



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON PUBLIC ACCOUNTS

Mrs Elizabeth Kikkert MLA (Chair), Mr Michael Pettersson MLA (Deputy Chair),  
Mr Andrew Braddock MLA

## Submission Cover Sheet

### Inquiry into Financial Management Amendment Bill 2021 (No 2)

**Submission Number: 06**

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## Mick Gentleman MLA

Manager of Government Business  
Minister for Planning and Land Management  
Minister for Police and Emergency Services  
Minister for Corrections  
Minister for Industrial Relations and Workplace Safety

Member for Brindabella

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Mrs Elizabeth Kikkert MLA  
Chair, Standing Committee on Public Accounts  
Legislative Assembly for the Australian Capital Territory  
Civic Square, London Circuit  
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Dear Chair *ELIZABETH*

Thank you for your letter inviting a submission into the Committee on Public Accounts Inquiry into Financial Management Amendment Bill 2021 (No 2). I am pleased to have this opportunity to provide my views on the bill and its implications.

### Background

The Financial Management Amendment Bill 2021 (No. 2) was presented to the Assembly on 1 December 2021. This bill is part of the Government's commitment to secure employment and provides a legislative basis for an Insourcing Framework.

The Insourcing Framework will evaluate the insourcing and outsourcing of Government work and the bill provides for the detail of the Insourcing Framework to be established through a supporting instrument. The bill outlines that the Insourcing Framework will evaluate whether services or works required by a public sector entity should be provided by the public sector or by an external provider.

### Purpose and approach

This Government's commitment to insourcing demonstrates the value it places on the Territory's public service and on secure employment. The Insourcing Framework is being developed to have a sophisticated approach to analysing proposed government outsourcing of services and works. It will

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not simply be a matter of deciding on the lowest cost option. Instead, under this new framework, a decision about insourcing will consider how the whole community can be better supported by the public service.

The Insourcing Framework's evaluation model will be wider in scope than evaluation models of the past. It is being designed to include considerations like economic costs and benefits, social costs and benefits, environmental costs and benefits and the public interest.

The Framework operates to and aligns with the future direction and priorities of the Government as reflected in those of the ACT Public Service. It will also incorporate the Government's ground-breaking Wellbeing Indicators.

The Government's Wellbeing Indicators are a commitment to providing the people of the ACT with the opportunity and ability to lead lives of personal and community value – with qualities such as good health, time to enjoy the things in life that matter in an environment that promotes personal growth and is sustainable.

Measuring wellbeing is about having a sense of our progress around the things that matter to quality of life and help citizens to live their lives well. Putting this at the heart of the Insourcing Framework further embeds the Government's commitment to the wellbeing of the people of the ACT. Embedding Wellbeing Indicators in an evaluation model of this kind demonstrates this Government's commitment to balancing innovation and wellbeing. Incorporating the Wellbeing Indicators into the Insourcing Framework will see the Government well placed to embrace new directions on work design, work/life balance, strategies that harness potential and broaden our perspectives on how the ACT Public Service works in teams.

The Insourcing Framework is being designed with additional considerations in mind. These include industrial relations considerations, workforce considerations, transmission of business, workforce supply and demand, capital procurements, infrastructure requirements, talent acquisition, and technology requirements.

Consultation on the Insourcing Framework has commenced, supported by two discussion papers circulated to government directorates, public sector bodies, and ACT unions. The Insourcing Framework will benefit from the insight that these experienced stakeholders can bring to our consultative discussions. Further consultation with stakeholders will occur as the detail of the Framework is developed.

Through consultation, the Government is gaining a better understanding as to why secure employment is important to Canberrans. Secure work makes it easier for workers to get bank loans and to buy a home. It means they can take leave when they are sick or need to look after their loved

ones, without putting their job at risk. It means they can have the confidence to spend money to support the ACT economy, boost growth and create even more jobs.

Consultation has also revealed that it will be important for the Insourcing Framework to consider insourcing newly identified opportunities that might have otherwise been outsourced, as well as considering whether services or works should be insourced at the end of an initial term of a contract when an option to renew the contract is being considered.

Many things have been clarified during the COVID pandemic, including the risks to both workers and to the economy that insecure work brings. The Government also better understands that women, young people and people from a migrant background are more likely to find themselves in insecure work.

Through the Insourcing Framework, this Government is committed to ensuring its resources are used to support secure employment. This will mean better outcomes for people across the Territory. Emerging from the COVID pandemic, the Territory and its public service will be challenged to think in new ways and work in new ways.

The Government recognises the value of the Territory's public service. The ACT public service has worked tirelessly through the COVID pandemic, often in challenging circumstances. Despite these circumstances, they have produced some extraordinary work.

The Government knows that the public service can not always do everything; but the public service can be, and must be, the foremost advisors to government. The public service are the custodians of the public good. The Government trusts the advice it receives from the public service and the Government is grateful for it.

Through the Insourcing Framework, the Government is seeking to maximise its current and future workforce, catering for future change with broad skillsets. Workforce capability, flexibility and mobility are key considerations when building the ACT Public Service of the future, and the Insourcing Framework will capture these considerations. Secure employment and the framework will support the capability of the service into the future.

### **The Bill and Conflict of Laws**

The Financial Management Amendment Bill 2021 (No. 2) has been drafted to ensure that it does not provoke Conflict of Laws concerns. An outline of the clauses of the bill follows.

The first clause sets out the name of the bill.

The second clause outlines the commencement of the Act. The Act will commence on a day fixed by written notice. If the Act has not commenced within six months of passing the Assembly, the Act will automatically commence on the first day after that period.

The third clause provides that the bill will be amending the *Financial Management Act 1996*.

The fourth clause inserts a new Part 9A into the *Financial Management Act 1996*, with new Part 9A outlining the following:

- new section 126 defines public sector entities.
- new section 127 outlines that responsible public sector chief executive officers are to ensure compliance with Part 9A, and outlines who the chief executive officer are in the public sector.
- new section 128 outlines that the Chief Minister must determine the Insourcing Framework. The Insourcing Framework is to evaluate whether services or works required by a public sector entity should be provided by the public sector or an external provider. It also outlines that the determination of the Insourcing Framework is to be achieved through a Notifiable Instrument.
- new section 129 outlines the circumstances in which a public sector entity must evaluate whether their required services or works are to be evaluated by the Insourcing Framework.
- new section 129A provides that the Chief Minister may give a direction to a public sector entity in relation to that public sector entity's obligations under section 129 and any other matter under Part 9A. Directions under section 129A are to be notifiable instruments.

Clause 5 inserts into the dictionary of the *Financial Management Act 1996* a definition for public sector entity, which refers to new section 126.

The Bill does not conflict with any existing laws, including laws that provide for the exercise of statutory functions by the Officers of the Assembly, the Auditor-General, the Integrity Commissioner and the Electoral Commissioner or the Office of the Legislative Assembly. In particular, the inclusion of clause 4, specifically proposed subsection 129(2) provides that an evaluation for services or works does not apply to services or works provided by the Commonwealth or a State, or an entity of the Commonwealth or a State, further safeguarding against concerns in relation to Conflict of Laws.

### **The Bill and the impartiality and independence of the Office of the Legislative Assembly and Officers of the Assembly**

This bill provides the legislative basis for the Insourcing Framework. It outlines that the Insourcing Framework will evaluate whether services or works required by a public sector entity should be provided by the public sector or by an external provider.

As outlined in clause 4 of the bill, a new section 128 provides that a future Instrument will capture the design and detail of the Insourcing Framework, which will be an evaluation model with innovative and pioneering elements that will further safeguard secure employment in the ACT and may be drafted to address concerns of stakeholders, including concerns in relation to the operation of the Insourcing Framework with respect to independent statutory officers.

The bill does not impact on the independent and impartial exercise of the statutory functions of Office of the Legislative Assembly and the Officers of the Assembly who are subject to the Financial Management Act, being the Auditor-General, the Integrity Commissioner and the Electoral Commissioner. Rather the bill provides for the establishment of the Insourcing Framework. If the Officers of the Assembly have concerns as to how that Insourcing Framework will operate, I welcome their views and their concerns about the operation of the Insourcing Framework will be considered in the design and development of the Insourcing Framework.

The Government will continue its efforts to promote safe, secure and fair employment. The Government will continue working with all the tools it has available: with purchasing power, within the public service and beyond, to ensure that Canberrans have the employment opportunities and conditions they deserve.

I commend the bill to the Committee and thank you for your time considering both the bill itself and providing an opportunity for other stakeholders to provide their views on the bill.

Yours sincerely

  
Mick Gentleman MLA  
Minister for Industrial Relations and Workplace Safety

*27/1/2022*