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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Review of Auditor-General's reports Nos 7 to 34 (2005-06)

MONDAY, 29 MAY 2006

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**JOINT STATUTORY COMMITTEE OF
PUBLIC ACCOUNTS AND AUDIT**

Monday, 29 May 2006

Members: Mr Anthony Smith (*Chair*), Ms Grierson (*Deputy Chair*), Senators Mark Bishop, Hogg, Humphries, Murray, Nash and Watson and Mrs Bronwyn Bishop, Mr Broadbent, Dr Emerson, Dr Jensen, Miss Jackie Kelly, Ms King, Mr Laming and Mr Tanner

Members in attendance: Senators Hogg and Watson and Mr Broadbent, Mr Laming and Mr Anthony Smith

Terms of reference for the inquiry:

To inquire into and report on:

Review of Auditor-General's reports Nos 7 to 34 (2005-06)

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Committee met at 10.16 am

BOYD, Mr Brian, Executive Director, Australian National Audit Office

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PARRETT, Ms Mashelle, Executive Director, Australian National Audit Office

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ROBERTSON, Mr Neil, Branch Manager, Financial Framework Branch, Department of Finance and Administration

EVANS, Mr Harry, Clerk of the Senate, Department of the Senate

CHAIR (Mr Anthony Smith)—I declare open this public hearing which will take evidence on Audit report No. 28 2005-06: *Management of net appropriation agreements*. I welcome representatives from the National Audit Office, the Department of Finance and Administration and the Department of the Senate to this morning's hearing.

As usual, I ask participants to remember that only members of the committee can put questions to witnesses if this hearing is to constitute formal proceedings of the parliament and attract parliamentary privilege. If other participants wish to raise issues for discussion I would ask them to direct comments to the committee. It will not be possible for participants to directly respond to each other.

I remind witnesses that the hearings today are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and attract parliamentary privilege. I invite the department of finance to make an opening statement.

Ms Campbell—We were not going to make an opening statement, thank you.

CHAIR—Mr Evans?

Mr Evans—No, I am happy to run with the submission I have made.

CHAIR—Okay. We will have questions, starting with Senator Watson.

Senator WATSON—Could somebody advise me of the status of financial circulars in terms of enforcement et cetera?

Mr Robertson—These are guidance materials issued by the Department of Finance and Administration. Generally when we put them out they are a matter of best practice for agencies to adhere to, to the extent that they can.

Senator WATSON—Are you aware that agencies spend a considerable amount of resources in getting legal opinion as to how they can get around some of those financial circulars?

Ms Campbell—No, Senator, I was not aware of that. With respect to legal opinion, as it relates to the Financial Management and Accountability Act for example, agencies are supposed to come back under the legal directions and advise us when they are seeking legal opinion regarding the FMA Act.

Senator WATSON—Do they do that?

Ms Campbell—I understand they do, yes.

Senator WATSON—Which agencies have come back to you and in relation to what matters? Could you take that on notice.

Mr Loudon—We have quite a number of agencies come and seek permission to get legal advice, depending upon the matter and what area of the act. The act is quite broad in its coverage and so there are many areas in which they can respond. It is very difficult to cite particular examples.

Ms Campbell—We can take that on notice and come back to the committee.

Senator WATSON—My concern is that the FMA Act is just so general because it is an act in principles. It would almost appear that the time has come to put a bit more meat on the bones from a legislative point of view because there are so many circulars issued. For example, how many have been issued in the last five years?

Ms Campbell—I do not have that number with me.

Senator WATSON—Approximately?

Mr Robertson—I think it is approximately 40 or so.

Senator WATSON—So how do we always know—given the hundreds or thousands of communications that are received—that they are read, digested, understood and acted upon?

Ms Campbell—As well as distributing these messages via the financial circulars we also provide guidance to chief financial officers on a monthly basis in what is known as the CFO forum that Finance conducts. Generally, when a matter which is about to be part of a financial circular is ready for release that matter will also be discussed at that CFO forum, which allows the CFOs of all agencies to ask questions and to better understand what we are proposing.

Senator WATSON—Can you give the committee some minutes of those meetings so that we are familiar with the sorts of discussions that take place and what follows? Do all agencies, as far as you are concerned, have audit committees?

Ms Campbell—Can I just go back to the first question, Senator. There are not generally minutes of those meeting taken but there is an agenda published, so if we were to provide the agendas for the meetings for the last 12 months—

Senator WATSON—You have an agenda, but we want to know what the outcomes would be.

Ms Campbell—Generally, it is more of an information session. It is not a decision-making forum; it is more of an information forum where—

Senator WATSON—This is my problem: everything appears to be so generalised, so specific that in terms of efficiency and all these sorts of social responsibilities—apart from spending money in accordance with the directions of parliament and not exceeding the cap—we do need to look, from our point of view, at some of the wider issues apart from just those two very prescriptive arrangements. Admittedly it is all part of this devolved responsibility, but within that scope of devolved responsibility I think we are losing uniformity in terms of ensuring that common standards are applying to all Commonwealth agencies. This is what is worrying me. Just giving us an agenda shows, yes, you discussed a matter, but it does not tell the committee very much if we do not know what an outcome might be.

Ms Campbell—I imagine that we would suggest that once the financial circular is issued that is the outcome—that that guidance is provided to agencies, and agencies are expected to adhere to that guidance.

CHAIR—We have heard that you issue the circulars—and many of them—and that there is a CFO forum. Who are the circulars issued to? Are they issued to the Public Service at large or are they issued and forwarded to specific—

Ms Campbell—The circulars are forwarded to the contacts for each of the agencies who are covered by the FMA Act in this case.

Mr Robertson—Indeed, most of our circulars now have a line on the cover which identifies who we think is the target audience. In most cases it would be the chief finance officer.

CHAIR—So, going to Senator Watson's point on the specifics, how many contacts would you have—one for each agency or more than one, generally?

Mr Robertson—The primary contact would be through the CFO in most instances.

CHAIR—And they would be the same people who attend the forum?

Ms Campbell—Not necessarily. Sometimes, if the CFO is unavailable, they may send a deputy to the forum because they are obviously very busy people, but the formal guidance is provided to the CFO. It is then kept—do we keep them in one central place?

Mr Loudon—The finance circulars are on our internet site, so that they can be accessed at any time by any of the public servants.

CHAIR—How many CFOs are there on your distribution list?

Mr Robertson—We would have to tally that up, Senator. My understanding is that all FMA agencies would be on the distribution list.

CHAIR—How many FMA agencies are there?

Mr Loudon—Eighty-three at this point.

Mr Kaufmann—Plus CFOs of CAC bodies.

Senator WATSON—Do all agencies have an audit committee to ensure compliance with the financial framework?

Mr Robertson—Yes; they are required to.

Senator WATSON—Without exception?

Mr Robertson—Without exception. It is a requirement under the financial management and accountability legislation.

Senator WATSON—Will we have to go through each individual department or could you obtain for the committee minutes of a representative number from the internal auditors?

Ms Campbell—That would be an issue for each department and each chief executive officer.

Senator WATSON—So we would have to issue that to each of the 83 agencies.

Ms Campbell—The devolved nature of the framework—

Senator WATSON—What worries me is that they will send us the best copy rather than a representative one. That is why I thought it could be obtained from an authority such as yours who have responsibility for ensuring compliance with all these matters, so we could ensure that it was a fairly typical internal audit minute rather than the one at the end of the year which might appear to be a little bit more comprehensive than most.

Ms Campbell—The audit committees are a function of each of the chief executive officers of the agencies.

Senator WATSON—I want the minutes, firstly, of the internal auditors about what they have done, what they have recommended and, secondly, of the audit committees, which you tell me are now required of all the 83 agencies. Thirdly, I want copies of the fraud control plan for each of the agencies.

Ms Campbell—Are the audit minutes you are seeking with respect to this audit, or is it more general?

Senator WATSON—In relation to the discharge of their operations.

Ms Campbell—We do not have that compliance role.

Senator WATSON—I know. I want to look at, from the point of view of our committee, what sort of records they are keeping, how broad they are and how much detail they go into. Also, I am interested in how often they report.

Ms Campbell—We would have to take that on notice. We do not have access to that information. I am not sure that we have the capacity to provide it.

Senator WATSON—If you cannot get it, we will have to write directly to the people or we might even have to ask the Audit Office to give it to us. I think the time has come, because there is so much concern resulting from this audit report about noncompliance, that perhaps we as a committee have got to start digging deeper in terms of what is there.

Could you give us your opinion as to whether the FMA Act, a principles act, needs to be more specific to cover more of the framework that is manifested in terms of your finance circulars? It appears that these circulars do not have enough teeth. How are we going to give it more authority? One method, of course, is to have it as an act of parliament or a regulation of the parliament. While you have a responsibility for maintaining the framework, you do not seem to enforce your framework. That is the concern that I have. Could you respond to that.

Ms Campbell—The FMA Act is a principle based act. That was decided by government—that that was the appropriate mechanism to allow chief executive officers in a devolved environment to execute their responsibilities.

Senator WATSON—It is clearly not working.

Ms Campbell—We have, in recent times, noticed that there have been a number of areas of noncompliance with the FMA Act. We have addressed this in a number of manners. One is the issuing of financial circulars to provide guidance to agencies. Secondly, we have increased the training available to agencies to understand the operation of the FMA Act. Thirdly, we are currently considering whether the FMA Act is a little too complex; whether, for example, with section 31 there are easier ways in which to achieve the objectives without setting up a mechanism such as agreement making, which, in this case, has clearly identified a number of issues in the late nineties. So we are, as part of what we are calling a simplification task force on the financial framework, considering a number of elements of the FMA Act—primarily, where agencies have got themselves into trouble, whether there are simpler mechanisms of achieving the same accountability and transparency to government, without the same complexity that has gotten people into a little bit of trouble.

Senator WATSON—It took you until August 2004 to issue your first section 31 circular and it has since been revised.

Ms Campbell—I think we did issue a circular back in the late nineties to identify how the section 31 agreements should be made. I accept that there was not a circular between the late nineties and 2004 and, as I said, we have identified the need for more financial circulars and more guidance for agencies in their application of the FMA Act. We are continuing to produce those circulars. But we are trying to attack it from both ends, to make sure that people are informed and know how to use the FMA Act but also to see if there are opportunities for simplification whilst providing the same level of transparency.

Senator WATSON—Yes, I accept all that you have said, but you have not answered my question, and that is: should we be more specific about the wider requirements under FMA and should that be spelt out in a legislative or regulatory form that parliament is responsible for?

Ms Campbell—Senator, this is obviously a matter for government.

Senator WATSON—I know. We are seeking some guidance.

Ms Campbell—It is a matter for government and there are dual—

CHAIR—But as an agency that advises government—

Ms Campbell—I think this would obviously be one for the Minister for Finance and Administration to ultimately have a view on. We have identified that there are shortfalls, and the audit reports coming out of the ANAO have identified a number of areas where there was possibly insufficient guidance and that agencies have got themselves into trouble. Our view is it is the complexity that has not assisted in this process. We are addressing that complexity and providing advice to our minister on what may be simpler ways, whilst maintaining the same level of transparency, to increase that accountability.

Senator WATSON—Perhaps you might like to convey to your minister, seeing that you cannot convey it to us, that the committee is rather unhappy about the discharge of the responsibilities and adherence to the FMA Act in terms of what we consider should be its wider responsibilities.

Ms Campbell—Yes, Senator.

Senator WATSON—Thank you.

Mr BROADBENT—Have we identified here a problem with communication like emails? People get thousands of emails and they say, ‘There is another email.’ I know you have your meetings but can’t you just send a letter out too?

Ms Campbell—On those very important, high-level issues the Secretary of the Department of Finance and Administration writes to his colleagues bringing to their attention the financial circulars. We will be increasingly doing that, and we have increased doing that as the ANAO have identified some of these shortfalls.

Mr BROADBENT—Are they a personally addressed letter or are they just a circular?

Ms Campbell—It is a personally addressed letter to the chief executives of the agencies. They are all the same letter.

Mr BROADBENT—Do they write back to you?

Ms Campbell—Often they do. Often chief executives will write back—

Mr BROADBENT—Saying that they have put in place the—

Ms Campbell—They do not write back saying that they have put in place, but they do raise with us issues that may be more challenging for various agencies.

Mr BROADBENT—Do they say to you: ‘We have checked our delegation of authority and really we are spot-on?’

Ms Campbell—No, they do not write back in that manner. But the government has agreed to introduce what is known as a compliance certificate with which we will ask each chief executive, at the end of each financial year, to certify that they have put in place controls and mechanisms to ensure compliance with the FMA Act.

Mr BROADBENT—Some are good and some are not. What is the problem with those that seem not to get this?

Ms Campbell—In respect of this audit? There are a number of reasons why different agencies had difficulties that were identified through this audit. Going forward, a number of agencies, since a lot of these issues originated back in the 1990s, have put in place professional chief financial officers with a clear focus and a clear reporting line to the chief executive. There has been a higher degree of awareness of the importance of financial management, particularly as the audit reports in recent times have identified issues with compliance, which is why the compliance certificate has been instigated where CEOs will be required on an annual basis to sign off that they have in place controls and mechanisms. We believe—having consulted with chief executives over the past 12 months on this certificate—that it has heightened their awareness, that they are very much involved with ensuring that the control mechanisms are in place and building those control mechanisms with the assistance of their audit committees.

Mr BROADBENT—In your own department, do you have an instrument of delegation?

Ms Campbell—We have chief executive instructions and we have delegations to various officers within the department.

Mr BROADBENT—Is there a level that delegation goes to and stops?

Ms Campbell—I am just trying to recall ours. There are different delegations to general managers, which are generally deputy secretaries, to the first assistant secretaries.

Mr BROADBENT—So if you were part of that stream of delegation, you would have an instrument in your hand to say, ‘I have the authority to sign off on this appropriation’?

Ms Campbell—In general terms, yes. The section 31 agreements were not often used. They were relatively rare in an agency's day-to-day dealings. They were therefore not as regularly referred to, for example, as procurement might be, where an agency is procuring on a regular basis and they are aware of the authority to which they are delegated in that manner. Obviously now, with the hype following the audit and even leading up to the audit, agencies who execute section 31 agreements have a much higher awareness of the responsibilities and requirements under those agreements.

Mr BROADBENT—Do you think that people are actually taking this more seriously now?

Ms Campbell—The section 31 agreements they are taking far more seriously. We in Finance have implemented a number of procedures to ensure that the agreements are appropriately signed. We sight the delegation from the other party, for want of a better term, before it is signed off. Internally we ensure that the appropriate delegate only is able to sign off. We do not encourage, if that delegate were on leave, the person stepping into that position to sign off; we ask for it to be escalated to the general manager of budget group, for example. We also then have an additional function where my group, the Financial Management Group, checks these agreements to ensure that they have been executed in an appropriate manner. They are then registered on the—

Mr Robertson—Federal Register of Legislative Instruments.

Ms Campbell—So this is a very thorough process, and we have another party to ensure that that goes through. So we have taken this incredibly seriously and ensured that the shortfalls that have been identified have been rectified.

CHAIR—In terms of the heightened awareness, what steps is Finance planning to take to follow up with those agencies that had a deficiency as identified by the audit report?

Ms Campbell—Since before the end of the financial year—and I think it is identified in the audit report—we cancelled all of the section 31 agreements that had been established before 1 July 2004 and we reissued and renegotiated with agencies section 31 agreements that will comply with the legislative requirements.

Senator WATSON—My question is directed to the Clerk of the Senate, Mr Harry Evans. Issues that I have raised with the department of finance I believe are symptomatic of wider compliance and responsibility issues, some of which you raise in your submission. Could you respond to the sorts of concerns and perhaps solutions that I have suggested that the department of finance is rather reluctant to comment on? I think you have a responsibility from a parliamentary perspective to ensure that there is proper parliamentary oversight of what is going on.

Mr Evans—I think that what Senator Watson's questions are directing attention to is a problem arising from the decentralisation of financial controls—that departments are largely left to their own devices as to their compliance with the act and their putting in place of proper financial controls. The solution that you are tending to point to is more centralised control and direction as to the financial controls that should be put in place.

Senator WATSON—That is to ensure an even compliance across all agencies, which I think we have departed from.

Mr Evans—Yes, and that would be to some extent a reversal of the decentralisation of responsibility for these matters. You would be going back on the system of decentralisation that has been put in place for some years. That, from a parliamentary perspective, would be no bad thing. If you know that the central department has a greater role in laying down compulsory procedures which must be complied with from the point of view of financial control, then probably you would get fewer audit reports of the kind that you are looking at now and fewer problems that you would have to inquire into later. But it would be a reversal of the decentralisation which has gone on over many years.

There is another problem that I have drawn attention to in my submission: namely, that the financial system we have in place now allows departments a number of different sources of money, of which net appropriation agreements are just one. Where you have a lot of different sources of money coming into or accruing to an agency it is much easier to lose control, for controls to become lax and the various areas of sources of funds not to be kept control of as they should. That is a bigger problem still.

Senator WATSON—Do you think the department of finance still has enough control because of this so-called laxity?

Mr Evans—That is going back to the decentralisation problem. As I have said, I think it would be helpful from a parliamentary point of view if there was a greater degree of prescription on the part of the department of finance than there has been under the decentralised system over recent years.

Senator WATSON—So you are suggesting that perhaps it is greater prescription from the department of finance rather than more prescription in the FMA Act itself?

Mr Evans—In order to bring about that greater degree of prescription, I think you would have to amend the FMA Act because the FMA Act is very much based on that decentralised model.

Senator WATSON—Along what lines would you suggest, without going completely back to the old system? We really do have to have a standard across all public sector agencies. Who is going to be responsible for setting that standard if there is so much discretion given to each individual agency leading to the sorts of reports that we have been getting of late?

Mr Evans—You can undertake the steps to see that all agencies are fully informed about the controls that they should be maintaining and the standards they should be keeping, but there is no guarantee that all 80-odd of them will always keep up to the standard. I think a greater degree of prescription would help to bring that about. But I was slightly disturbed to hear that the FMA Act is going to be simplified. I thought it was pretty simple as it was, particularly in relation to net appropriation agreements—for example, all the department had to do was to get a couple of delegates to sign an agreement and stash it away in the file, you then had an agreement in place and you could retain whatever revenue it applied to. I would have thought that was pretty simple. I do not know how it could be simplified any further than that.

Senator WATSON—Does that require any parliamentary oversight?

Mr Evans—No. The point I have drawn attention to is that although technically the money is appropriated by parliament, in reality that is not so. Parliament has not approved of the purposes for which departments are to have this money, the occasions on which they are to keep revenue and the purposes for which they have it. In reality there is no prior parliamentary approval of all that money being available to departments, which is a bigger problem than just the lack of central control problem.

Senator WATSON—Mr Meert, could you respond on behalf of the Australian National Audit Office?

Mr Meert—As we have said before, it is not our call to talk about the legislation per se; it is our role to audit it. In terms of the issue for agencies in this particular case, section 31, it was pretty clear: you have the delegation or you do not. I think that was the point with Finance. If you are going to amend a whole piece of legislation, one of the things you have to determine is that you do not make it overly complex in itself and then you go back to making more guidance to explain what is in the new legislation. I do not think it is an easy debate.

Senator WATSON—But we have to reduce the number of the sorts of reports that you are issuing. At the moment there is noncompliance and there is concern in our committee to ensure that there is regularity and adherence to the highest of professional standards and compliance.

Mr Meert—But the base question, if you do not have compliance, is to find the reason for noncompliance and whether that is that the legislation is too complex or whether people have, over the years, lost sight of the need to comply with it.

Senator WATSON—Maybe the Finance circulars are too complex and that is why they are having to go out and get legal opinions.

Mr Boyd—It also depends on your the definition of what is complex and what is simple. Broad, principles based legislation can, on the face of it, be seen as quite simple. As the Clerk of the Senate pointed out, there is not a lot in section 31 to read and misunderstand. But in that simple framework what can become complex is that there is so little that is clear—there is a lot of guidance, there can be a lot of advice, but it is not so clear as to exactly what I can and cannot do because there is so much that is unsaid, if you will. That is where a simple piece of framework legislation can be quite complex in its administration.

Senator WATSON—We have run into the same problem in the financial services area where we have an in-principle act and when you come to product disclosure statements the lawyers have got to it and we have 70 or 80 pages of unintelligible guff that people cannot understand. It is all very well to say we have simple legislation—which provides a marvellous opportunity for lawyers to put their own interpretations and issue their own safeguards, so far as the agency is concerned, in accordance with what the masters asked for in those instructions. As a committee we really have to look at the issue: has in-principle legislation gone too far, as manifested in some of your reports, or do we go along with it and try and issue more and more meaningful Finance circulars?

Mr Boyd—Indeed, and we have seen evidence of that. You can look back to the special appropriations audit report, where four agencies are administering the one piece of legislation and three of them took starkly different approaches to exactly the same piece of legislation because it was so broad in what it said.

Senator WATSON—Precisely. That is the core of my argument, that we do need to have a prescriptive standard, and maybe we might have to call in the external accountants to provide some guidance.

Ms Campbell—I would like to respond on the simplification issue and the idea we had in mind. A number of section 31 agreements deal with agencies receiving moneys such as when a staff member transfers from one department to another bringing their leave entitlements, or when they sell small assets like computers, desks and things of that nature—minor cost recovery items. We believe that it may be easier for those agencies who have a generic type section 31 agreement to have a determination that allows them to use those funds that they receive for expenditure as identified in the appropriation bills, but for those agencies who have more complex requirements we would still have a section 31 agreement. If that could take out the bulk of them and just leave a handful for which there needed to be a section 31 agreement, we see that as a simplification and a way to ensure that agencies do not get themselves into compliance issues. That is what we meant by simplification.

Senator WATSON—That is the most constructive thing we have heard so far, Mr Chairman.

Ms Campbell—I would like to address the issue that these agreements are not approved by parliament. The parliament has approved the current net appropriation mechanism which is provided for in the FMA Act 1997. Prior to that, there was, under section 35 of the audit act 1901 as amended in 1969, a mechanism to allow agencies to receive these types of funds and to spend those types of funds, so it is not something that is new. Annual appropriation items are marked 'net appropriation' by the net appropriation provisions in the annual appropriations act—for example, section 10 of Appropriation Bill (No. 1) 2006-07. This does provide parliament with a recurring opportunity to scrutinise net appropriation agreements.

Finally, I would like to mention that the Minister for Finance and Administration has written to the chair of this committee indicating that in the future when an ANAO report comes out with an identification of a framework type issue where there has been a failing or a problem with the framework, the Secretary of the Department of Finance and Administration will write to his colleagues, pointing this out to them and pointing out their responsibilities in dealing with the shortfalls that are identified and, should it be warranted, the Minister for Finance and Administration will write to his colleagues. That is a closing of the loop to ensure that awareness is raised on these issues once the ANAO has reported on them.

CHAIR—Thank you very much.

Mr BROADBENT—Hasn't the system actually worked quite well—the overall system? Obviously, the internal audit people were not looking for this issue. They were looking for dollars and cents and at both sides of the ledger. It comes through the next section, it has now come through to the parliament and back to the Audit Office and then to this committee, so hasn't our overall system actually worked?

Mr Evans—I suppose you can say it has in so far as the parliament relies on the Audit Office to pick up these problems and draw attention to them and, with a bit of luck, bring about action to fix them. But, as Senator Watson said, you have had a series of reports by the Audit Office saying there has been non-compliance, illegalities and problems of that sort. You have an underlying problem, and the Audit Office cannot report on everything all the time. There is still some concern with the underlying problem. You might pick up what is happening with net appropriation agreements and what happens with special appropriations and so on every now and again when the Audit Office has a go at them, but then the underlying problem remains. I think part of the underlying problem is that the financial system provides departments with several different sources of money, and it is very easy to forget about one of them, like special accounts. Some departments were surprised to hear that they had special accounts because they had forgotten about them.

CHAIR—Ms Campbell, did you have anything further? Does the Audit Office have anything further?

Ms Campbell—Obviously, with a prescription versus a devolution, it is about delivering services to the Australian people. We believe that the current mechanism does allow that flexibility for chief executives to be able to deliver those services and outcomes whilst still providing a level of transparency and accountability. We are working in that three-pronged attack of simplifying the process, informing agencies of their responsibilities and also asking chief executives to be accountable for the control frameworks that they are putting in place and by asking them on an annual basis to sign off that they have done that.

Mr BROADBENT—Didn't you say before that you were not responsible for other agencies? Are you responsible for other agencies, or are you not responsible for other agencies?

Ms Campbell—We are responsible for the framework—establishing a framework that the agencies operate within. The agency chief executive is responsible for their financial management. We are building structures and frameworks to facilitate that process, to ensure that issues like this do not arise again and to give agencies the tools with which to ensure that they comply with the FMA Act.

Mr BROADBENT—So it is all work but no responsibility?

Ms Campbell—I would not say it is no responsibility. We regularly appear—

Mr BROADBENT—I am just trying to get my head around this. You are Finance and Administration. I would have thought that, yes, you prepare the framework and you say, 'Here it is; this is what we would like you to put in place.' But after that you are not interested?

Ms Campbell—I do not think it would be an accurate reflection to say that we are not interested. We are very interested, but the devolved framework allows chief executives to be responsible for the financial accountability of their organisation. It is up to us to develop, implement, train and advise on a framework that allows them to do that in an efficient and effective manner. We are working with agencies to ensure that the framework does allow them to do that. Each agency is accountable to their minister and to the parliament, through the chief executive, for their financial management.

Mr BROADBENT—I would have thought Finance actually had a responsibility for the orderly conduct of the finances of the parliament. Or have I misunderstood the role and responsibility of Finance? Perhaps this is for another time.

Ms Campbell—Finance has a responsibility for the efficient and effective financial management of the Commonwealth. It has been devolved, through the FMA Act, to chief executives to run the financial operations of each of their agencies. We provide guidance, we provide the framework and we provide assistance to facilitate that process. We have now indicated to the Minister for Finance and Administration that once an audit report is received there will be a follow-up loop to remind agencies of their responsibilities when reports of this nature are published.

Mr BROADBENT—So you do not get any feedback as to whether the framework that you have put in place is being adhered to?

Ms Campbell—We do get that, because we will be doing the compliance certificate. The compliance certificate, which each chief executive will sign off to their minister, will also be copied to our minister and we will review those compliance certificates. We believe those compliance certificates will allow us to identify where there are either systematic problems or agency specific problems and be able to assist the agency in overcoming those problems.

Mr BROADBENT—But they have been writing to you for years under other instruments saying, ‘Everything is all right—we have ticked off on this, so we have complied.’

Ms Campbell—They report back via a number of mechanisms, including their annual reporting, which is audited and provided to the parliament. It is fair to say that there has not been the focus on the compliance issues that we are now focusing on, as these audits which have been identified have suggested some problems. That is one of the reasons why we have instigated the compliance certificate as a mechanism for a chief executive, through his or her management and audit committee, to provide advice to their minister that they have been complying with the appropriate legislation.

Mr BROADBENT—This amount of money is only less than one per cent of the Commonwealth outlays. Are there real problems in the other 99 per cent?

Ms Campbell—No, I do not believe so. We believe that the framework allows the appropriate level of accountability and transparency to the parliament. The numbers identified are over a period of a number of years and they identified three categories of where there were problems with agreements.

Mr BROADBENT—But, actually, you would not know whether there is a problem in the other 99 per cent because there has not been—

Ms Campbell—The financial statements are audited. That is a question that you might want to ask the ANAO. But the accounts of each agency are audited on an annual basis.

Mr Boyd—Just to clarify one thing: yes, the section 31 is a small amount, but more than 80 per cent of Commonwealth revenues go through special appropriations, which we did an audit of

more recently. That found some rather widespread shortcomings. There are a number of ways in which moneys come into the Commonwealth and, as the Clerk of the Senate pointed out, there are also a number of ways in which funds are spent from the consolidated revenue fund. We have now audited, through various audits of, say, special appropriations, more than 80 per cent under section 31—a smaller amount but quite an important amount. So I think we are already covering off a rather large portion of the outlays that come through appropriations, and we have found shortcomings in each of those audits. It would be fair to say that we do not have a great deal of confidence that agencies have actually been discharging their responsibilities, in the broad, across how they are spending money from the consolidated revenue fund.

Ms Campbell—Obviously, when we receive these audit reports, we work with agencies and we work with the framework to put in place mechanisms to address those issues, and we have done so on those other audits as well.

Mr BROADBENT—How did Finance come up when you looked at your own?

Ms Campbell—With respect to the section 31 audit, we did identify some issues that had occurred within the finance department. We have put in place mechanisms to ensure that does not happen again. They were in the late 1990s so we have worked to ensure that there are no shortfalls again.

Mr BROADBENT—So every agency has found some flaws.

Ms Campbell—Not every agency, but there were a number of agencies identified in this report where there were shortfalls. There is no suggestion that the money was spent illegally, that agencies were not acting in a manner that they thought was legal, but we found that, in reality, the people who had signed these agreements were on a number of occasions not authorised, and on a number of occasions there were not agreements in place. If we look at the category of agreements that were not in place, I think the figure is \$1.6 billion. Of that \$1.6 billion, \$1.5 billion related to the section 31 agreement with Centrelink. Centrelink had received the money from the then Department of Family and Community Services and did not have an agreement in place. The money had been appropriated to the Department of Family and Community Services for Centrelink services, but the transaction of moving the money from FaCS to Centrelink was not covered by a section 31 agreement. That in itself accounted for \$1.5 billion of the \$1.6 billion in that category of agreements not in place.

Senator WATSON—The Clerk of the Senate highlighted a very important point when he said the Audit Office only has an opportunity to look at some aspects of the administration of these sorts of issues; therefore, it is very important that, having acknowledged those problems, you are going to fix not just the matters that have been referred to by the Audit Office, but right across the spectrum for the other 82 agencies. So it is a bit of a patchwork approach that worries me. We look at a lot of these sorts of responses. In fact, the responses today remind me of the Department of Defence's typical response—acknowledging the problem, 'We've fixed it, we'll do better in the future,' but the overall point does remain in the audit conclusions that—and I quote:

Overall, this audit has revealed quite widespread shortcomings in the administration of net appropriation arrangements—

That is pretty severe language, as far as I am concerned, as a member of this committee. It continued:

In particular, there has been inadequate attention by a number of agencies to their responsibility to have in place demonstrably effective Section 31 arrangements that support additions made to annual appropriations and the subsequent expenditure of those amounts. Given the fundamental importance of appropriations to Parliamentary control over expenditure, improvements are necessary

Then it goes on to talk about the fact that, yes, you are fixing up one or two things by way of circulars. But the message to our committee is not very reassuring, I can tell you. You wait for the calamity to happen. It is a bit like ASIC's approach in relation to Westpoint. You wait until millions of dollars have been lost and then issue your circular and say, 'We hope that won't happen again.' True, it will not happen to Westpoint again, but it might happen to a lot of others again. That is the sort of scenario that we are facing in reading and interpreting the Auditor-General's reports.

CHAIR—Ms Campbell, you can take that as a question.

Ms Campbell—Can I respond by saying how we are approaching both what is identified in the audit reports as well as the entire framework. I think I mentioned before the three-pronged attack, which, firstly, is looking at the framework and identifying areas which are likely to get agencies into trouble because of the complexity and trying to come up with a simpler way of providing the accountability as well as the transparency. Secondly, it is to enhance our financial circulars so that we do write easy-read documents, that we road test them with agencies so that they can understand those documents. Thirdly, it is putting the chief executives of each agency on notice that this is a very important issue and asking them to sign off on an annual basis that they have controls in place and they are advised by their management committee and their audit committees that they have complied with the FMA Act. Finally, it is worth noting that the Audit Office has stated it will be looking at legislative compliance in the future as part of its audits.

Senator WATSON—Where is the penalty regime to support what you are doing?

Ms Campbell—The penalty regime—and I think we may have mentioned this at other committee hearings—is the responsibility of the chief executive officers of each agency when there has been a breach of the requirements. That is one of the reasons why Senator Minchin has indicated that, once these reports are issued in the future, the secretary will write to his colleagues, or the minister will write to his colleagues should it be appropriate, bringing to their attention the issue that was identified in the report and reminding them of their responsibilities under the act.

Senator WATSON—There is no corporations type penalty; it is just a friendly letter.

Ms Campbell—I do not think it is a friendly letter. Often agencies do not consider letters from Finance to be that friendly. They do take them quite seriously, they are not keen on getting them and they do realise that we are taking a very serious approach in this matter.

Senator WATSON—Do we need a penalty regime to ensure enforcement? You cannot answer, so we will ask the Audit Office.

Mr Meert—I thought there was. If you breach your obligations under the Public Service Act and you are investigated for failing to meet your duty of care, I think there is a penalty regime there. It is not that the process is not there—the Public Service Act, the Financial Management Act and the penalty regime are there; it is just a matter of dealing with it and using it.

Senator WATSON—And compliance.

CHAIR—Would you agree, Ms Campbell, that this audit report has resulted in the Public Service having a heightened awareness of this issue?

Ms Campbell—Certainly, Chair, I would agree with that.

CHAIR—On that note, I think we will wrap up. The committee may well have additional questions on notice to put to witnesses which the secretariat would forward to you if that were the case. On behalf of the committee, I would like to thank you all for attending today at our public hearing.

Resolved (on motion by **Mr Broadbent**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 11.07 am