



Our ref: 17/893

7 November 2017

PGPA Act Review
Attention: Review Secretary
Department of Finance
One Canberra Avenue
FORREST ACT 2603

Dear Review Secretary

PGPA Act Review

Thank you for the invitation to participate in the independent review of the *Public Governance, Performance and Accountability Act 2013* (and PGPA Rule 2014). As the Accountable Authority for a small agency of 49 ASL, and as the statutory head of an anti-corruption agency, I am pleased to comment.

Integrity context

The finance law is one of the foundation layers of the Australian Government's anti-corruption infrastructure. The manner in which we control government resources (expenditure, receipts, assets, staff time and sensitive information) is the starting place for most public officials to learn about their professional duties and obligations, and to inculcate the norms and values associated with stewardship in government administration.

Accordingly, it is important that the PGPA suite was able to be an effective driver of agency cultures—moving beyond mere compliance, and replacing it with a risk-based approach to resource management with an emphasis on thorough governance. In my own agency the reforms were, and are, an excellent vehicle to underline the importance of integrity, performance and risk management—which pervade everything we do.

Implementation cost

Although additional PGPA Act obligations have accounted for more staff and Executive time, it has been a worthwhile undertaking and has had a positive effect on ACLEI's systems for managing risk (including greater investment in professional standards and governance support, the costs of which we have absorbed to date). These systems are now embedded as part of business-as-usual structures.

Overall, the comprehensiveness and clarity of the PGPA suite—including related guidance and templates issued by the Department of Finance—allowed for its relatively simple technical implementation. As a small agency, the quality of the product provided was of great assistance in our own implementation, which in turn reduced ambiguity and cost. We also appreciated the opportunity to comment on drafts, and to participate in consultations and workshops.

However, I would note that bringing forward the Annual Reporting date may be difficult for a very small agency like ACLEI to accommodate, since the modest size of its corporate resources comes at the cost of flexibility to deal with too many competing deadlines. The present timing means that ACLEI's statutory obligations—Corporate Plan preparation, completion of financial statements (including ANAO audit), compilation of annual report statistics (mandated by the *Law Enforcement Integrity Commission Regulations 2017*), drafting of text (and procedural fairness consultation with affected agencies), and preparation of ACLEI's other annual reports (such as, legal services directions, telephone interception, controlled operations, assumed identities, integrity testing)—can be managed over a longer time period, and therefore with fewer people and less impost on other work.

Fraud Rule

The Fraud Rule is an example of effective principles-based regulation which enables entities to engage meaningfully with their risks and build control measures appropriate to their circumstances. However, the PGPA suite offers an opportunity to further strengthen corruption risk awareness.

There are significant—but varying—levels of internal fraud detected by the agencies participating in the annual *Fraud Against the Commonwealth* report, while the APSC *State of the Service* report indicates even higher levels of corruption (including fraud) perceived by employees. It is also ACLEI's experience that corruption uncovered by its intelligence-gathering and investigations has tended to surpass—sometimes by a significant margin—the estimates of agencies in their pre-jurisdiction modelling and risk assessments.

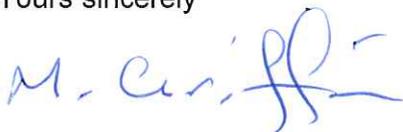
From my vantage point as Integrity Commissioner—with a jurisdiction that comprises most of the higher corruption-risk law enforcement and border regulation agencies (AFP, Austrac, ACIC, DIBP and some aspects of DAWR)—I see an opportunity for the Fraud Rule and associated guidance to better encourage all entities to reach beyond their management of physical resources or exposure to external fraud, and more-fully contemplate other manifestations of corruption (including information compromise, nepotism, and decision-making). The present approach—perhaps a remnant from the FMA Act, which tended to concentrate efforts on protecting revenue and expenditure—may contribute to an under-estimation of modern risk.

One practical step may be to add "...and Corruption" to the Fraud Rule title, to give corruption risk (and "insider threat") greater exposure. Such a consideration might also be consistent with present public and parliamentary interest in strengthening the Australian Government anti-corruption framework—see, for example, the 2017 report of the *Senate Select Committee into a National Integrity Commission*. Since the PGPA suite covers all entities—and relates specifically to accountability, risk and performance—it is an appropriate framework through which to promote further practical measures to strengthen corruption control.

Further information

Should you require further information, my contact officer is Nicholas Sellars, Executive Director Secretariat.

Yours sincerely

A handwritten signature in blue ink, appearing to read "M. Griffin". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael Griffin AM
Integrity Commissioner