



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

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Submitter: Peter Bradbury

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Submission to the Legislative Assembly
Select Committee Inquiry into Financial Management and Government
Procurement Legislative Compliance

by Peter Bradbury BA (Accounting and Finance)
Economic Statistician, retired
(Australian Bureau of Statistics and International Monetary Fund)

This Inquiry came about in large part from concerns about the operation of the 2024-25 appropriations, so I will start with a study of the relevant documents.

Study of 2024-25 Appropriations

Appropriations are controlled by Appropriation Acts and Treasurer's Authorisations under the *Financial Management Act 1996* (FMA) in various forms, by entity, with reserves that can be activated.

Treasurers Authorisations are a special form of Notifiable Instrument (NI) where the notification is generally linked to the next quarterly financial report, with more sensitive instances requiring very timely notification to MLAs (about 5 working days after signing). They are not notified on the Legislation Register.

Treasurer - Andrew Barr

Appropriation Act 2024-25 and Appropriation (Office of the Legislative Assembly) Act 2024-2025

With two exceptions, these appear to be in line with the legislation, with the Treasurer's advance and Capital works reserve within their legislated limits.

The exceptions are that the ACT Executive and the Office of the Legislative Assembly which received appropriations in the form of payments on behalf of the Territory. These entities are not Directorates and not eligible to receive appropriations of this form under s8(1). They are covered by s8(2) which does not allow appropriations of this form. These appropriations were therefore illegal.

September Quarter 2024 Consolidated Financial Report

This report contains one Treasurer's Authorisation. It complies with the reporting requirements of the FMA which require authorisations signed since the last report presented to the Legislative Assembly be attached and summarised in a list.

Attachment C – Signed Financial Instruments contains (as do all the reports I viewed) the text “Section 26(2)(b) of the *Financial Management Act 1996* (FMA) requires a summary of instruments signed for the quarter to which these statements relate”. This is incorrect as COVID specific clauses were added to s26 at the time resulting in the correct reference now being Section 26(3)(b). This is a worrying lack of attention to detail, particularly when Chris Steel later took over as Treasurer, a competent manager taking on a new role or responsibilities should fully acquaint themselves with the requirements and content of any documents they are approving.

Treasurer - Chris Steel

December Quarter 2024 Consolidated Financial Report

This report contains no Treasurer's Authorisations.

It does not comply with the reporting requirements of the FMA because it should have reported two authorisations that were signed since the September report on dates that were well before the production of the December report. A further five authorisations were signed within three days of the latest day this report needed to be provided to the Assembly and MLAs. Not being an MLA, I am unable to determine whether these authorisations should have been included with this report.

A s18A authorisation was signed on 22 January 2025 for the ACT Local Hospital Network. I was unable to determine whether a copy of this was provided to MLAs within the 5 working days required, but this could be determined by MLAs checking their own records. A s18A authorisation draws on the Treasurer's advance prior to supplementary Appropriation Acts.

March Quarter 2025 Consolidated Financial Report

This report as originally presented to MLAs in mid-May 2025 and on the ACT Government website listed 24 Treasurer's Authorisations but contained no copies of the authorisations. This is in breach of the reporting requirements of the FMA.

An FOI request was lodged on 4 March requesting copies of the signed authorisations. This resulted in a replacement report being loaded to the website by 11 March, this contains no annotation to the effect that it replaces a previously deficient report. CMTEDD FOI advised the cause was an administrative error. Inspection of the metadata for both files reveals that the replacement file is just an earlier version of the file originally loaded. Therefore, the administrative error was the deletion of 37 pages from the middle of the document. It is not clear how those authorising the report for distribution, including the Treasurer, missed such an obvious and large error.

The report does not comply with the reporting requirements of the FMA because it should have reported 13 authorisations that were signed since the December report on dates that were well before the production of the March report. A further two authorisations were signed within two days of the latest day this report needed to be provided to the Assembly and MLAs. Again, I am unable to determine whether these authorisations should have been included with this report.

A s18E authorisation was signed on 14 March 2025 for the Justice and Community Services. Again, I was unable to determine whether a copy of this was provided to MLAs within the 5 working days required.

June Quarter 2025 Consolidated Financial Report

Other than reporting authorisations that should have been included in the March quarter report, it complies with the reporting requirements of the FMA. Because it is the

end of the financial year there is a reduced possibility of authorisations being signed in the new year.

However, this report contains Attachment F – Central Reserve. The notes tell us that:

The *Appropriation Bill 2024-2025 (No 2)* created a temporary central reserve to address any additional funding requirements arising from unforeseen cost pressures from delivering critical services to the ACT community in 2024-2025. If undrawn by the end of the financial year, this additional funding would be returned to budget.

Neither the Bill, the Act it became, or the related Explanatory Statement contains the term General Reserve. In addition, the FMA doesn't contain the term.

What appears to have been set up is an extension of the Treasurer's advance in the amount of \$19,935,000 which would increase that facility by around 25 per cent and exceed its legislated limit by the same magnitude. However, other than general provisions that may apply it is unregulated by legislation including reporting requirements.

In terms of what was reported, it is comforting that no drawdowns appear to have been made from this 'reserve', but it is very concerning that "this additional funding would be returned to budget" rather than lapsing at the end of 2024-25.

As *Appropriation Act 2024-25 (No 2)* was passed by the Assembly on 20 March 2025 it is puzzling that a Central Reserve Attachment doesn't appear in the March quarter 2025 Financial Report.

Two s18 authorisations were attached to this report, one signed on 29 May 2025 for Transport Canberra and City Services, the other signed on 6 June 2025 for the Canberra Institute of Technology. Again, I was unable to determine whether copies were provided to MLAs within the 5 working days required.

2024-25 Consolidated Annual Financial Statements

This report contains a Statement of Appropriation. It summarises all the appropriation actions detailed by entity and form and reports total appropriations and totals drawn down. Generally, it appears to align with the appropriation action related to 2024-25.

This statement has several shortcomings:

1. The Treasurer's advance is reported in such a way that it appears to be live appropriation rather than a 'below the line' reserve. This produces totals that are misleading.
2. The Capital works reserve is not shown at all.
3. For no reason s16 authorisations which are neutral transfers between entities are not shown in the column dedicated to similar transfers, but in additional approved appropriations.
4. I would have expected that such a report would present a reconciliation with relevant amounts in the financial statements, particularly cash flow.

Observations and Recommendations

The study above with its substantial range and breath of breaches of the FMA is concerning as the legislation is relatively simple and straightforward. It gives little confidence in the more complex budgetary functions that the ACT government undertakes.

Sections 7A through to 19B contain the provisions for various types of Treasurer's authorisations. Most are either benign because they are moving appropriation about within the current year, or have good controls around them, or highly transparent reporting such as activation of reserve provisions. That leaves s16B authorisations which create active appropriation in the current year by rolling over unused appropriation from the previous year. This is a higher risk activity and has the potential to affect fiscal aggregates. That is why they are so sensitive.

Beyond the clear failings here, I'm concerned that there are risks that go beyond transparency. Why does it take nine or more months to roll over unused appropriations, are we to believe that programs were expending money in 2023-24 until 30 June, and then not a dollar is spent between 1 July and April (or later) the following year. This concern is compounded by skimming over the details and seeing instances that indicate that monies have been disbursed without a valid appropriation. For example, on p66 of the June quarter 2025 report, signed on 10 April 2025:

\$9.004 million for Investing in payroll capability and human resource management – the rollover is required due to delays in the establishment of government arrangements. All funds have been committed, and financial completion of the project is anticipated in January 2025. [At least 2 months before the Treasurer's authorisation of the rollover, my emphasis added]

Or worse, what is a clear retrospective approval of an appropriation signed on 10 April 2025, p78 of the June quarter 2025 report:

\$1.400 million for Climate action – Electrification of government gas assets program – the rollover is required due to the complexity of the sites and gaps in asset data leading to sites often having more assets than originally expected, further delaying the substation order. Invoices were generated and paid in July 2024, missing the forecast financial year by one month. The rollover of these funds is required as they relate to 2023-24 commitments and have already been spent. The completion of works relating to the initial engineering investigations were delayed for several reasons, including delays in the procurement of consultants and site access limitations

The tardy approval of such rollovers appears to be something beyond laziness. Approval of these rollovers after the Budget Review for the year means that the operating statement spending in that document and the corresponding Budget Outlook is understated. The true picture only emerges when the estimated outcome for the year appears in the next year's Budget Outlook. This would explain a pattern of late in the year deteriorations in the key fiscal aggregates like the operating balance and net borrowing. The total value of s16B rollovers in 2024-25 was \$111 million.

The Assembly and the ACT community deserve better processes around this. The only reason apparent to me as to why rollovers aren't presented with the first appropriation bill for the year, is that that it can't be done in the tight timeframe near the end of the financial year. This could be addressed by requiring entities to make a provision for expected s16B rollovers (which they must not exceed) in their budget statements with the activation of the rollovers carried out as currently. This would provide a more honest and transparent presentation of the fiscal situation from the Budget Outlook onwards.

Sections 9 through to 9B that allow certain types of netting to be done depending on the form type and entity type. It is difficult to see why this is necessary or even good practice. At a minimum, it means there are inconsistent practices which is not efficient. Beyond that:

- s9 allows Directorates to net off payments it is entitled to receive for providing goods and services. This could lead to strange outcomes such as a Directorate needing supplementary appropriation not because it spent too much but because revenue came up short; or the even more perverse situation that it had a revenue bonanza that it could legally spend on things not intended by the Assembly. It seems to go against the very principles of appropriation.
- The other provision throughout these sections allows (GST) input tax credits to be netted off. This does not seem unreasonable, but it would seem to complicate the budgeting process and have the risk that appropriations are made on a gross basis with the netting providing a buffer for budget overruns.

The Inquiry should look at these provisions very closely and seek detailed documentary evidence from a range of ACT Government entities that show actual practice with a prejudice to removing them unless good justification can be shown.

The Inquiry should consider what the needs of the appropriation process are for the Assembly, and it should consider engaging a business process expert to recommend best practice.

Please contact me if you have any questions or wish to clarify any aspect of my submission.
