally not be changed. If a minor change is required to reflect an important difference within a particular entity, for example where an accountable authority uses a specific title, the entity should carefully consider any rewording and may wish to consult with Finance. Changing the wording of the model instructions may result in an entity misinterpreting the PGPA legislation.
23. Within the Model RMIs, a word in **bold text** is linked to a defined term in the glossary. The glossary contains terms that are defined in the PGPA legislation or other resource framework guidance, and terms which have a specific meaning in the context of the Model RMIs.
24. While designed to be read as standalone documents, the Model RMIs link to existing guidance material. Within the Model RMIs, underlined text is linked to the primary reference source, such as the legislation, the delegation, resource management framework guidance or another Model RMI.
25. The Model RMIs are designed to assist entities to develop their own instructions and operational guidance. An accountable authority may issue additional instructions within an existing Model RMI topic or, where an activity does not fit within an existing topic, as a separate RMI. Alternatively, if an entity does not undertake one or more of the functions covered in the Model RMIs, the entity may choose to exclude that topic.
26. The Model RMIs include suggestions relating to matters that are not explicitly covered by the PGPA legislation, but may be covered by resource management policies or relate to an issue where an accountable authority may wish to issue additional instructions, as described in the grey text within the boxes. For example, the additional instructions may relate to resource management policy requirements, such as how staff can book fares that comply with the whole-of-government travel policies on “lowest practical fare”. Entities may also wish to include additional instructions that reflect directions contained in their internal delegation instruments.