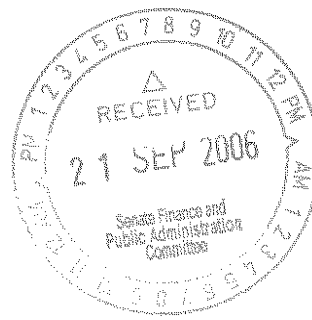




AUSTRALIAN SENATE

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21 September 2006

Mr Alistair Sands
Secretary
Finance and Public Administration Committee
The Senate
Parliament House
CANBERRA ACT 2600

Dear Mr Sands

**TRANSPARENCY AND ACCOUNTABILITY OF
COMMONWEALTH PUBLIC FUNDING AND EXPENDITURE
RESPONSE TO HEARING ON 8 SEPTEMBER 2006**

This note is to respond to matters raised at the hearing of the committee on 8 September 2006, particularly the discussion in the hearing about further assistance which could be provided to senators and committees to assist them to scrutinise significant measures affecting accountability of funding and expenditure. Some other observations arising from the hearing are also made.

Additional assistance to senators and committees

In accordance with the undertaking given at the hearing, my colleagues and I have given consideration to additional staff assistance which could be provided to senators and committees in the area of accountability of public funding and expenditure.

Occupants of particular positions in the Senate Department will be given explicit responsibilities for drawing to the attention of relevant committees particular funding and expenditure matters, as follows.

- (1) **Special appropriations.** The attention of the Scrutiny of Bills Committee (which already looks out for them), the Finance and Public Administration Committee and the legislative and general purpose standing committees with oversight of the relevant subjects will be drawn to new or amended special appropriations in bills, with any relevant explanatory material and any other significant relevant information about the provisions.

- (2) **Special accounts.** The attention of the Scrutiny of Bills Committee, the Regulations and Ordinances Committee, the Finance and Public Administration Committee and the relevant standing committees will be drawn to bills or instruments creating or altering special accounts, with any relevant explanatory material and any other significant relevant information about the provisions.
- (3) **Advance to the Finance Minister.** The attention of the Finance and Public Administration Committee and the relevant standing committees will be drawn to determinations and annual statements of expenditure under the Advance to the Finance Minister, any relevant explanatory material and any significant relevant information.
- (4) **Outcomes.** The attention of the Finance and Public Administration Committee and the relevant standing committees will be drawn to any significant changes of programs and projects between outcomes, unusual or unexplained allocation of programs and projects to outcomes, and other unexplained expenditures, for example, allocations of funds for decisions not taken.
- (5) **Ordinary annual services.** The attention of the Appropriations and Staffing Committee and the relevant standing committees will be drawn to expenditures from Appropriation Bill (No. 1) (the ordinary annual services bill) for matters which do not meet the test for ordinary annual services established by the Senate's resolution and reports of the Appropriations and Staffing Committee.

Given the opaque character of portfolio budget statements, tasks (4) and (5) could not be performed to anything approaching a comprehensive coverage. It will be a matter of detecting occasional relatively obvious problems. It will also be a matter of discovering relatively few items in a large volume of material, looking for iron nuggets amongst the slag, as it were. Attached is a sample of the kind of item which will be pointed out, showing the process required and illustrating the degree of difficulty involved.

In performing these tasks, relevant material in Audit reports will be drawn to attention.

The committees concerned could decide whether to seek further explanation of, or to investigate, particular matters drawn to their attention. Individual senators could also decide whether to pursue those matters in the course of estimates hearings.

It is not envisaged, however, that any further examination of particular items would necessarily be linked to the estimates cycle. The portfolio budget statements appear almost immediately before the main budget estimates hearings, and there would often not be time to detect relevant items before the hearings occur. It would be more practicable for the committees to examine the items drawn to their attention in subsequent estimates hearings or

in their examination of annual reports and the performance of departments and agencies under standing order 25(2) and (20).

It is also not envisaged that all items drawn to the attention of committees will be worthy of further investigation. It may be that in many cases the interests of transparency will be sufficiently served by committees simply being aware of the particular items.

These alerting mechanisms are not regarded as a substitute for changes which could be made to improve reporting and parliamentary scrutiny. For example, committees could ask departments and agencies to alert them to any of the listed matters in their areas of responsibility, and to identify those matters in the documentation.

Measures to support scrutiny are also not a substitute for legislative changes which could be made to reassert the parliamentary process of approval of appropriations and their purposes. Improved scrutiny may eventually be, however, the avenue to better approval processes.

Response to other matters raised during the hearing

As with the written submissions provided to the committee up to that date, the oral evidence provided to the committee on 8 September 2006 did not give rise to any appropriate modifications of either the written submission or the oral evidence presented by the Senate Department.

There may be some value, however, in reiterating briefly the theme of the submission. The submission deals with parliamentary processes, which have always been quintessentially the subject of information and advice provided by Senate officers. The parliamentary processes involved are those concerned with Parliament's and the Senate's central function of approving and scrutinising public funding and expenditure. The effectiveness of those parliamentary processes is profoundly affected by the nature of the system of funding and expenditure determined by government. The fact that government determinations affect parliamentary processes does not alter the appropriateness of a consideration of the effectiveness of those processes.

The submission's main purpose was to draw attention to certain incontrovertible facts affecting the parliamentary processes. Those facts are:

- (1) Annual appropriations now amount to less than 20 per cent of all Commonwealth public expenditure, and the remainder is scattered through a great variety of statutory provisions, most not subject to regular parliamentary approval.
- (2) There are other sources of funds, as listed in the submission, either not subject to regular parliamentary approval or not subject to parliamentary approval at all.

- (3) In spite of section 81 of the Constitution providing that all revenues or monies raised or received by government “shall form one Consolidated Revenue Fund”, there is now no identified fund called the Consolidated Revenue Fund.
- (4) Annual appropriations have been, and legally may be, spent on outputs not mentioned in either the appropriation bills or the portfolio budget statements.
- (5) Programs or projects are not identified by outcomes, expenditure on the same program or project has been, and legally may be, shifted from one outcome to another in the course of a financial year, and some expenditure for a program or project is charged to one outcome and some to another.
- (6) Money appropriated for the ordinary annual services has been spent on purposes for which no money has been appropriated in the past and on new policies.
- (7) The Audit Office has commented adversely on the administration and management of special appropriations, revenue retention agreements and special accounts, and has drawn attention to the matters referred to in items (5) and (6).

The conclusion drawn by the submission is that items (3) and (6) are contrary to past prescriptions, and others are contrary to past parliamentary processes and measures for appropriate parliamentary approval and scrutiny, some of great antiquity. All of the items add up to a serious weakening of parliamentary approval and scrutiny of public funding and expenditure. It is difficult to see how this conclusion could not be drawn. If the conclusion is disputed, however, the facts remain.

The focus of the submissions of the Senate Department is on the facts and the issues arising for proper parliamentary processes.

I would be happy to assist the committee with any further advice or information it may require.

Yours sincerely



(Harry Evans)

ATTACHMENT

Identifying expenditures from Appropriation Bill (No. 1) which do not meet the Senate's tests for ordinary annual services—an example

Budget documentation for the Employment and Workplace Relations Portfolio was examined for examples of expenditure wrongly classified as ordinary annual services.

Budget Paper No. 2 (*Budget Measures 2006-07*), Part 2 (Expense Measures) under the EWR portfolio produced an example of an obviously new item of expenditure that could not be described as a continuing activity:

Cyclone Larry – wage assistance programme (for which M\$37.4 was appropriated in 2006-07) (see page 168 of Budget Paper No. 2 for a description of this temporary wage subsidy to enable cyclone-affected farms and businesses to keep workers on for clean-up and re-establishment work and help prevent an exodus of such workers).

This expenditure was located in the 2006-07 PBS for DEWR to identify the outcome it was listed under and, if possible, the bill it was attributed to. Table 3.1.1 – Total resources for outcome 1 (\$'000) (pp. 44-5) listed it as an administered appropriation under outcome 1 and also revealed there had been expenditure in 2005-06. Table 2.5 – Estimates of expenditure from special appropriations (p. 35) revealed that the subsidy was not funded from a special appropriation. Its source was, therefore, either the No. 1 or the No. 2 bill, but according to Budget Paper No. 4 (*Agency Resourcing 2006-07*) (p. 301) there was no expenditure for administrative items under outcome 1 appropriated by the No. 2 bill. The special cyclone wages subsidy had therefore been funded as an ordinary annual service. The 2006-07 expenditure may nevertheless have been correctly classified in accordance with the Senate's test for ordinary annual services provided that it had been included in the No. 2 bill for its first appearance in 2005-06. It was not.

Although the wages subsidy was new and one-off expenditure in response to a natural disaster, it first appeared in Appropriation Bill (No. 5) 2005-06, a supplementary additional appropriation bill for ordinary annual services (this bill was not treated by the Senate as an ordinary annual services bill). It had been incorrectly classified from the beginning.