



Legislative Assembly for the
Australian Capital Territory

Select Committee on Financial
Management and Government
Procurement Legislative Compliance

Submission cover sheet

Inquiry into Financial Management and Government Procurement Legislative Compliance

Submission number: 05

Submitter: ACT Government

Date authorised for publication: 15 April 2026

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ACT Government Submission

April 2026



Acknowledgement of Country

The Chief Minister, Treasury and Economic Development Directorate acknowledges the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region.

We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal and Torres Strait Islander staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

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Introduction

The ACT Government welcomes to the opportunity to provide a Government Submission to the Select Committee on Financial Management and Government Procurement Legislative Compliance. The ACT Government provides this Submission on behalf of the ACT Government in relation to the *Financial Management Act 1996* (FMA) and the *Government Procurement Act 2001* (GPA).

As per the *Administrative Arrangements 2025 (No 2)* the Treasurer is responsible for the FMA and the Minister for Finance is responsible for the GPA.

The ACT Government takes its responsibilities for honest and transparent budget processes as well as honest and transparent procurement processes seriously. The Government has taken several actions over recent years to further strengthen both financial management and procurement in the Territory.

Financial Management Act 1996 (FMA)

Background

The *Financial Management Act 1996 (FMA)*, which took effect from 1 July 1996, governs financial management and reporting and budget processes in the ACT. The framework established enhanced transparency and reinforced the Legislative Assembly's role in the budget and financial accountability processes. It also provides clear direction on the proper management of public funds.

The FMA sets out the roles and responsibilities of key decision-makers. Ministers are accountable to the Assembly for decisions taken and senior public servants regularly appear before Assembly Committees to answer questions, including in relation to the use of public resources, and are expected to comply with all relevant legislation, including the FMA.

Key provisions include:

- The requirement for all expenditure to be supported by an appropriation and the processes by which this must occur (Sections 5 to 9).
- Requirements for the timing and content of the annual budget and budget review and for the Pre-Election Budget Update (Sections 10, 11 and 20).
- Transfer of funds between appropriations and appropriation types (Section 14).
- Rollovers of undisbursed appropriations (Section 16B).
- Conditions for the Treasurer's Advance and the Capital Works Reserve (Section 18).
- Requirements for the preparation, distribution and audit of consolidated Territory financial statements (Sections 21 to 26).
- Requirements and timeframes for capital works reporting (Section 30).

- Accountability of the responsible Director-General or Chief Executive Officer for the efficient and effective financial management of public resources (Sections 31 and 55).

The FMA is supported by regulations and guidelines that provide further context to, and support the outcomes to be delivered by, its various sections. These are available on the ACT Legislation Register FMA¹.

In comparison with arrangements in other jurisdictions, the FMA provides a robust framework for transparency and accountability. This includes the requirements it includes for quarterly financial reporting for the consolidated public sector, the requirements for providing and reporting a Treasurer's Advance, and the requirements for what must be included in Budgets, Budget Reviews and Pre-Election Budget Updates. This transparency is supported by the arrangements for costing election commitments under the *Election Commitments Costing Act (2012)*.

Amendments

Since its introduction in 1996, there have been a number of amendments to the FMA. The most significant recent changes took effect from 1 October 2015. These amendments represented the first significant review of the FMA to ensure the ongoing efficiency, effectiveness and robustness of the financial management of the Territory, rather than amendments that responded to specific issues. They also provided greater flexibility to the Government to respond to emerging priorities and community expectations, reduced ambiguity, increased transparency and accountability and reduced red tape by streamlining administrative requirements.

These amendments included changes to the presentation of non-disallowable appropriation instruments contained in part 2 of the FMA. Instruments in this part were previously provided individually to the Legislative Assembly within three sitting days of each instrument being signed and were not readily available to the public.

Changes to the relevant instrument sections in part 2 and section 26 of the FMA in relation to periodic financial statements amended this requirement to require a summary of, and copies of instruments to be attached to the quarterly financial statements prepared under section 26.

This replaced the ad-hoc presentation of instruments to the Legislative Assembly with scheduled quarterly reporting to improve efficiency, transparency and accountability. Quarterly summaries were also provided to the Assembly, and the instruments are made readily accessible to the public through online publication. This change also aligned the effective dates of authorised instruments with the financial statements for the quarter in which they were authorised.

Further changes to reporting requirements of the FMA have been agreed by the Assembly this parliamentary term. These changes introduced requirements for the Treasurer to

¹ <https://www.legislation.act.gov.au/a/1996-22/>

provide copies of Treasurer's advance and Capital works reserve authorisations within five business days to the Speaker for circulation to all members.

Assessment of Financial Instruments

Part 2 of the FMA provides for the authorisation of variations to appropriation including, but not limited to:

- transfers of funds between types of appropriations and to another entity.
 - In particular, section 14A provides for the transfer of funds from capital injection appropriation to other appropriations, which can be required to satisfy Australian Accounting Standards (for example, when capitalised software costs are expensed if provided as software as a service). These types of transfers do not impact total appropriation and are disallowable instruments in cases where a variation is more than 5 per cent or \$500,000.
- appropriation for accrued employee entitlements where these exceed the appropriation provided (Section 16A);
- rollovers of undisbursed appropriation to account for changes in delivery timelines for projects or programs (Section 16B);
- variations in relation to Commonwealth grant funding to enable additional payments to be utilised (Section 17);
- access to the Treasurer's advance to manage additional funding needs (Sections 18 and 18A to 18C); and
- access to the Capital works reserve to support the delivery of projects that are proceeding ahead of schedule (Sections 18(D) to 18(G)).

Under the financial management framework, all requests for variations to appropriations above \$1 million require the relevant Minister to write to the Treasurer. Variations of less than \$1 million can be requested by the relevant Director-General to the Under Treasurer. The authorisation of financial instruments is not automatic.

A rigorous assessment process takes place prior to any authorisation to ensure the request is compliant with the FMA and consistent with all elements of the financial management framework and with government decisions. This process is necessarily time consuming and typically involves Treasury requesting further information from the relevant Directorate to ensure the request is compliant with all requirements. The timing of requests, which can occur throughout the year, is also dependent on when a Directorate or Agency identifies the need to make a request.

This rigorous assessment process supports the responsibilities of Directors-General under section 31 of the FMA for being accountable to the responsible Minister of the directorate for the efficient and effective financial management of public resources.

The process for the rollover of undisbursed funds under section 16B of the FMA is particularly rigorous, and as a result can be quite lengthy. This includes:

- Territory Entities determining whether rollovers are required, which includes consulting with their business units to gather requests for rollovers and the basis of these requests;
- Ministers writing to the Treasurer to request the rollover of undisbursed funds following briefings from Territory Entities and agreement by relevant Ministers that a rollover is necessary;
- Treasury assessing requests to ensure appropriation is available to rollover, that requests meet the Guidelines for reprofiling and section 16B rollovers, are required to achieve Government policy outcomes taking into account the financial circumstances of the entity, preparing the instrument and briefing the Treasurer on a recommended position; and
- consideration is also required to be given to any interactions a rollover of undisbursed funds may have with the budget process.

This is in addition to scrutiny that has already taken place through the Legislative Assembly on Appropriation Bills, the annual Budget Papers and the Budget Review. Detailed explanations for each rollover are included with the instrument. It is important to note that the rollover of funds under section 16B of the FMA relate to funds that were included in a previous appropriation bill and must be consistent with the purpose of the appropriation. This in practice means that the expenditure has already been authorised by the Assembly and appropriated to the relevant agency. There is no overall increase in appropriation, only a rephrasing of funding to align with changed implementation milestones.

Similarly, additional requirements apply to requests for access to the Treasurer's advance including identification of the cost pressures related to the request and a list of cost mitigation strategies.

Regular communication takes place between Treasury and agencies, and reporting to Ministers and the Expenditure Review Committee of Cabinet (ERC), to identify potential cost pressures. However, it is not always known what pressures may arise or when, particularly where the Territory and its agencies experience cost pressures associated with broader economic impacts (e.g. escalation in fuel prices due to global conflict). These pressures are monitored throughout the year. Access to the Treasurer's advance is not automatic, is subject to a demonstrated cash need and often occurs late in a financial year as a result following the exhaustion of other options.

Access to the Capital Works Reserve is also conditional on an agency exhausting or being able to demonstrate that they will exhaust their available capital appropriation in a given financial year. The Reserve is a mechanism to allow agencies to bring forward funding within project budget from future financial years where there is a demonstrated need (i.e. the acceleration of the project). Access to the Reserve is not permitted where the amount being sought for the project would exceed the total amount budgeted. Treasury rigorously assesses Capital Works Reserve requests to ensure they align with these legislative guidelines and, similar to the assessment of Treasurer's Advance requests, relies on agency cashflow forecasts and other forecasting measures.

The financial impact of all instruments will be included in the estimated outcome in either the budget review or annual budget depending on the timing of their authorisation. Estimates are not updated until instruments are authorised.

Publication of Financial Instruments

Consistent with the 2015 amendments, financial instruments are attached to the quarterly consolidated financial report to which the instrument relates, based on the authorisation date. For example, instruments signed on 1 April, would be included in the June Quarter Consolidated Financial Report as they relate to the quarterly period of 1 April to 30 June. This practice is supported by:

- Section 26(1) of the FMA which requires financial statements for the quarter and the period from the beginning of the financial year to the end of the quarter; and
- Clause 68 of the Explanatory Statement² that supports the 2015 Amendments which states ‘The amendment requires territory periodic financial statements to include a summary of all the appropriation instruments authorised during the quarter, along with individual instruments’.

The Government is transparent in providing public information regarding all instruments authorised in accordance with these provisions.

The Government understands, following questions in the Assembly on Thursday 26 February 2026, questions were raised by Mr Ed Cocks MLA regarding compliance with the FMA in relation to section 16B rollovers which were signed on 10 April 2025 and attached to the June Quarter 2025 Consolidated Financial Report.

Specific rollovers mentioned included those of Canberra Health Services, Chief Minister, Treasury and Economic Development Directorate and Canberra Institute of Technology. The Treasurer received initial requests from Ministers seeking these rollovers in mid-December 2024. All instruments were then signed by the Treasurer on 10 April 2025. During the time period between when these requests were received and then signed by the Treasurer, the rigorous process for the rollover of undisbursed funds under section 16B of the FMA indicated above took place.

These instruments were then attached to the June Quarter Consolidated Financial Report in accordance with the requirements above. The financial impacts of these statements would not have formed part of the March Quarter Consolidated Financial Report, as the impact had not been agreed prior to 31 March 2025.

Estimates were updated for these financial impacts in the 2024-25 estimated outcome as part of the 2025-26 Budget and are disclosed individually in the changes to appropriation table of each agency’s budget statement.

² https://legislation.act.gov.au/View/es/db_51820/20150604-60757/html/db_51820.html

Review of the FMA

The Government has committed to reviewing the FMA during this term. It remains focussed on ensuring the FMA continues to provide a rigorous framework for the management of public resources and ensures transparency and accountability to the Legislative Assembly and the Canberra community. While the FMA compares favourably with other jurisdictions, the review provides an opportunity to undertake further analysis of any broader developments and lessons from other jurisdictions.

The Government would welcome recommendations of particular focus for this review by the Committee, including any specific elements of the operation of the FMA that would improve, clarify or strengthen the important role of the legislature as a scrutiny body of the financial actions of the ACT Government.

Government Procurement Act 2001 (GPA)

Procurements undertaken by ACT Government Territory entities support the delivery of quality public services, infrastructure, economic growth and community wellbeing. Continuous improvement and review of the Territory's procurement framework ensures government expenditure is conducted with transparency, fairness and rigour, and achieves value for money in alignment with community values and expectations.

Background on the GPA

The *Government Procurement Act 2001* (GPA) establishes key requirements of Territory entities to maintain governance and transparency in government procurement activities.

Responsibility for individual procurements rests with the Territory Entity's chief executive officer or delegate undertaking the procurement, consistent with the FMA. Public servants involved in a procurement must carefully adhere to relevant legislative obligations for approving expenditure of public monies, and management of confidential information during all phases of a procurement. There is generally no legislated Ministerial responsibility or oversight in relation to Territory entity legislative compliance regarding procurement activities. The exception being that where the Government Procurement Board makes a recommendation to a Territory entity under section 29(2)(b) of the GPA in relation to a procurement, and that recommendation has not been addressed, or has not been adequately addressed, following completion of the escalation process, the Board must refer the matter to the responsible Minister for the Territory entity.

The GPA is underpinned by the Government Procurement Framework which supports Territory entities' compliance with the GPA by incorporating whole of Government procurement related legislation, statutory instruments, policies, guidance, factsheets and templates.

Key elements of the GPA:

- emphasise the need to achieve value for money in undertaking any procurement activity (Section 8);

- establish the Government Procurement Board and outline its functions and membership (Section 28 -36);
- outline the arrangements for notifiable contracts, notifiable amendments, notifiable invoices, and confidential text (Section 11 – 22C); and
- require Territory entities to prepare a report setting out compliance with the GPA during the year (Section 44).

Further, the Government Procurement Regulation 2007 sets out the details in relation to the GPA. Notably, it:

- specifies minimum quotation and tender requirements based on the total estimated value of a procurement, including requirements for exemptions from quotation and tender requirements (Section 4 - 10B);
- sets out which procurement proposals must be reviewed by the Board (Section 13-14); and
- specifies notifiable contract and notifiable invoice thresholds (Section 11 and 12).

The Government Procurement Board is established to provide strategic direction in relation to procurement for the Territory. This includes reviewing certain procurements, making recommendations, and endorsing procurement practices where appropriate. Further information on the Board’s functions is available in the Board’s Strategic Direction.³

Procurement Reform

In June 2022 the ACT Government commenced the Procurement Reform Program (Reform Program) in response to recommendations from the ACT Auditor-General’s Report No 13/2021 – Campbell Primary School Modernisation Project Procurement, and recommendations from the 2021 Review of Procurement ACT by Ms Renée Leon PSM.

The Reform Program strengthened legislation and arrangements for transparent, evidence-based procurement decisions, including support and services to further enhance probity. The changes supported modernisation of the legislative framework for efficient and effective financial management in accordance with the FMA.

On 1 July 2024, significant amendments were introduced to the procurement legislation to give effect to the ACT Government’s adoption of recommendations from a range of Auditor General reports. These included the Auditor-General’s 2023 performance audit report on the activities of the Government Procurement Board.

Additionally, the Government Procurement Rules 2024 commenced in September 2024, articulating requirements that must be complied with and providing guidance for better practice by Territory entities. The Rules cover all stages of the procurement lifecycle and support the delivery of transparent, efficient and effective procurement practices.

³ https://www.procurement.act.gov.au/_data/assets/pdf_file/0016/3020182/Government-Procurement-Board-Strategic-Direction-2026.pdf.

Procurement Reform also established the Goods and Services Accreditation Program (Program) to build capability across the ACT Public Sector workforce through enhanced training and guidance materials, while fostering innovation and efficient procurement outcomes by streamlining legislation, policy, process and templates. The objective of the Program is to ensure that Territory entities have the capability and capacity to undertake procurement in an efficient and effective manner that achieves value for money.

The framework sets out the requirements for accreditation, the responsibilities of Procurement ACT as the owner of the Procurement Framework and the responsibilities of each accredited Territory entity.

The Program is supported by the Tiered Service Support Delivery Model which considers the appropriate level of support for a procurement through a combination of the responsible Territory entity's accreditation level, the monetary value, and risk of the procurement. The Government Procurement Board (Board) is the governing body for the Accreditation Program.

Territory entities are required to maintain the Accreditation level approved by the Board following an entity's self-assessment which is considered by the Board. An annual assurance process ensures Territory entities continue to align with the approved accreditation level.

To enhance integrity and probity in procurement capability, Procurement ACT has provisioned advisory and support services in relation to probity through a dedicated probity officer and contracting advisory support from the ACT Government Solicitor. In addition, the Procurement Rules require that individuals have completed the ACT Government's Probity in Procurement eLearning Module in the 12 months prior to participating in a procurement.

The key deliverables under the Reform Program have been delivered, with the remaining longer-term actions being progressed by Procurement ACT through business-as-usual activities.

Compliance with the GPA

The 2024 reform amendments to GPA introduced a requirement for each Territory entity to report on its compliance with GPA as part of its annual report during each reporting year. Where a Territory entity has not complied, the report must set out details about how and why the entity has not complied. This transparent reporting places responsibility for compliance monitoring with Territory entities and provides an opportunity to identify areas for process improvements and capability uplift.

Areas of non-compliance identified by Territory entities the 2024-25 Annual Reports include publication of notifiable contracts outside of required timeframes (that is, more than 21 days from contract signing), instances of a procurement contract (or a contract amendment) not being in writing and a Value for Money assessment not noted in the Tender Evaluation Report.

In one instance, a Territory entity (Justice and Community Safety Directorate) highlighted the non-compliance had led to a formal integrity review resulting in a new procurement process being conducted to rectify the non-compliance. All Territory entities that reported instances of non-compliance also provided details of process improvements and training

efforts. This information is available within the Government Contract section of each Territory entity's Annual Report.⁴

The Terms of Reference for the Inquiry reference alleged significant issues and potential breaches in relation to the GPA. Contracts tabled in the ACT Legislative Assembly during debate of the motion establishing the Inquiry included a contract between the ACT Insurance Authority (ACTIA) and Marsh Pty Ltd. for the provision of insurance brokering services, and a contract managed by Infrastructure Canberra for the Fitzroy Pavillion refurbishment at Exhibition Park.

The contract between ACTIA and Marsh Pty Ltd. relates to the Territory's reinsurance program. Payments to reinsurers are managed by Marsh Pty Ltd. via its trust account, due to the complexity of the program and the number of insurers both in Australia and overseas. ACTIA paid \$39.7 million in reinsurance premiums over the period 2024-25 and 2025-26. These values represent the costs of reinsurance managed by Marsh Pty Ltd. as disbursements under the contracted services and were not a payment to this supplier for services. The pass-through of costs is described as the premium payment in various invoices. For invoices relating to the provision of professional services by Marsh Pty Ltd. to ACTIA (such as brokerage and claims services) these are listed as such on the relevant invoices. There was no breach of the procurement framework in relation to payment of the invoices under the contracted services.

The contract owned by Infrastructure Canberra (formerly Major Projects Canberra (MPC)) relates to the delivery of the upgrade works on behalf of Chief Minister, Treasury and Economic Development Directorate (CMTEDD) of the Fitzroy Pavillion at Exhibition Park. Consistent with MPC's approach for such projects, the Territory delegate decided that a project management procurement would be undertaken using the Project Management Agreement (PMA) Panel. The PMA Panel, which is now retired, was previously used for the engagement of qualified and experienced project managers to support delivery of projects in conjunction with MPC. The PMA Panel has since been replaced by the Managing Contractor Panel.

Under the PMA Panel, project managers were advised of the construction budget as they were engaged to procure subcontractors to support delivery and monitor and manage works expenditure throughout delivery. The project managers require an indication of the scale and scope of the project they will be managing to provide a response to the request. For this project, the construction budget was \$4.0 million (excluding GST), and this amount was disclosed to the project manager at the time of engagement. PMA project managers were not provided with the overall project budget, which was

⁴ [Canberra Health Services Annual Report 2024-25](#), pg. 171-172, [CIT 2024 Annual Report](#), pg. 164, [Chief Minister Treasury and Economic Development Directorate Annual Report 2024-25 – Volume 2.1](#), pg. 128-129, [Community Services Directorate Annual Report 2024-25](#), pg. 352, [ACT Education Directorate Annual Report 2024-25](#), pg. 343, [Environment, Planning and Sustainable Development Directorate Annual Report 2024-25](#), pg. 320, [Infrastructure Canberra Annual Report 2024-25](#), pg. 199, [Justice and Community Safety Directorate Annual Report 2024-25](#), pg. 349, [Transport Canberra and City Services Annual Report 2024-25](#), pg. 416, [Annual Reports - Other Reports](#)

\$5.049 million (excluding GST). There was no breach of the procurement framework in this disclosure.

Conclusion

Should any serious allegations be made about non-compliance with these Acts, the Government would welcome an opportunity to submit further information for the Committee to consider. The Government considers that allegations of breaches of these Acts are significant and require appropriate consideration by Government, including any potential referrals required to the Public Sector Standards Commissioner, the Auditor-General and/or the ACT Integrity Commission.

The Government thanks the Committee for the opportunity to provide a submission to the inquiry. ACT Government officials are available for public hearings and to support the Committee's deliberations as required.



ACT
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