

## **ANAO Questions on Notice: First Question**

**Senator MURRAY**—Mr McPhee, I am appreciative of the submissions and so on, but I want to ask questions with respect to improving the senators' ability, in particular, to pursue better examination of the financial issues we are discussing and heightened ability and accountability. I have great respect for what many senators do and achieve through estimates and other processes but many of us are still underinformed as to areas where we could be more aggressively forensic, if I can put it that way.

I am aware of the Auditor-General's close and professional informal relationship with DOFA and many other agencies. In other words, you constantly discuss matters of common audit interest and seek to improve processes and arrangements. That constant interaction is very productive of better government. However, that same interaction is not present with the parliament. You have a professional and regular interaction with the Joint Committee of Public Accounts and Audit but otherwise my experiences, mostly with respect to the Senate committees and senators, are that it is a question of delivering your reports and attending hearings such as these.

Do you think that you could transfer to parliamentary committees some of the mechanisms you use as an agency to interact with government agencies on matters that concern you—particularly prior to estimates hearings—so that effectively, either in writing or by personal interaction, the committees and their members are more focused on particular issues of either considerable thematic or specific concern to the Auditor-General? Can you make us more effective?

**Mr McPhee**—Senator Murray, I appreciate the very special relationship that my office and I have with the parliament, and if there is anything that we can do to assist then we would be more than willing to look at it. I know the suggestion that you are making has come up previously—more generally, the idea of having committee meetings with agencies ahead of Senate estimates, to get a greater understanding in order to allow senators who have particular interests to pursue them ahead of the formal processes of the committee.

## **ANAO Response**

Due to its broad mandate, the ANAO is in a unique position to observe public sector administration — what works and what doesn't. We are also conscious that not many people have the time to read our reports from cover to cover. This includes many Parliamentarians.

In this context, there are a number of ways in which ANAO can assist Estimates Committees perform their role. ANAO currently responds to requests from individual Members of Parliament and particular Committees for briefings on our work, usually performance audit reports tabled in the Parliament. These reports, and briefings, can assist Senators prepare for Senate Estimates. Options for a more structured approach could include:

- The Auditor-General and senior staff could provide a briefing for the Committee on contemporary issues influencing public administration. There

may also be advantages in the Department of Finance and Administration also participating in any such briefing, but that would be a matter for that Department and its Minister.

- We could produce a synopsis of recent audit activity for each portfolio including a summary of recent performance reports tabled in the Parliament and major issues that arose in the audit of the most recent financial statements. This would ensure the Committee was aware of ANAO's audit activities on a portfolio basis. We could supplement this approach with additional briefing for the Committee or individual members.
- ANAO currently produces a newsletter for agencies titled "Auditfocus". This newsletter seeks to capture some of the lessons from our audit work that are likely to be of general interest and application, and in this way make a positive contribution to better public administration. A similar document could be produced for Estimates Committees.

## **ANAO Questions on Notice: Second Question**

**Senator MURRAY**—The second question I have relates to enforcement. I am not sure if you were at the hearing when I questioned DOFA on this matter. I am appreciative of two things: firstly, a very high professional standard that that department exhibits; and, secondly, of course, their inability to respond to questions such as I put to them because of the policy component that lies therein. The Audit Office, however, as an independent body can be more forthcoming.

My impression is that the public sector has tackled the issue of enforcement with respect to conduct of public sector personnel through the office of the Public Service Commission. They have in many respects characteristics of a regulator but it is largely with respect to conduct. I have wondered whether some mechanism like that—what I call an ASIC type body but never with that reach and scope; I am looking at a more limited body—is possible to fill what I see as a gap between the design and the processes and the administrative mechanisms that DOFA produce, the commentary that the ANAO produces and in fact enforcement, because otherwise it is very indirect. It is either minister to minister from the finance minister to his colleagues or it is through the process of cabinet. There does not seem to be, with respect to finance determinations, a public service commission type body.

My question would probably need to be taken on notice by you, as to whether the Audit Office has any thoughts or recommendations it can make, or ideas it can offer, with respect to better enforcement of finance determinations and guidelines. I am not satisfied by certificates that are signed. That happens in the corporate world all the time and you still need ASIC to dig behind that and make sure that the people who sign them have actually done the job. It is a question to be taken on notice, if you are prepared to accept it.

**Mr McPhee**—Yes, I am happy to take it on notice. I think the other thing I would say is that, while not disagreeing with your comments about the certificate of compliance, it is a move in the right direction.

## **ANAO Response**

It is true that there is no agency that has a role similar to the Australian Securities and Investments Commission (ASIC). ASIC has both general and specific powers of investigation for the administration of the corporations legislation. In any event, there are relatively few provisions of the *Financial Management and Accountability Act 1997* (FMA Act) where offences may result in a penalty. These provisions are identified in the following table.<sup>1</sup>

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<sup>1</sup> The Act also provides that the Financial Management and Accountability Regulations may make provision for penalties against the offences, but there are no penalties specified for breaching any of the Regulations.

Section	Requirement	Penalty
<b>Part 1: Preliminary</b>		
	No offences	
<b>Part 2: General provisions about definitions and offences</b>		
	No offences	
<b>Part 3: Collection, custody etc. of public money</b>		
10	Public money must be promptly banked etc.	2 years imprisonment
11	Public money not to be paid into non-official account	7 years imprisonment
12	Finance Minister's authority needed for arrangements for receipt etc. of public money by outsiders	7 years imprisonment
13	Money not to be withdrawn from official account without authority	2 years imprisonment
14	Misapplication or improper use of public money	7 years imprisonment
16	Special Instructions by Finance Minister about handling etc. of special public money	2 years imprisonment
<b>Part 4, Division 1: Accounts and records in relation to public money</b>		
	No offences	
<b>Part 4, Division 1A: Special Accounts</b>		
	No offences	
<b>Part 4, Division 2: Drawing Rights</b>		
26	Drawing rights required for payment etc. of public money	2 years imprisonment
<b>Part 4, Division 3: Appropriations</b>		
	No offences	
<b>Part 4, Division 4: Miscellaneous</b>		
	No offences	
<b>Part 5: Borrowing and investment</b>		
	No offences	
<b>Part 6: Control and management of public property</b>		
40	Custody etc. of securities	2 years imprisonment
41	Misapplication or improper use of public property	7 years imprisonment
43	Gifts of public property	7 years imprisonment
<b>Part 7: Special Responsibilities of Chief Executives</b>		
	No offences	
<b>Part 8: Reporting and audit</b>		
	No offences	
<b>Part 9: Miscellaneous</b>		
60	Misuse of Commonwealth credit card	7 years imprisonment

In terms of comparison with the corporations legislation and its regulator, there are instances where a requirement in the corporations legislation includes a penalty for non-compliance whereas a similar provision in the financial framework has no penalty, for example:

- A company that does not keep proper financial records has breached Section 286 of the *Corporations Act 2001* (a strict liability offence) and faces a penalty of 25 penalty units or imprisonment for six months or both. A breach of Section 48 of the FMA Act requirement (Section 48) requiring proper accounts and records to be kept does not involve any penalty; and
- A director that breaches his or her duties under Sections 180-183 of the *Corporations Act* (which relate to care and diligence, good faith, use of position, and use of information respectively) faces a civil penalty of up to \$200,000. Section 184 of the *Corporations Act* creates a criminal offence in

relation to good faith, use of position and use of information by a company director, with penalties of \$220,000 or imprisonment for five years or both. A breach by a Chief Executive of his or her responsibility under Section 44 of the FMA Act to promote efficient, effective and ethical use of Commonwealth resources does not face any penalties.

Equally, as the above table shows, there are public sector provisions that attract penalties that have corporations legislation equivalent. The differences in approach and in the accountability regimes are long-standing.

In recent years, Finance has adopted a graduated approach to increasing the focus on compliance with the financial framework. A significant number of Finance Circulars have been issued to increase awareness and understanding of various aspects of the financial framework. There has also been considerable work undertaken on the development of the approach to the compliance certificate. In addition to the Certificate of Compliance, in respect of future audit reports that consider financial framework issues, Finance has indicated that it will write to relevant Chief Executives regarding their responsibilities under the financial framework to investigate compliance failings and suggesting that consideration be given to informing the responsible minister and/or Parliament of the results of that investigation.

It will be important to assess the effectiveness of steps that have been taken to educate and/or raise awareness among agencies of the key elements of the framework (such as through the issuance of Finance Circulars and other guidance material) and the greater attention being paid to any identified non-compliance (for example, through the Compliance Certificate). This would assist to inform judgements about whether further steps need to be taken in the area of enforcement. In this respect, our ongoing audit programme will assist in providing insights into the level of compliance by agencies. For example, as part of the 2007-08 Planned Audit Work Programme, ANAO will consider undertaking follow-up audits to assess, among other things, whether improvement has occurred in areas that have been problematic in the past.

### **ANAO Questions on Notice: Third Question**

**Senator FIFIELD**—I always take note of Senator Moore. Mr McPhee, you would have heard earlier reference to the submission from the Clerk of the Senate that section 81 of the Constitution is being undermined. In your submission you refer to the view of the department of finance that the CRF is self-executing. I assume that, if you had issues with that or you had concerns that the Constitution was not being observed, the Audit Office would flag those?

**Mr McPhee**—Yes. We are subject to legal interpretation in this area. We are auditors and not lawyers, and certainly the contemporary view of the CRF is that it is no longer a fund—that used to be a view once—but now it is self-executing. We accept that as the position and we take that into account in our audit coverage. We do highlight from time to time where agencies have not adhered to the requirements of the Constitution. We have extended our financial statement audit coverage to just review some very important areas of compliance. One is adherence to the Constitution in terms of expenditure from appropriations, another one is the use of special accounts and the third one involves the investment authorities for agencies where they have investment powers. We do a high-level review of those matters. We do not have the resources obviously to look fully at the financial framework, but we have taken the lead from the parliament and from concerns expressed by committees over the years to highlight and say that these at least are three areas we need to pay attention to. So we are giving more attention to those than we used to give to them—and we report breaches when we come across them.

**Senator FIFIELD**—So sections 80, 83 and 54 of the Constitution and adherence to those would be areas you would have more concern about than 81.

**Mr McPhee**—Yes, we keep a close eye on section 83.

**Mr Boyd**—Section 81 has come up in some of our audits.

### **ANAO Response**

The CRF established under Section 81 of the Constitution is considered to be 'self-executing'. That is, moneys raised or received by the Commonwealth automatically form part of the CRF. Issues concerning recognition of, and accounting for, moneys raised or received has arisen in a number of performance audits.

#### ***Receipt of amounts by entities that are legally separate from the Commonwealth***

Moneys raised or received by the Commonwealth automatically form part of the CRF, even where the money is received by entities that are legally separate from the Commonwealth. This was made clear by Finance in its March 2003 submission to the Joint Committee of Public Accounts and Audit's inquiry into the draft Financial Framework Legislation Amendment Bill wherein Finance advised as follows:<sup>2</sup>

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<sup>2</sup> *Submission to the Inquiry by the Joint Committee of Public Accounts and Audit into the draft Financial Framework Legislation Amendment Bill*, Department of Finance and Administration, 4 March 2003, p. 2.

*Public money, received by entities that are legally separate from the Commonwealth, nevertheless forms part of the CRF, without the need for the money to be credited to a ledger account, or paid into a bank account, designated as the CRF.*

ANAO notes that, in relation to receipts, it is not uncommon for Commonwealth agencies to make arrangements for the collection to be carried out by entities legally separate from the Commonwealth. For instance, the *Sydney Airport Demand Management Act 1997* authorises Airports Coordination Australia Pty Ltd (ACA, the Slot Manager appointed under the Act) to collect any penalties imposed under the Act. Provision is also made to appropriate any collections back to ACA for specified purposes.

However, the arrangements for receipts are not always so clear and are not always administered with due regard to sections 81 and 83 of the Constitution. Audit Report No. 15 2004-2004 *Financial Management of Special Appropriations* reported that, until its abolition in June 2003, aircraft operators and travel agents collected the Ansett Air Passenger Ticket levy on behalf of the Commonwealth. They also refunded an unquantified amount of these receipts from the CRF, albeit without the clear authority of an appropriation.

Audit Report No.58 2001-2002 *Defence Property Management* audit examined the then national property services contract under which a contracted property management firm arranged payment for Defence of some \$30 million a year in rent and received some \$5 million a year in rent from Defence's tenants. The audit, with supporting advice from the Australian Government Solicitor, concluded that, when the firm received money from a tenant of Defence property, this money was public money under the FMA Act. Accordingly, these amounts were automatically part of the CRF, although they were not being deposited into official bank accounts or being accounted for by the Department of Defence. Similar arrangements have been found to exist in other Defence contractual arrangements

### ***Mirror tax arrangements and refunds***

ANAO's audit of Financial Management of Special Appropriations identified two circumstances in which the self-executing nature of the CRF had not been effectively addressed by entities in their administration of Special Appropriations. These were:

- Where revenue is collected by States and Territories on behalf of the Commonwealth, before being returned to the States and Territories via a Special Appropriation. The revenue collected by the States and Territories in each case automatically forms part of the CRF, reflecting its self-executing nature. Each Act provides, therefore, a Special Appropriation permitting this revenue to then be paid from the CRF back to the collecting State or Territory. However, none of the relevant departments disclosed the use, if any, made of these Special Appropriations in the audit period of 1998-99 to 2002-03 or any amounts that had been automatically credited to the CRF under Section 81 of the Constitution. In two instances, no amounts had been received but, in the third, revenue totalling \$1.1 billion had been received between 2000-01 and 2003-04.

- Where entities need to refund taxes, levies and/or charges. The self-executing nature of the CRF means that levies and other taxes, charges, loans and trust moneys form part of the CRF automatically upon receipt. Accordingly, entities require a valid appropriation in order to make refunds, where required, of any such taxes, levies and charges. However, ANAO identified twelve entities that had been making refunds of taxes, levies or charges without disclosing those refunds as a use of the relevant Special Appropriation. The refunds made by those entities amounted to more than \$1.25 billion over the audit period. In many instances, the refunds were netted off against the total revenue collected and reported by the relevant entity, rather than being recognised as constituting both a receipt to the CRF in accordance with Section 81 of the Constitution, and a subsequent Special Appropriation drawing on the CRF.



## **ANAO Questions on Notice: Fourth Question**

**CHAIR**—Are there significant differences between departments on what comprises administered versus departmental expenditure? Has that come to your notice?

**Mr Boyd**—Yes, there are in some instances.

**CHAIR**—Can you provide some examples of those to us? You can take that on notice.

**Mr McPhee**—Yes, we can.

## **ANAO Response**

The definitions of the terms 'departmental' and 'administered' in the Finance Minister's Orders have been refined over recent years, with greater explanatory material being included. The Australian Accounting Standards Board is also undertaking work that relates to the distinction between 'administered' and 'controlled' items, and how they should be accounted for.<sup>3</sup> Nevertheless, the terms 'departmental' and 'administered' are not actually defined in the Acts themselves, and there have been difficulties in interpretation.

A good example of the difficulties in interpretation of administered versus departmental was provided by the then Department of Immigration and Multicultural Affairs. In its 2002-03 financial statements (see pages 232 and 233 of that year's Departmental Annual Report), the Department reported that it had reclassified appropriation revenue and expenditure incurred for the operation of the Offshore Asylum Seeker Processing Centres in the Republic of Nauru and on Manus Island in the Independent State of Papua New Guinea. The salient points are that:

- the amounts were appropriated to the Department as part of its Departmental Outputs appropriation;
- it was subsequently decided that a portion of the operations was administered in nature despite being funded under a Departmental Outputs appropriation; and
- in 2003-04, revenue for different aspects of these operations were appropriated under both administered and departmental classifications.

Agencies have also (erroneously) drawn on an administered appropriation in order to meet the departmental costs of administering that same *administered* appropriation. This was the case when the Department of Veterans' Affairs (DVA) drew on the special appropriation at section 13 of the *Compensation (Japanese Internment) Act 2001* (the Compensation Act).

Under the Compensation Act, Parliament authorised one-off payments of \$25 000 to compensate certain eligible persons who had been interned by the Japanese in World War Two. However, ANAO found that DVA had also drawn on the special

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<sup>3</sup> ANAO, *Opinions*, June 2006, p. 14.

appropriation to meet the departmental costs of administering the compensation payments. This led to a breach of section 83 of the Constitution and to DVA repaying the unauthorised drawings to the CRF (as reported by DVA in its *Annual Report 2003-04*).

There are also examples where new Budget measures that appear similar in nature have been treated differently by agencies as either departmental or administered items. One example from the 2006-07 Budget is shown in the following table.

	<b>Attorney-General's Department</b>	<b>Department of Education, Science and Training</b>
<b>Measure</b>	Sydney Law Courts – providing additional funding for refurbishment	National Science and Technology Centre (Questacon) – capital works and exhibition refurbishment
<b>Description of measure</b>	For work including additional judicial chambers and courts. Chambers will be co-located and improvements to public areas and courts will occur including through the provision of more natural light.	To undertake essential upgrades to the Questacon building and refurbishment of current exhibition assets.
<b>Expense or Capital Measure?</b>	Expense	Capital
<b>Administered or Departmental?</b>	Administered	Departmental
<b>Appropriation</b>	\$36.4 million over five years	\$15.3 million over four years

### **ANAO Questions on Notice: Fifth Question**

**CHAIR**—I appreciate particularly, as I said at the outset, in your submission that you went specifically to some of those—like section 31 and special accounts and so on—that were very useful for the inquiry. Have you seen the other submissions that have been made to the inquiry so far?

**Mr McPhee**—Most of them.

**CHAIR**—If you could take this on notice: it would be of value to the committee for the Audit Office to provide us with comments on specific proposals contained in those submissions as to their workability, if I could use that word. We may need to come back to you with further questions on notice after hearing from those witnesses.

**Mr McPhee**—We would be pleased to do that.

### **ANAO Response**

The attached schedule provides ANAO's comments on the various proposals.

Submission	Issue/Proposal	ANAO Comments
<p><b>More precise enunciation of appropriation purposes</b></p>		
<p>Clerk of the Senate, Mr Harry Evans</p>	<p><i>Parliament could undertake that control by winding back outcomes budgeting and returning to greater specification of the purposes of appropriations in appropriation acts... The alternative is for Parliament to insist on greater explanation and scrutiny of government expenditure.</i></p>	<p>In terms of the number of outcomes, as noted in our submission, there is considerable variation in between agencies in terms of outcome and output structures and the way outcomes and outputs are expressed. For example, of the 115 entities to which funds were appropriated in Appropriation Act No. 1 of 2006-07, 88 had just one outcome. ANAO's submission concluded that the experience to date suggests that there would be merit in further reviewing the breadth and presentation of outcome descriptions; and examining whether the greater use of programme-level information would assist Parliament in its work, and improve the transparency and accountability of Commonwealth public funding and expenditure.</p>
<p>Mr Tony Harris</p>	<p><i>If program appropriations are to continue, the Parliament would be entitled to insist on a clearer and more precise enunciation of outcomes, thus requiring a significant increase in the number of outcomes managed by Commonwealth agencies.</i></p>	<p>In terms of specifying the purposes of annual appropriations, the outcomes of Commonwealth agencies are broadly expressed. As noted in ANAO's submission, broad outcome statements allow Budget-funded entities to attribute particular activities or programmes to more than one outcome, which reduces the information value of nominated outcomes to Parliament. Examples of this have been highlighted by some of our recent performance audit activities.</p> <p>If there was greater specification of the purposes of appropriations in appropriation Acts (for example through greater specification and/or the number of outcomes) the potential for this type of cross-outcome programme attribution may be reduced, a corollary of which is that the information provided to the Parliament is of greater value in scrutinising programme expenditure.</p> <p>On the other hand, if appropriations continue to be made to the current, broadly expressed outcomes, it is of course open to the Parliament, as Mr Evans suggests, to require greater explanation from Budget-funded entities as to the nature of their proposed expenditure of Commonwealth funds.</p>

<b>Programme-level information and controls</b>	
<p>Professor Stephen Bartos</p>	<p>Transparency would be greatly enhanced if the program information were made to be public. Given it is already collected, the cost to the government of reporting the information would be minimal, and the gains in terms of accountability and transparency considerable.</p> <p>Despite these inherent possibilities for dispute, there would still be considerable value in both better outcome definition and the release of program information.</p> <p>Publish a more comprehensive range of key indicators:</p> <ul style="list-style-type: none"> <li>o program information (currently collected but not disclosed). The ideal means to do this would be to align outcome and output structures with program reporting structures: this would reduce duplication of effort and be a more transparent option than parallel reporting on both outcomes/outputs and programs.</li> <li>o trends in the net worth (sufficient information is now available to allow a useful time series to be presented) together with explanatory material on the driving forces behind these trends.</li> <li>o a reconciliation table broken up by function.</li> <li>o a historical time series of expenses by function</li> </ul> <p>Prior to the introduction of the new framework, the estimates reconciliation table was also provided on a functional basis – we could see for each function the reason for changes in the estimates. This was a valuable part of the budget papers which has been dropped – it should be reinstated.</p> <p>The budget papers used to show expenses by function over a ten year period prior to the current year, together with the forward estimates. This was valuable information to assess longer term trends, and again, should be reinstated.</p>
	<p>ANAO's submission commented on recent moves to increase the use within government of programme-level information and controls. As noted above, ANAO's submission concluded that there is merit in examining whether the greater use of programme-level information would assist Parliament in its work, and improve the transparency and accountability of Commonwealth public funding and expenditure.</p> <p>A key issue in any move to greater use of programme-level information and controls is a sound approach to identifying individual programmes. A reasonable principle to adopt would be to identify distinguishing components (an approach that is advocated by the accounting standard on segment reporting) so as to focus on major and significant programmes. Another useful guide to identifying programmes would be the breakdown that the agency uses for its own executive decision-making.</p> <p>Some of the other additional information being advocated (trends in net worth, reconciliation by function and historical time series of expenses by function) may provide additional information for some users but may not be of information value to many Parliamentarians. The Budget Papers are already voluminous, and ANAO is unaware of the extent to which Parliamentarians require the additional information suggested.</p>

<p><b>Tax expenditures</b></p>	<p>Tax expenditures, like direct expenditures, affect the Budget. However, unlike direct expenditures, tax expenditures once legislated become part of the tax law with a recurring fiscal impact and do not receive regular scrutiny through the Budget process. In this context, the Tax Expenditures Statement publishes information to assist transparency and encourage public scrutiny of government programmes delivered through the tax system. ANAO's Planned Audit Work Programme 2006-2007 includes a potential performance audit examining the preparation of the Taxation Expenditures Statement. This topic is a reserve, and is most likely to be commenced in 2007-08. Accordingly, ANAO is not currently in a position to comment on the accuracy and completeness of information being included in the Taxation Expenditures Statement.</p>
<p>Dr Mark Burton</p>	<p><i>In the context of tax expenditure reporting, participatory transparency would entail:</i></p> <ul style="list-style-type: none"> <li>○ <i>A clear statement the benchmark taxation principles against which 'tax expenditures' might be ascertained and quantified...</i></li> <li>○ <i>Identification of all tax expenditures...</i></li> <li>○ <i>Gathering of sufficient 'raw' data as to enable informed critical assessment of the operation of the tax expenditure...</i></li> <li>○ <i>Publication of a critical appraisal of the merits of each tax expenditure which explains why the particular tax expenditure has been adopted and also why the tax expenditure has assumed the legislated form; and</i></li> <li>○ <i>That the preparation of the tax expenditures report be undertaken by an independent government agency.</i></li> </ul> <p><i>I urge [the committee] to consider the adoption of these measures in order to enhance Parliamentary, and public, scrutiny of the Commonwealth budget papers.</i></p>
<p>Professor Stephen Bartos</p>	<p><i>Inclusion of detailed tax expenditure data in the budget papers, preferably broken down by function in the same way as other expenditure, would be a highly desirable step forward in transparency.</i></p>
	<p><i>Provision of detailed tax expenditure information with the budget.</i></p>

<b>Different approach to departmental expenses and administered items</b>	
<p>Professor Stephen Bartos</p>	<p>A more radical approach to simplifying reporting... would be to report only departmental expenses on a full accruals basis, and not require departments/agencies to have a full accruals chart of account for their administered items. These could still be included in the overall budget figuring on an accruals basis, but for the purposes of PBSs, only the departmental set of accounts would be presented with the full set of financial statements, and the PBS would include a much simpler table on administered items showing only the proposed annual expenditure in each forward year. This would simplify the reporting in PBSs considerably.</p>
<p>The first issue to be addressed in this area is greater clarity and certainty in the distinction between departmental and administered expenses.</p> <p>The relationship between reporting documents covering any one financial year (particularly PBSs, Portfolio Additional Estimates Statements (PAES) and agencies' Annual Reports) is referred to as the 'clear read' principle. It is a fundamental tenet of the Australian Government's financial management framework. It is also an essential part of the accountability system that compares budgeted targets and figures to those actually achieved, placing a strong emphasis on compatibility between relevant documents. In this context, taking a different approach to departmental and administered items could complicate consideration of the PBSs. Different requirements can also lead to a risk of perverse incentives existing for seeking a particular classification, or for re-classification (particularly where the distinction between departmental and administered is not clear).</p>	
<b>Reporting of special appropriations</b>	
<p>Professor Stephen Bartos</p>	<p>The implications of this [increasing reliance on special appropriations] are that there should be correspondingly greater attention paid to the performance of government programs funded via special appropriations... One option for this would be a separate reporting vehicle on these areas of spending; the obvious possibility is a budget-related paper that provides the Parliament with information on spending through special appropriations.</p> <p>Entities are already required to separately disclose in their PBSs their expected use of special appropriations. This is to occur in two ways:</p> <ul style="list-style-type: none"> <li>- A table of estimates of expenses from special appropriations is required to be included. This is to include each Act that includes one or more special appropriations; and</li> <li>- For each outcome, a table of resources is required, identifying amounts from annual appropriations, special appropriations and other sources (such as s.31 receipts).</li> </ul>

**Financial management improvement projects**

Professor Stephen  
Bartos

*There is virtually no information in the public domain on what (if any) financial management improvement projects are underway inside government at present... Greater disclosure, through papers, publications, Ministerial statements and the like, would be an improvement in transparency.*

There is value in early signalling by Finance of proposed changes to the financial framework. However, the amount and rate of change in the financial framework has reduced in recent years as the framework (as we know it) has stabilised, with the result that there has been less need for such disclosures. In terms of assisting the Parliament in this area, some of the options proposed in response to Senator Murray's first question on notice (such as ANAO and/or Finance briefing the Committee on contemporary issues influencing public administration) may provide greater transparency over changes to the financial framework.



<b>Cash budgeting</b>		Estimates Memorandum 2003/27 <i>Refresher on Appropriation Framework</i> – Rules notes that, prior to the implementation of accrual budgeting in 1999, all annual appropriations lapsed at the end of each financial year (achieved by section 36 of the <i>Audit Act 1901</i> and then, from the commencement of the <i>Financial Management and Accountability Act 1997</i> , by a clause in each annual appropriation act). However, recognising that agencies often had unspent funds at the end of the year because of various timing issues, processes existed under cash-based appropriations for ‘rephasings’ in which an amount agreed with the Department of Finance was added to the next available annual appropriation bill, often at Additional Estimates.
Mr Tony Harris	A return to appropriations being related to the expected cash needs of the government – as provided for in its cash flow statement for the upcoming financial year – would not diminish the value of accrual accounting but would repair the loss of control which Parliament allowed in 1997 [with the introduction of the new framework]. A corollary to re-establishing adequate Parliamentary control over public monies is that annual appropriations revert to annual lives so that at the end of the financial year appropriations lapse and that there be a severe reduction in the ability of the minister for finance to siphon off appropriations or monies to special accounts.	Under accrual budgeting, accountability for undrawn annual appropriations is achieved through entity financial statements, which are required to disclose in the notes to the statements the balance of each annual appropriation. Amounts lapsed by a determination of the Finance Minister (such that they cannot be drawn in future years) are also required to be disclosed in the notes to entity financial statements.
Mr Tony Harris	Reintroduction of the Cash Accounting and Budgeting System (CABS) is necessary for fiscal policy determination and management purposes and for cash management purposes... However it is important that the system is integrated into an accrual accounting system but be reported on separately as a subset of the GFS Accrual Accounting and Budgeting System so that the advantages of both cash and accrual systems can be obtained. Budgeting and financial reporting of ‘administered items’ over which departments have management responsibility would be simplified if they were reported on a cash basis. They are normally cash transfers and they would be more easily understood as such.	Whether annual appropriations lapse or not, does not affect whether amounts are able to be credited to Special Accounts. As outlined in ANAO’s submission, the Determination or legislation establishing a Special Account usually provides the legal authority for amounts to be credited to the Account. In this respect, ANAO considers that the important issue is the current uncertainty as to the transfer of amounts within and across the various forms of appropriations, together with the extent of transparency over such transactions. In the context of an ANAO audit recommendation, Finance has undertaken to consider addressing the uncertainty as well as to examine the more fundamental issue as to whether such transactions should be permitted through Section 31 Agreements.
Professor Allan Barton		

**Cash budgeting**

Mr Tony Harris

*Given the importance of the budget, it attracts significantly more attention than the audited final accounts of the government, it should be audited. Moreover, if it were, the government would have more effective incentives to follow the standards which the Auditor-General would use to conduct those audits.*

It is unclear what aspect of "the budget" is being proposed for audit. In terms of the Final Budget Outcome (FBO), ANAO's submission noted that the ANAO has previously acknowledged that the matter of whether the FBO report should be subject to audit was a policy matter for the Government and the Parliament.

Professor Stephen Bartos

*Audit coverage of the budget documents would be one way to strengthen monitoring of not only this [split of ordinary annual and non-annual services] but many other aspects of the accuracy and reliability of budget reporting, but it would have huge resource implications for the ANAO and in any case is unlikely to be adopted by the executive government.*

In terms of the Budget Papers and Portfolio Budget Statements, any audit coverage would necessarily be constrained by timing issues and only limited assurance could be given on prospective information. There is a stronger case for auditing the Final Budget Outcome than there is for auditing the Budget Papers and Portfolio Budget Statements. In terms of the Budget Outcome, the proposal to harmonise GFS and GAAP financial reports can be expected to facilitate, in the longer-term, financial reporting and auditing of the Budget outcome.

**Harmonising reporting requirements**

<p>Mr Tony Harris</p>	<p>Although unifying the two sets of accounting standards is an issue for Australia's accounting bodies, the Parliament is entitled to impose its own choice on what standard the executive is to use to report to Parliament. If Parliament insisted, as it can, that GFS be used by Commonwealth departments and other government reporting entities, the cost of duplicated reporting would be eliminated and the clarity of government reporting would be enhanced.</p>	<p>The Australian Accounting Standards Board is progressing the development of an accounting standard for government that harmonises the reporting requirements under accounting standards and Government Finance Statistics (GFS) for the General Government Sector. The ANAO continues to support the strategic objective to achieve harmonisation because of the importance of reducing the complexity and potential confusion that arises from the preparation of financial reports on different accounting bases and of improving comparability of budget statements with audited reports on the budget outcome. Under this approach, the Government would continue to prepare the Consolidated Financial Statements in addition to the harmonised financial report for the General Government Sector.</p>
<p>Professor Allan Barton</p>	<p>Choice between the AAS and GFS Accrual Accounting Budgeting Systems: ...if agreement is not reached shortly by the Australian Accounting Standards Board, then I recommend that the GFS system, as modified according to the recommendations of the HOTARAC Committee, be adopted...</p>	
<p>Professor Stephen Bartos</p>	<p>Pending the outcome of 'harmonisation' of AAS and GFS reporting standards, report against only one of these. There is currently an exercise underway to harmonise the AAS and GFS standards. This would be a highly desirable outcome, allowing budget reporting against just the one comprehensive reporting standard. In the meantime, however, the best approach would be to adopt just one of the two. Adoption of either one or the other as a primary reporting standard would be vast improvement over the current practice of using both.</p>	

**Depreciation funding**

Professor Allan Barton

*Depreciation charges should not be directly funded in the budget... Rather, gross capital expenditure should be separately reported and budgeted for as required, with a subdivision of expenditures between asset replacement (ie the depreciation component), and asset expansion.*

Budget Paper No.4 2006-07 states (page 4) that expenses typically included in Departmental Outputs appropriations include operational expenses including depreciation. Accordingly, as depreciation funding is not separately identified, or funded, the use of such amounts is not restricted to asset replacement. Because depreciation funding for asset replacement can be significant and asset replacement expenditure often occurs in large amounts at irregular intervals, it would be open to Finance and the Government to consider approaches such as that outlined by Professor Barton.

Professor Stephen Bartos

*It would be desirable for the Auditor-General to be asked to report on whether agencies have misused depreciation funding, and if there is supporting evidence that they have, for this component of departmental funding to be withdrawn.*

The funding of depreciation also has a bearing upon the Committee's consideration of the Compact of 1965. Specifically, Bill 2 includes funding for:

- equity injections, which may include funding to enable investment in new capacity (rather than replacing existing capacity); and
- administered assets and liabilities, including acquiring new administered assets and enhancing existing administered assets.

**Financial Management Information Systems**

Professor Allan  
Barton

*The Government must use a centralised FMIRS so that Treasury and Finance and Administration can regularly monitor budgets throughout the year to assist in the coordination of activities on a whole-of-government basis. It is also required for efficient cash management along with the management of Treasury Note issues and redemptions.*

Under the previous Audit Act, Finance had a central role in maintaining a more detailed and prescriptive financial framework, including the provision of central accounting and payment systems. This latter role included the centralised reporting of estimated and actual appropriations expenditure.

With the repeal of the Audit Act, and the commencement on 1 January 1998 of the FMA Act and related Acts, there was an important change in Finance's appropriation management role. Under the revised financial framework, individual agencies became responsible for the control and management of their own finances, including the management of appropriations.

For their part, individual entities are responsible for managing and disclosing the use of appropriations in accordance with the financial framework and applicable laws. This includes a requirement to keep accounts and records in a way that, inter alia, ensures moneys are only expended for the purpose for which they are appropriated, and the limit on any appropriation is not exceeded. Entities are also required to disclose the appropriations for which they are responsible, and the payments made against those appropriations, in their annual financial statements.

Notwithstanding the devolution that had occurred, Finance's systems now have interfaces with agencies to enable the uploading of financial information.

Treasury Note issues and redemptions have been examined in ANAO audits of Commonwealth debt management. No deficiencies were identified. Further, the nature of the Commonwealth's cash management task has changed in recent years such that there are fewer note tenders and fewer notes on issue.

**Role of the Auditor-General**

Mr Bryan Pape

*...the Auditor-General should be required to identify the Constitutional power supposedly relied upon by the Parliament to authorise the appropriation and whether in his opinion there are compelling legal reasons to support the use of such power.*

Should Parliament wish, there are a number of ways for it to obtain greater assurance concerning the legal (or any other) reasons to support a request to appropriate funds. It would be a significant change to ANAO's role for explicit assessments to be made of the merits of Parliament exercising its power to appropriate funds. Currently, ANAO's work extends to examining whether there is a valid appropriation available for expenditure that has been made. Where this is not the case, breaches of Section 83 of the Constitution are reported.