

# PARLIAMENTARY COUNSEL

## Chief Executive Instructions

(Issued April 2007)

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## Introduction

### ***The context of these Chief Executive Instructions***

1 The *Financial Management and Accountability Regulations 1997 (FMA Regulations)* prescribe the Office of Parliamentary Counsel as an Agency and the First Parliamentary Counsel as its Chief Executive. The statutory content of the Commonwealth's financial governance framework comprising the *Financial Management and Accountability Act 1997 (FMA Act)*, FMA Regulations and the *Financial Management and Accountability Orders (FMA Orders)* is, for the most part, principles-based. That is, while the components of the framework set out the basic powers, obligations, rights and responsibilities of those involved in managing the Commonwealth's financial activities, it falls to the Chief Executive of each agency to establish the operating procedures, best suited to his or her own agency's environment, to give practical effect and support to those principles.

2 This concept is specifically reflected in s.44 of the FMA Act, which obliges each Chief Executive to manage the affairs of his or her Agency in a way that promotes the efficient, effective and ethical use of Commonwealth resources for which the Chief Executive is responsible. To this end, the Act and regulations authorise Chief Executives to give instructions to officials in their Agencies on any matter on which FMA Regulations may be made including matters covering, in particular:

- handling, spending and accounting for public money;
- commitments to spend public money;
- recovering amounts owing to the Commonwealth;
- using or disposing of public property;
- acquiring property for the Commonwealth;
- the efficient, effective and ethical use and management of public money, public property and other resources of the Commonwealth; and
- proper accountability for the use and management of public money, public property and other resources of the Commonwealth.

3 The CEIs issued for OPC have these matters as their focus and are supported, where appropriate, by Procedural Guidelines that have been developed to assist OPC officials in complying with those CEIs.

4 Procedural Guidelines may include, but are not limited to, Office Procedural Circulars, IT Circulars and Word Notes. Any document intended to be a Procedural Guideline for the purpose of the CEIs will be expressly identified as such.

## ***CEIs apply to all OPC officials***

5 In these CEIs, ***OPC officials*** include the Statutory Officers, all employees of OPC, and any in-house contractors. It also includes any other person defined as an official in the FMA Act.

## ***Issues not specifically dealt with in CEIs***

6 In a real sense, all OPC officials share responsibility for the proper use of OPC's resources. Every one of us is a steward of the physical and financial resources that we use or control. This shared stewardship is heightened because we are a small agency. Individual acts or omissions on resource matters can have an impact on all.

7 OPC officials can contact the General Manager for advice on any matter relevant to the content of the CEIs.

8 While many CEIs will be more relevant to officials working in the financial management areas of OPC, Parts 4, 5, 6 and 7 are particularly important to all OPC officials.

9 Clearly, it is not practicable to issue written instructions and guidance to cover every conceivable situation or circumstance that might be encountered in the day-to-day running of OPC. In these instances, OPC officials at all levels may need to exercise their initiative in dealing with resource-related matters. If OPC officials are faced with such a situation, they are expected to ensure that their subsequent action or decision on the matter:

- is legal; and
- would stand up to public scrutiny; and
- is fair and ethical; and
- is economical; and
- would contribute to OPC's corporate objectives.

10 Actions or decisions objectively based on these criteria will seldom, if ever, warrant criticism, since they can be assumed to correspond with FPC's own obligations, as a Chief Executive, under s.44 of the FMA Act, described earlier. Moreover, such action would be entirely consistent with the APS Values and Code of Conduct, which apply no less to resource matters than to other aspects of employment.

## ***Risk management***

11 Every aspect of OPC's functions and operations carries inherent risks. How we manage those risks can spell the difference between operating professionally and efficiently, or not. Just as there is an unacceptable cost, in terms of both our reputation and our resources, in failing to address and mitigate certain risks, there can also be an unacceptable cost to efficiency in attempting to avert other types of risks.

## Chief Executive Instructions

12 Management has a particular and on-going role to play in identifying the nature and extent of OPC's risks and developing appropriate strategies to manage them. All OPC officials have a responsibility to contribute to this process.

13 The CEIs that have been issued are an important element in OPC's risk management strategy. If any OPC official considers that a CEI or Procedural Guideline is incompatible with sensible risk management, or, conversely, that the management of a particular risk would be improved by the development of a new CEI or Procedural Guideline, that official should bring his or her suggestions to the attention of OPC's General Manager.

Peter Quiggin  
First Parliamentary Counsel

April 2007



## Part 1—Delegation of authority to officials to perform resource-related functions

### **Chief Executive Instructions**

1.1	<p>Officials must exercise statutory powers or undertake a related function only if, and only to the extent that, they have been authorised to do so either:</p> <ul style="list-style-type: none"><li>• by direct formal instrument of delegation issued by the First Parliamentary Counsel or the Minister; or</li><li>• through the CEIs.</li></ul>
1.2	<p>An official who is delegated to exercise a statutory power, or undertake a related function, must comply with any directions accompanying the particular delegation and any Procedural Guideline under the CEIs relating to the exercise of that power.</p> <p><i>(Note: In the unlikely event that a Procedural Guideline is inconsistent with a direction accompanying a delegation/authorisation, the direction takes precedence.)</i></p>
1.3	<p>Delegated officials must ensure that they fully understand their powers and the requirements of any relevant directions and Procedural Guidelines.</p>
1.4	<p>Supervisors of delegated officials must satisfy themselves that those officials have the skills and knowledge necessary for the proper exercise/performance of the delegated power or function, and, if necessary, are provided with the appropriate briefing or training to obtain and maintain those skills and that knowledge.</p>
1.5	<p>Officials with delegations and authorisations must provide a statement to First Parliamentary Counsel each year stating that delegations and authorisations they have been given have been exercised within the required limits and conditions.</p>

## **Background**

14 The term delegation is used for convenience in these Instructions and can be taken to cover both delegations and authorisations, as appropriate, in relation to financial powers and functions, and the First Parliamentary Counsel's powers and functions under:

- the FMA Act and its subordinate legislation;
- any other Act under which the First Parliamentary Counsel (*FPC*) has powers or functions.

15 See Attachment A for a summary of the delegations/authorisations under these CEIs.

16 As far as practicable, delegations are structured to achieve an appropriate segregation of duties and are generic so as to accommodate any changes arising from minor organisational rearrangements.

17 FPC is required to give to the Finance Minister, by the date the agency's annual financial statements are signed by the Chief Executive, a Certificate of Compliance stating that OPC has:

- (a) complied with the provisions and requirements of the FMA Act, the FMA Regulations and fulfilled the obligations under the FMA Orders;
- (b) exercised the powers delegated by the Finance Minister in the *Financial Management and Accountability (Finance Minister to Chief Executives) Amendment Delegation 2003 (No. 1) (the Delegation)* as amended from time to time, in accordance with the Delegation, including the exercise of Regulation 10 delegation (with requisite reporting);
- (c) complied with Australian Government requirements on foreign exchange risk management including any applicable exemptions and including the association reporting requirements;
- (d) complied with the legal and financial requirements for the management of the Special Accounts for which OPC is responsible; and
- (e) complied with the financial management policies of the Commonwealth.

18 To assist FPC in completing the Certificate of Compliance, the officials with delegations and authorisations will complete a proforma provided by General Manager in accordance with CEI 1.5.

## Part 2—Accounting and appropriations

### 2A—Budget control and drawing rights

#### Chief Executive Instructions

2A.1	Officials must comply with the Chief Finance Officer's directions in relation to matters concerned with the preparation and management of OPC's budget and the preparation of the annual financial statements.
2A.2	No official is to:  (a) make payments of public money;  (b) make a request that an amount be debited against an appropriation; or  (c) make a debit of an amount against an appropriation;  unless he or she has been authorised to do so by or under an Act.
2A.3	Officials who have been given drawing rights must ensure that, before they exercise those rights in any instance, they fully understand the limits and conditions of the drawing rights.

## **Background**

19 As Chief Executive, FPC is responsible for approving OPC's annual budget and reviewing progress towards its achievement. This includes agreeing to the individual elements of the budget put forward by the Chief Finance Officer and material variations to the approved budget. FPC also signs off on OPC's audited annual financial statements required by section 49 of the FMA Act.

20 The Chief Finance Officer, in turn, coordinates the preparation and management of OPC's annual budget, and the preparation of the annual financial statements.

21 The Commonwealth Budget, and its financial reporting obligations, are prepared and managed on an accruals basis. The utilization of cash necessary to meet agencies' current and accrued obligations is controlled through a system of 'drawing rights', established under sections 26 and 27 of the FMA Act. Drawing rights are intended to give operational substance to section 83 of the Constitution:

No money shall be drawn from the Treasury of the Commonwealth except under an appropriation made by law.

22 The Treasury of the Commonwealth is taken to mean the Commonwealth's aggregate cash resources available to meet payments. A drawing right has effect only to the extent that it authorises the application of money in conformity with the terms of an available appropriation. The Finance Minister, as custodian of this Treasury, has delegated to each Chief Executive the authority to issue drawing rights to officials in his or her agency to:

- (a) make payments of public money;
- (b) make a request that an amount be debited against an appropriation; or
- (c) make a debit of an amount against an appropriation.

23 Because of the consequences of these actions for the fundamental constraint on the Executive embodied in section 83 of the Constitution, the FMA Act provides a penalty of up to 2 years imprisonment for any official (or Minister) who exceeds the financial limits or spending purposes authorized in a valid drawing right.

See Attachment B for a copy of the *Issuance of Drawing Rights under the Financial Management and Accountability Act 1997*.

## **2B—Estimates and financial reporting**

### **Chief Executive instructions**

2B.1	No official is to furnish or endorse a financial estimate, a budget component, or non-financial performance information, that he or she knows to be materially wrong. If an official does not know, but suspects, that such data may contain a material error, that official must inform the intended recipient of the data of the nature of that suspicion. Both the official and the recipient must retain (for the period in which the data is to be used) a record of the fact that the recipient was so informed.
2B.2	Where the Chief Finance Officer requests information or action in connection with the preparation of: <ul style="list-style-type: none"><li>• financial estimates; or</li><li>• budget management; or</li><li>• financial reporting; or</li><li>• non-financial performance information;</li></ul> the OPC official to whom such requests are directed must ensure that those requests are met.

**Background**

24 As a body financed from the Commonwealth Budget, OPC needs to be able to rely on the integrity of its estimates processes in negotiating for resources, and, in turn, on the management of those resources to enable us to operate within budget.

25 It is not acceptable for our managers to excuse sloppy budget preparation with, “It doesn’t really matter, they’re only estimates”. The importance of striving for material accuracy in our estimates cannot be overstated. If OPC were shown to be significantly and/or consistently inaccurate in its budgeting—whether in its preparation or execution—not only would our credibility with the Government be damaged but also such inaccuracies would distort our own internal strategic planning and decision-making on service delivery.

26 Our functions are translated into financial terms and reported to Government. Making our performance visible is the essence of our corporate accountability. The flagship of this accountability is our annual financial statements. We may also be required to furnish other periodic reports for which financial statements are used as the vehicle for our accountability.

27 The FMA Act makes each Agency’s Chief Executive personally responsible for these financial statements and the judgements included in them, and for how truly and fairly they reflect the financial operations and the service performance of the Agency.

28 At appropriate stages within the Commonwealth’s Budget cycle, the Chief Finance Officer will furnish relevant OPC officials with comprehensive guidance and directions on the processes associated with OPC’s Budget preparation, execution and related financial reporting.

## **Part 3—Collection and custody of public money**

### **3A—Official bank accounts**

#### ***Chief Executive Instructions***

3A.1	No official is to open or close a bank account in which money legally belonging to the Commonwealth would be held, unless that official has been sub-delegated the power to do so by FPC.
3A.2	No official is to permit a third party (eg a contractor) to open or close a bank account in which money legally belonging to the Commonwealth and payable to OPC would be held.
3A.3	OPC’s bank account must be used for Departmental payments and receipts and must be titled “Office of Parliamentary Counsel—Official Departmental payments and receipts account”.
3A.4	The members of the SMT have signing authority on OPC’s bank account, and any 2 members of the SMT must sign each cheque.
3A.5	All officials must comply with requests for information/documentation from the Chief Finance Officer in relation to their part in any transaction affecting an OPC bank account.

**Background**

29 Section 9 of the FMA Act establishes the Finance Minister as the source of power to open bank accounts on behalf of the Commonwealth. The Finance Minister has delegated that power to Chief Executives of agencies. It is, in turn, open to each Chief Executive to sub-delegate that power to officials in their particular agency.

30 With the day-to-day operation of bank accounts having been devolved to agencies, OPC has a heightened responsibility to manage its banking efficiently and effectively. Any receipts should be banked as quickly as practicable [see CEI 3B.3]. Funds should not be drawn down ahead of need and payments should not be made ahead of the due date [see CEI 5B.3].

31 All OPC's payments and receipts are Departmental payments and receipts.

32 The Chief Finance Officer has been given operational responsibility for the oversight, management and reconciliation of OPC's banking activities.

**Procedural Guidelines:**

Bank Reconciliations, Finance Manual (available in Folio Views)

### **3B—Receiving public money**

#### **Chief Executive Instructions**

3B.1	<p>Any official who</p> <ul style="list-style-type: none"> <li>(a) has not been nominated as a Collector of Public Money (<i>CPM</i>); and</li> <li>(b) receives money intended for the Commonwealth;</li> </ul> <p>must pass that money to a CPM for processing as soon as practicable. Under no circumstances must an official who is not a CPM issue any form of receipt to the payer for that money.</p>
3B.2	<p>A CPM must ensure that, in carrying out that role, he or she understands (if necessary, through reasonable inquiry to appropriate expert sources):</p> <ul style="list-style-type: none"> <li>• any terms, conditions and directions which FPC has specified apply to CPMs in carrying out that role;</li> <li>• the requirements that CPMs are to observe, as set out in the FMA Act, Regulations, Finance Minister’s Orders and any other law relating to how the received money is to be dealt with; and</li> <li>• Procedural Guidelines issued to assist CPMs in performing the CPM functions.</li> </ul>
3B.3	<p>A CPM must deposit all public money received into OPC’s official bank account (Office of Parliamentary Counsel—Official Departmental Collector’s Receipts Account). Deposits to that account must occur as follows:</p> <ul style="list-style-type: none"> <li>• each working day, deposit all accumulated receipts whenever they exceed \$500;</li> <li>• on the last working day of the month, deposit all un-banked receipts; and</li> <li>• on the last working day of the financial year, deposit all un-banked receipts.</li> </ul>

**Background**

33 Money (cash, electronic funds transfers, cheques etc) received into the Commonwealth's possession becomes public money within the meaning of the FMA Act. The FMA Act and FMA Regulations, and FMA Orders set down the statutory obligations and responsibilities of officials who deal with public money.

34 Potentially, any official may find themselves in possession of received money eg by opening incoming mail containing payments. As a matter of sound internal control, however, only those persons nominated by FPC to perform the role of Collector of Public Money (*CPM*) are permitted to deal conclusively with money that OPC receives.

35 Appointment as a CPM brings with it obligations and responsibilities for the receipting, safe custody, banking of, and accounting for, received money. These duties and processes are explained in Procedural Guidelines. Permitting only authorised officials to perform these functions ensures protection for all parties and enhances proper control and management of the public money received through OPC.

36 See Attachment A for the positions that carry with them the role of CPM.

**Procedural Guidelines:**

OPC No. 54—Accounts Receivable

OPC No. 45—Legislation Process courses—Accounting issues

### **3C—Official advances (including petty cash)**

#### **Chief Executive Instructions**

3C.1	<p>No official is to be the custodian of a cash advance unless FPC has, in writing:</p> <ul style="list-style-type: none"><li>(a) designated the official, or the position he or she occupies, to be an Advance Holder/Advance Holder Position; and</li><li>(b) approved the establishment of the particular cash advance and its specified purposes.</li></ul>
3C.2	<p>An Advance Holder must not:</p> <ul style="list-style-type: none"><li>(a) use the particular cash advance otherwise than in accordance with the terms and conditions advised by FPC; or</li><li>(b) delegate, either in whole or in part (as a sub-advance), the operation of the particular cash advance to any other person; or</li><li>(c) knowingly effect a handover of the cash advance to a person who does not satisfy the condition described in CEI 3C.1(a).</li></ul>
3C.3	<p>An Advance Holder, or a person designated by the Chief Finance Officer to verify the periodic reconciliation of a cash advance, must ensure that he or she takes fully into account the requirements set down in the Procedural Guidelines related to the operation of cash advances. If an Advance Holder or the designated person takes, or proposes to take, action that is inconsistent with a Procedural Guideline, he or she must make a written record of the reasons for doing so and provide the Chief Finance Officer with a copy of that document as soon as practicable.</p>

**Background**

37 Cash Advances are so called because they have been “advanced” out of our bank account into the custody of a specified official. The purpose of this advance is to cover the need to have small amounts readily on hand (Petty Cash) to meet minor, incidental expenses which cannot conveniently or cost-effectively be processed for payment by cheque or as direct credit.

38 Cash advances have the potential to generate significant problems if they are not managed properly. For example:

- an advance must only be used for the purposes for which it was established; and
- an advance must be formally in the actual (not merely nominal) custody and control of an identifiable official or occupant of a position; and
- an advance must always be kept physically secure; and
- an advance must be reconciled (acquitted) regularly, and that process must be checked by a person not associated with the custody of the advance.

39 The Chief Finance Officer has been given the responsibility for developing and implementing Procedural Guidelines for the management of OPC’s cash advances.

40 See Attachment A for the positions that carry with them the role of Advance Holder.

**Procedural Guidelines:**

Petty Cash, Finance Manual (available in Folio Views)

### **3D—Debtor management**

#### **Chief Executive Instructions**

3D.1	<p>In keeping with FPC's powers and responsibilities under the FMA Act relating to the management of debtors, no official is to:</p> <ul style="list-style-type: none"><li>(a) agree to the recovery of a debt by instalments; or</li><li>(b) treat a debt as irrecoverable, or to hold out to a debtor the prospect of the debt being written off;</li></ul> <p>before FPC, or a person authorised to act on behalf of FPC in such matters, has endorsed that course of action.</p>
3D.2	<p>An official giving effect to action under CEI 3D.1(a) must do so strictly in accordance with any terms and conditions specified by FPC or a person authorised to act on behalf of FPC in that matter.</p>

## **Background**

41 **Receivables** describes the amounts owed to OPC on behalf of the Commonwealth. **Debtors** are the people or organisations who owe us those amounts. Receivables are accounted for as an asset—management of that asset means, in practice, managing debtors.

42 The FMA Act imposes an obligation on FPC, as Chief Executive, to recover all debts, except those that are no longer recoverable at law; or are judged (by FPC or a delegate) to be uneconomical to pursue. (There is a third category of exception—debts that have been written off under an Act—but that category is less relevant to OPC’s operations than to those of agencies administering statutory payment/revenue programs where the statute concerned contains provisions to write-off of debts).

43 Given the particular nature of our operations, the circumstances of indebtedness to OPC arising would, in the main, be limited to overpayments of salary and allowances; Legislation Process Courses; and, very occasionally, where we have sold property on credit. The default position on debt recovery is that the whole amount is recoverable in one amount, unless a contractual arrangement is entered into with the debtor for repayment by instalments. The FMA Act empowers the Finance Minister to agree to repayment of debts by instalments; or to defer recovery of a debt; or to waive the debt. The repayment by instalments and deferring the time for payment of a debt has been delegated to Chief Executives of agencies.

44 Waiver is a concession accorded to the debtor—the debt is forgiven with the creditor unilaterally agreeing to abandon the legal right to pursue recovery. In the public sector, waiver can be granted only by the operation of a statutory power (eg section 34 of the FMA Act). A proposal to waive a debt is usually supported by the existence of demonstrable special circumstances surrounding the debt or the debtor.

45 Write-off, on the other hand, merely describes the accounting action that is taken in response to factual circumstances, because a debt, found to be factually irrecoverable, can no longer be accounted for as an asset (in Receivables). It should be noted that the creditor’s rights to recover a debt are not affected by its writing off; if the factual circumstances, under which the written-off debt was assessed as irrecoverable in the first place, are found to have passed (eg locating a previously unlocatable debtor), the debt can (and should) be resurrected in the creditor’s financial accounts.

46 Since the decision to write off a debt is not the exercise of a power but, rather, the acknowledgment of the need to take administrative/accounting action, it does not require an express statutory ‘permission’ as do waiver decisions. For the sake of sound administrative control, however, OPC has opted for a centralised decision-making model on whether a particular debt is considered to be recoverable or not. Only FPC, or a person designated by FPC for the purpose, may make that judgment.

## **Procedural Guidelines:**

OPC No. 54—Accounts Receivable

OPC No. 45—Legislation Process courses—Accounting issues

## Part 4—Control and management of public property

### 4A—Custody and use of public property

#### Chief Executive Instructions

4A.1	An official must not use public property inappropriately for private, personal, or non-OPC purposes.
4A.2	Officials who are supervisors must ensure that they take effective measures to manage and monitor their subordinates' use of the public property available to OPC.
4A.3	<p>Officials who are supervisors, having regard to their shared responsibility for the proper management of the public property available to OPC, must be proactive in this role, including (as a minimum) in:</p> <ul style="list-style-type: none"> <li>(a) preventing, detecting, and reporting, to the General Manager or FPC, instances of suspected theft or serious misuse of assets (whether leased or Commonwealth-owned); and</li> <li>(b) identifying, and reporting to the Executive Officer, under-utilised or under-performing assets (whether leased or Commonwealth-owned); and</li> <li>(c) monitoring the condition of assets (whether leased or Commonwealth-owned) and initiating timely action on the maintenance, disposal or replacement of the assets, as appropriate.</li> </ul>
4A.4	Officials who are supervisors, in relation to intellectual property acquired or developed within OPC that may have a commercial value warranting protection or exploitation, as appropriate, must ensure that such property is properly managed and accounted for.
4A.5	Officials must have regard to OPC's Procedural Guidelines relating to the care and use of public property. If officials take, or propose to take, action that is inconsistent with a Procedural Guideline, they must make a written record of their reasons for doing so and provide the General Manager with a copy of that document as soon as practicable.

**Background**

47 The FMA Act defines public property. In practice, everything we use in OPC—our stationery supplies, office furniture and equipment, computing hardware and software, library material, the records we maintain, vehicles, the part of the building we occupy—is public property in our custody on behalf of the Commonwealth.

48 As a small, centralised agency, OPC has a relatively small asset base. But that fact only magnifies the pressures on us to make optimal use of our available physical and intellectual property.

49 All officials need to understand that they, as individuals, have the ability, the opportunity and the duty to prevent the mismanagement, misuse and careless use of assets within their own sphere of influence, including by the example they set in dealing with the assets in their custody and control. A number of Procedural Guidelines give guidance on appropriate use of certain public property (eg use of private plated vehicles leased by the Commonwealth, use of the Internet, etc.).

50 The General Manager has been given the corporate responsibility for developing and implementing Procedural Guidelines aimed at ensuring that the public property available to OPC is properly managed, controlled and accounted for.

**Procedural Guidelines:**

OPC No. 12—Executive Vehicle Scheme

IT Circular No. 6—Internet usage policy

## **4B—Disposal of public property**

### **Chief Executive Instructions**

4B.1	When an asset is, or is about to become, surplus to OPC's requirements, the OPC official under whose functional control the asset resides must ensure that the relevant appropriate steps are taken, as soon as practicable, to commence a disposal process for that asset.
4B.2	Officials performing any function related to the disposal of OPC's assets must ensure that they take fully into account the requirements set down in the Procedural Guidelines related to asset disposals. If officials take, or propose to take, action that is inconsistent with a Procedural Guideline, they must make a written record of their reasons for doing so and provide the General Manager with a copy of that document as soon as practicable.
4B.3	<p>Officials responsible for managing the disposal of OPC's assets must ensure that each disposal transaction is, and is seen to be, open, fair and free from collusion. In particular, no OPC asset is to be disposed of directly to an official or to another person believed to be a member of an official's family, other than through a public process where there is the opportunity for an open and competitive process to occur.</p> <p><i>(Note : This CEI does not prevent an official, or a member of the official's family, seeking to subsequently acquire ex-OPC assets from third parties, such as licensed second-hand dealers or in response to a "for sale" advertisement in the press.)</i></p>

## **Background**

51 The General Manager has been given the corporate responsibility for developing and implementing Procedural Guidelines aimed at ensuring that any disposal action of public property in OPC's custody is properly managed, controlled and accounted for.

52 There are five main steps associated with the disposals process:

- ***Identifying that a particular asset is surplus to our requirements.*** It may have attained that status because it is (or is about to become) under-performing or under-utilised.
- ***Obtaining approval from FPC, or delegate, to dispose of the asset, including the method of disposal (sale, trade-in, free transfer to another entity, destruction).*** This is a crucial step: any lapse in the integrity of the recommendation and approval process for the disposal of our assets creates an environment in which fraud or corruption can more easily occur.
- ***Managing the disposal process.*** The need for the utmost probity and transparency is essential—not only to safeguard OPC's reputation, but also to ensure that we obtain an optimal financial return from the disposal.
- ***Accounting action arising from the disposal.*** If an asset is disposed of, we need to ensure that our relevant accounting records will be appropriately amended so as to avoid the mistake of depreciating and externally reporting on a fictitious stock of assets.
- ***Keeping adequate documentary evidence of the disposal as an audit trail.*** This is the best form of protection against any suggestion that a particular asset's disposal was tainted by inappropriate behaviour on the part of any OPC official involved in the disposal.

53 The intention behind CEI 4B.3, which restricts the direct disposal of assets to OPC officials or their families, is to protect officials from unwarranted accusations of collusion. Such accusations, even when baseless, may still inflict damage on reputations—those of the particular officials involved in the transaction; and that of OPC itself.

## **Procedural Guidelines:**

OPC No. 21—Asset management—policies, practices and procedures

**4C—Accounting for public property**

**Chief Executive Instructions**

4C.1	Officials who have custody or management of OPC assets, or perform any function related to the custody and management of OPC’s assets, must ensure that they take fully into account the requirements set down in the Procedural Guidelines related to accounting for such assets. If officials take, or propose to take, action that is inconsistent with a Procedural Guideline, they must make a written record of their reasons for doing so and provide the General Manager with a copy of that document as soon as practicable.
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**Background**

54 It is in OPC's interests to ensure that the accounting treatment of our assets conveys a factual reflection of their existence, cost, current condition/value and disposition.

55 It is therefore important that officials with custody and management of assets provide accurate information about those assets as required. Similarly, it is important that those responsible for accounting for the assets ensure the accounting treatment is appropriate.

56 The General Manager has been given the corporate responsibility for developing and implementing Procedural Guidelines aimed at ensuring that public property in OPC's custody is properly accounted for.

**Procedural Guidelines:**

OPC No. 21—Assets management—policies, practices and procedures

## Part 5—Spending public money

### 5A—The Procurement Framework

#### Chief Executive Instructions

5A.1	Officials must undertake procurement in accordance with the processes and procedures outlined in these CEIs.
5A.2	Officials must have regard to the <i>Commonwealth Procurement Guidelines (CPGs)</i> , FMA Regulations, APS Values and Code of Conduct, and any Government policies which apply to a particular procurement when undertaking procurement of goods and services.
5A.3	<p>A risk profile must be determined for all procurements. A risk assessment and a probity review should be undertaken where the risk profile indicates one is warranted. The risk assessment and probity review should be commensurate with the value, complexity and perceived risk of the procurement.</p> <p>Where a risk assessment has been undertaken, it must be reviewed during the procurement process to ensure that any new risks or changes in risks can be appropriately identified and managed.</p>
5A.4	Documentation relating to a procurement must be retained for a period of three years or for a longer period if required by legislation or other reason.
5A.5	Officials must fulfill the public reporting requirements for procurements as set out in <i>Finance Management Guidance No.15 Guidance on Procurement Publishing Obligations</i> and in Procedural Guidelines.
5A.6	Any official receiving a complaint from a supplier/tenderer regarding any matter relating to the procurement process, must refer the matter to FPC.

## **Background**

57 Procurement encompasses the whole process of acquiring property or services. It begins when an OPC has identified a need and decided on its procurement requirement. Procurement continues through the processes of risk assessment, seeking and evaluating alternative solutions, contract award, delivery of and payment for property or services and, when relevant, the ongoing management of a contract and consideration of options related to the contract. Procurement also extends to the ultimate disposal of property at the end of its useful life.

58 The Finance Minister has issued CPGs about matters relating to the procurement of goods and services. The CPGs are available on the Department of Finance (*DofA*) website. Value for money is the core principle underpinning Australian Government procurement. Value for money is enhanced in Government procurement by:

- encouraging competition by ensuring non-discrimination in procurement and using competitive procurement processes; and
- promoting the use of resources in an efficient, effective and ethical manner by selecting appropriate procurement processes and conducting them in accordance with APS Values and Code of Conduct; and
- making decisions in an accountable and transparent manner by ensuring that appropriate documentation is kept and public reporting requirements are met.

59 For procurements with a value greater than \$80,000 inclusive of GST, the CPGs impose mandatory requirements regarding the tender processes, tender documentation, receiving and evaluating submissions and awarding contracts. These procurements are defined as covered procurements in the CPGs. A procurement must not be divided into separate smaller procurements to avoid these mandatory requirements.

60 It is important that officials provide information to and communicate with potential suppliers and suppliers throughout the procurement process in a professional and ethical way in order to minimise complaints.

61 Appropriate documentation should be undertaken for every stage of a procurement process. The detail of the documentation depends on the level of complexity of the procurement. If an official takes any action that is not consistent with the CPGs, he or she must make a written record of the reasons for doing so.

62 A list of applicable Government policies which apply to a particular procurement can be found in the DofA publication *Financial Management Guidance No.10—Guidance on Complying with Legislation and Government Policy in Procurement*.

## **Procedural Guidelines:**

OPC No. 17—Purchasing

**5B—Approving proposals to spend public money**

**Chief Executive Instructions**

5B.1	Only officials authorised to approve a proposal to spend public money may approve the procurement of goods and services.
5B.2	Officials who have been delegated the power to approve proposals to spend public money must comply with: <ul style="list-style-type: none"><li data-bbox="395 562 1390 633">• the terms, conditions and directions which the delegator has specified apply to them in their exercise of the delegated power;</li><li data-bbox="395 674 1390 779">• the principles, requirements and conditions they are to observe, as set out in the FMA Regulations, relating to the exercise of the power to approve proposals to spend public money; and</li><li data-bbox="395 819 1390 884">• the Procedural Guidelines issued to assist them in performing their functions as an approver.</li></ul>

## **Background**

63 A fundamental control feature in the Commonwealth's financial management framework is that any proposal to spend public money must be approved by a person who has the authority to do so, before any action is taken that would result in the creation of a liability to make a payment.

64 FMA Regulations 9 to 12 set out the basic requirements and conditions applying to the actions of persons authorised to approve proposals to spend public money. Regulation 10 sets out requirements and conditions to approve future spending proposals (i.e. contracts) where the spending proposal cannot be covered by sufficient unspent and uncommitted appropriation.

65 The regulations define the term **approver** so as to exclude anyone who has not been authorised by or under an Act to exercise a function of approving proposals to spend public money. Within OPC, the only officials who have the legal capacity to approve spending proposals are:

- FPC (under s.44 of the FMA Act); and
- those to whom the FPC has delegated that power under s. 53 of that Act (See Attachment C for a copy of the *Instrument of Delegation under the Financial Management and Accountability Act 1997*).

66 Procedural Guidelines have been issued to assist delegated officials in the exercise of their power to approve proposals to spend public money.

### **Procedural Guidelines:**

OPC No. 17—Purchasing

## **5C—Entering into commitments to purchase goods and services**

### **Chief Executive Instructions**

5C.1	Any official may enter into a commitment for the purchase of goods or services, but only after they have received approval to spend public money by FPC or an official delegated by FPC.
5C.2	<p>Officials who have been authorised to enter into commitments for the purchase of goods and services must comply with:</p> <ul style="list-style-type: none"> <li>• the terms, conditions and directions that apply to them in their exercise of the authorisation;</li> <li>• the requirements they are to observe, as set out in the FMA Regulations, relating to the exercise of the power to enter into commitments that will result in the spending of public money;</li> <li>• the principles and processes they are to have regard to, as set out in the Commonwealth Procurement Guidelines, relating to their exercise of the power to enter into commitments for the procurement of goods or services; and</li> <li>• Procedural Guidelines issued to assist them in performing their functions in connection with the purchase of goods and services.</li> </ul>
5B.3	An official authorised to enter into commitments for the purchase of goods or services must not enter into a contract, agreement or arrangement that will require a prepayment of public money (for example, payment before the relevant goods and services are received, or before the due date under the Commonwealth’s customary terms of trade) unless a member of the SMT approves the prepayment.

**Background**

67 Procedural Guidelines have been issued to assist officials authorised to enter into commitments to purchase goods or services.

68 It should be noted that, for the purpose of negotiating contracts, agreements or arrangements providing for OPC to purchase goods or services on credit, the Commonwealth's customary terms of trade are that payment would be made to the supplier 30 days after OPC has received both the goods or services *and* a correctly rendered invoice.

**Procedural Guidelines:**

OPC No. 17—Purchasing

## **5D—Payment of accounts**

### **Chief Executive Instructions**

5D.1	Officials who are contract managers and/or who have ordered the procurement of goods or services for OPC, must not request a Certifying Official to certify that the payment for goods and services be made to a creditor under a contract, agreement or arrangement by which those goods or services were procured, unless the terms of that contract etc. governing the particular payment have been substantially met.
5D.2	Officials who are responsible for approving non-contractor payment obligations for OPC, must not request a Certifying Official to process a payment to a non-contractor creditor otherwise than in accordance with OPC's lawful obligations to make the payment.
5D.3	<p>A Certifying Official must not certify a claim for payment:</p> <ul style="list-style-type: none"> <li>(a) if the Certifying Official was the OPC official who approved either the entering into of the commitment, or the spending of public money; or</li> <li>(b) that involves the Certifying Official personally—eg personal entitlements, Credit Card accounts for a credit card held by the Certifying Official, reimbursement of advances to the Certifying Official etc.</li> </ul> <p>In either instance, the Certifying Official must refer the matter to the Chief Finance Officer for processing.</p>
5D.4	Only an OPC official issued with drawing rights may make the payments of public money. Such payments must not be made unless approval to spend public money has been obtained and a Certifying Official has certified the proposed payment.
5D.5	Officials authorised/appointed to perform functions related to managing creditors and/or the processing of accounts payable must ensure that, before they perform such functions in any instance, they fully understand (if necessary, through reasonable inquiry to appropriate expert sources), and have regard to, the principles and procedures set out in Procedural Guidelines.
5D.6	Officials referred to in CEI 5D.5 who take any action that is not consistent with Procedural Guidelines must promptly make a written record of their reasons for doing so and immediately forward a copy to the Chief Finance Officer.

## **Background**

69 For the purposes of this Part of the CEIs, the term *creditor* is taken to mean any person or entity to whom OPC is obliged to make a payment. That is, the term is not confined merely to relationships that have arisen under contracts etc. For example, the ATO can be a creditor of OPC, by operation of the tax law.

70 Where the creditor has supplied goods and services to OPC on credit, payment is made according to the terms of the contract governing the particular purchase. It is not until a responsible official (the contract manager or person who ordered the goods or services) confirms that the contracted goods or services have been satisfactorily delivered at the contracted price, that the supplier's invoice can be certified by OPC's Certifying Official for payment processing by the due date.

71 For non-contract creditors, the Certifying Official will certify due date payment processing in accordance with the terms of the approval given by the relevant OPC official delegated to approve proposals to spend public money for that particular purpose.

72 Certifying Officials are appointed to that role by FPC. Procedural Guidelines have been issued to assist OPC officials who have an involvement in the functions of managing creditors and the processing of accounts payable.

73 Making a payment of public money to creditors for goods and services can only be made by an OPC official who has been issued with drawing rights. See Attachment B for *Issuance of Drawing Rights under the Financial Management and Accountability Act 1997*.

74 See Attachment A for the positions that carry with them the role of contract managers and Certifying Official.

## **Procedural Guidelines:**

OPC No. 104—Accounts Payable

Accounts Payable, Finance Manual (available in Folio Views)

**5E—Official travel**

**Chief Executive Instructions**

5E.1	Any official who undertakes, or is likely to undertake, travel on behalf of OPC must ensure that he or she takes fully into account (if necessary, through reasonable inquiry to appropriate expert sources), and complies with, the policy and procedural requirements as set down in Procedural Guidelines.
5E.2	If, for any reason, an official acts contrary to the requirements of the Procedural Guidelines, the official must report the circumstances, as soon as practicable, to the General Manager. If the official concerned is the General Manager, the report is to be to FPC.

**Background**

75 The policies and principles that are to apply to our travel are set out comprehensively in Procedural Guidelines issued by the FPC.

76 Where the Procedural Guidelines contain any scope at all for interpretation, the expectation is that the traveller will act so as to not to gain for themselves an unintended benefit, contrary to the ethical standards expected of officials. Situations arising in connection with official travel not infrequently contain very real opportunities where officials can/should apply the “what if it became public knowledge test”, to help them steer an ethical path.

**Procedural Guidelines:**

OPC No. 23—Domestic travel

OPC No. 101—International travel

## **5F—Payroll operations**

### **Chief Executive Instructions**

5F.1	Employees must ensure that they are aware of their correct entitlements to pay and allowances.
5F.2	An employee who does not receive the correct entitlements to pay and allowances must notify RossLogic (the personnel service provider) as soon as practicable after the discrepancy occurs. The employee must notify the Corporate Services Officer, Executive Officer or General Manager if the discrepancy has not been resolved within one week.
5F.3	<p>The General Manager must:</p> <ul style="list-style-type: none"> <li data-bbox="395 772 1414 913">(a) establish appropriate internal control systems to ensure that only valid data forms the basis of OPC’s payroll preparation, including reconciliation of data, from payment instructions transmitted to the Bank; and</li> <li data-bbox="395 952 1414 1021">(b) ensure that the only access staff have to the payroll system is that authorised by the General Manager.</li> </ul>
5F.4	A payroll official must ensure that all proposed variations to a staff member’s entitlements to pay and allowances are supported by the appropriate documentation, approvals or advices and are promptly recorded in the payee’s transaction records.
5F.5	An official must not make changes to pay, allowances or payroll records unless authorised by a payroll official.
5F.6	A payroll official must not authorise or authenticate variations to his or her own pay, allowances or payroll records.
5F.7	<p>A payroll official must:</p> <ul style="list-style-type: none"> <li data-bbox="395 1482 1414 1552">(a) complete a reconciliation/variation of fortnightly payroll deductions from OPC’s bank account; and</li> <li data-bbox="395 1590 1414 1691">(b) obtain an approval to spend public money and an authorisation for RossLogic to request a debit of OPC’s appropriation to pay OPC’s employees before the day on which employees are to be paid.</li> </ul>

**Background**

77 OPC has entered into a contract with RossLogic for the provision of personnel services. RossLogic are subject to relevant CEIs issued by FPC.

78 RossLogic can only request a debit of OPC's appropriation to pay OPC's employees if authorised to do so by an OPC official who has been issued drawing rights under s.27(1)(b) of the FMA Act.

79 The Commonwealth has a duty to pay staff their correct entitlements as they become due. Officials involved in payroll operations have a responsibility to ensure that the Commonwealth fulfils that duty.

80 Correspondingly, all employees have an obligation to make themselves aware of what are their correct entitlements so that in the event of underpayments or overpayments occurring, they can immediately alert officials involved in payroll operations to take corrective action.

81 Payroll officials also need to be informed, as soon as practicable, of any action taken within OPC which results, either directly or incidentally, in variations to an employee's entitlements to pay or allowances. Examples of such action include:

- unscheduled cessation of temporary transfers;
- cancellation/extension of leave;
- promotions, transfers, resignations etc.

82 Often, the relevant supervisor (rather than the employee involved) will be the person best placed to provide confirmation of the action.

83 See Attachment A for the positions that carry with them the role of payroll official.

**Procedural Guidelines:**

Personnel Manual (available in Folio Views)

## **5G—Taxation issues**

### **Chief Executive Instructions**

5G.1	<p>Officials who have been:</p> <ul style="list-style-type: none"><li>• delegated the power to enter into commitments for the purchase of goods and services; or</li><li>• appointed as Certifying Officials, responsible for establishing that amounts claimed from OPC are properly payable,</li></ul> <p>must ensure that, before they exercise their particular function in any transaction, they fully understand (by reference to any Procedural Guidelines issued by FPC and, if necessary, through further inquiry to appropriate expert sources) the principles, requirements and conditions under taxation law which they are required to observe, on behalf of OPC, in relation to that transaction.</p>
5G.2	<p>Officials must comply with the Procedural Guidelines in relation to matters concerned with ensuring that OPC meets its obligations under taxation law.</p>

**Background**

84 As a Commonwealth Agency, OPC has certain payment obligations under taxation law. For example, under the Goods and Services Tax arrangements, if OPC purchases goods or services from a supplier who does not have an Australian Business Number, then OPC *may* have to withhold 48.5% of the payment owed to the supplier and remit it to the ATO. It is essential, therefore, that OPC officials who are involved in procurement of goods and services, including especially the accounts payable processes, are aware of their obligations, on behalf of the Office, with regard to the GST and other taxes.

85 The Chief Finance Officer will ensure that appropriate Procedural Guidelines are issued to enable OPC to meet all statutory requirements associated with GST, FBT etc.

86 See Attachment A for the positions that carry with them the role of Certifying Official.

**Procedural Guidelines:**

OPC No. 104—Accounts Payable

OPC No. 54—Accounts Receivable

OPC No. 45—Legislation Process Course—accounting issues

GST, Finance Manual (available in folio views)

Preparation of FBT Return, Finance Manual (available in folio views)

## Part 6—Our corporate governance responsibilities

### Overview

87 It is important for OPC officials to recognise that the subject matters covered in this Part is not something separate or distinct from our service delivery.

88 Corporate governance is an organisational approach, which provides assurance to external stakeholders that an organisation is fulfilling its responsibilities to them. Governance is generally understood to encompass authority, accountability, stewardship, and leadership, in direction and control.

89 An effective internal control structure will, in concert with strong leadership and competent stewardship, serve to promote the efficient, effective and ethical use of resources.

90 Within the public sector corporate governance framework there are review processes by the Parliament and its Committees and oversight by such bodies as the Ombudsman, Privacy Commissioner, Public Service and Merit Protection Commission, Administrative Appeals Tribunal, and the Australian National Audit Office, as well as the activities of coordinating departments, such as Prime Minister and Cabinet, Employment and Workplace Relations, Finance and Treasury.

91 There are structures within public sector that are essential building blocks for a robust public sector governance framework. They include:

- legislative structures that regulate the activities of the APS, of CEOs and of their staff; and
- ethical structures that are ideally an integral, pro-active and educational component of fraud control and risk management; and
- internal accountability structures that:
  - provide assurance to a CEO on internal control and management of the agency, the planning and review of its operations and its progress, and
  - ensure consultation and constructive feedback on all the agency's activities; and
- external accountability and reporting structures that make agency performance visible; and
- financial management structures that provide assurance to the CEO that Commonwealth resources are being managed efficiently, effectively and ethically; and
- resource management structures that provide assurance to the CEO that human resources, facilities, equipment and records are managed effectively, efficiently and ethically.

92 The General Manager is responsible for coordinating, facilitating and guiding OPC in fulfilling its corporate governance responsibilities.

**6A—Audit Committee and Internal Audit**

**Chief Executive Instructions**

6A.1	In any dealings with OPC’s Audit Committee, officials must adopt an open and constructive attitude to assisting the Audit Committee in its role. In particular, officials must be forthcoming in identifying any areas of potential weakness or risk that could be considered in developing the internal audit plan, and be constructive when interacting with or addressing issues the Audit Committee or internal and external audit raise.
6A.2	Where OPC’s internal auditor, in connection with the conduct of an audit into any aspect of our operations, requests information from an official, or seeks access to records under an official’s control, that official must comply promptly with the request, unless specifically directed otherwise by FPC.

## **Background**

### **Audit Committee**

93 The Audit Committee plays a pivotal role in the governance framework of OPC. The Audit Committee provides FPC with independent assurance and assistance in the areas of risk control, compliance and financial reporting.

### **Internal Audit**

94 To understand the role of internal audit, it is a useful first step to compare it with external audit.

95 OPC's *external* auditor is the Auditor-General. But OPC is not the Auditor-General's client; nor is the Government—the Auditor-General's client is the Parliament. The Auditor-General reports on performance audits of our operations and provides an opinion on our Annual Financial Statements that are prepared for tabling in Parliament. They are public reports. The Auditor-General has statutory powers to access our premises and records. Any official who fails to cooperate fully with the Auditor-General may be in breach of the law. In practice, the Auditor-General will pay close attention to our *internal* audit reports as indicators on the integrity of our systems and procedures.

96 OPC engages internal auditors to conduct reviews into our activities, systems and procedures. OPC is the internal auditor's client—not the Government or the Parliament. The internal auditor's reports are presented to OPC management with recommendations for remedial action, as appropriate. They are not public reports.

97 Internal audit is a fundamental element of corporate governance. It operates primarily to provide assurance, in conjunction with other activities, to FPC that the internal control structure within OPC remains effective.

98 While internal audit generally has an independent status within an organisation, it is nevertheless primarily a tool of management. The access rights that the internal audit has are those granted by FPC, which are intended to be extensive.

99 The internal auditors have unfettered access to all that is needed to successfully conduct their tasks on FPC's behalf.

### **Procedural Guidelines:**

OPC No. 61—Audit Committee—terms of reference

**6B—Fraud control and detection**

**Chief Executive Instructions**

6B.1	Any official who knows, or reasonably suspects, that an instance of fraud or corruption against OPC has occurred, or might occur, must immediately convey that knowledge or suspicion to the General Manager, Second Parliamentary Counsel or FPC. See also OPC's Certified Agreement, Schedule 2—Whistleblowing.
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**Background**

100 Fraud and corruption are crimes. But when they occur in a public sector context, they strike at the trust that the community is entitled to have in its Government and public institutions. To that extent, there is a greater onus on public sector entities to exercise vigilance in the prevention and detection of fraud and corruption. In common with all Agencies that are subject to the requirements of the FMA Act, OPC has developed a Fraud Control Plan. Any instance of fraud will damage our reputation and erode the resources provided to us to deliver our services. All OPC officials have the responsibility to assist in the implementation of OPC's Fraud Control Plan.

101 The Commonwealth Fraud Control Policy and Guidelines define fraud as dishonestly obtaining a benefit by deception or other means. This description includes, but is not limited to:

- theft; and
- obtaining property, a financial advantage or any other benefit by deception; and
- causing a loss, or avoiding or creating a liability by deception; and
- providing false or misleading information, or failing to provide information where there is an obligation to do so; and
- making, using or possessing forged or falsified documents; and
- bribery, corruption or abuse of office; and
- unlawful use of Commonwealth computers, vehicles, telephones and other property or services; and
- bankruptcy offences; and
- any offences of a like nature to those listed above.

102 An official is corrupt if he or she seeks, obtains or receives any benefit, other than lawful salary and allowances, on the understanding that the official will do, or refrain from doing, anything in the course of his or her duties, or will attempt to influence any other official on behalf of any person.

103 It is important for an OPC official to keep in mind that, if they know or suspect that fraud or corruption is occurring within OPC, even if they are not directly involved themselves, they have a duty not to remain silent on the matter. If an OPC official fails to act, then, in certain circumstances, they may possibly be guilty not only of a breach of duty, but of a crime as well.

104 Fraud flourishes where internal control procedures are lax or not adhered to. Officials at all levels need a constant awareness that their conscientious application and observance of sound control procedures is not only OPC's best defence against the possibility of fraud and corruption, but also their best defence against unwarranted suspicion of involvement in such activities.

**Procedural Guidelines:**

OPC No. 89—Fraud Control Policy and Plan

**6C—Managing our risks****Chief Executive Instructions**

6C.1	If OPC officials take, or propose to take, action that is inconsistent with a Procedural Guideline issued in relation to the management of risk, they must make a written record of their reasons for doing so and provide the General Manager with a copy of that document as soon as practicable.
6C.2	If any OPC official believes that a risk exists, or is emerging, that is not addressed in a current Procedural Guideline, that official must report the matter to the General Manager as soon as practicable.

## **Background**

105 All of us, in our ordinary daily lives, cope with a vast array of risks. As an organisation, OPC also faces risks—financial, professional, industrial, reputation etc. These risks have to be managed and the approaches that we should adopt necessarily vary according to the nature of each risk, its probability, the seriousness of its consequences, the extent of public tolerance, and the cost-benefits of various coping measures.

106 Risk management techniques have made considerable advances in recent years and there has been published an Australian Standard for Risk Management, AS/NZS 4360. The objective of the Standard is to provide a generic framework for the identification, analysis, assessment, treatment, monitoring and communication of risk and has been used by OPC in assessing risks and developing treatment strategies.

107 The General Manager has been given the responsibility for facilitating the development of OPC's risk management policy and plan.

108 Currently, one of our risk management measures is to transfer certain risks by way of insurance, eg workers compensation, public liability, asset loss/damage etc. That is, for the cost of a premium, we transfer the financial risk to our insurers—Comcare and Comcover. The annual premiums are affected by the extent of our claims history. Consequently, the performance of OPC management and staff in controlling these types of risk has a direct impact (by affecting our insurance premiums) on the calls that will be made on our resources.

## **Procedural Guidelines:**

OPC No. 81—Risk Management Policy and Plan

## Part 7—Miscellaneous

### 7A—Credit and fuel cards

#### Chief Executive Instructions

7A.1	<p>A Card Issuing Official must not issue a credit card to an official unless:</p> <ul style="list-style-type: none"> <li>(a) the Card Issuing Official is satisfied that the official’s duties require him or her to regularly purchase and/or pay for goods and services on behalf of OPC; and</li> <li>(b) the official has signed a Credit Cardholder Agreement and Acknowledgment form.</li> </ul>
7A.2	<p>The Card Issuing Official and the Accountant are not to be issued with a credit card. This is to ensure there is no conflict of interest regarding their roles under CEIs 7A.1, 7A.3 and 7A.6.</p>
7A.3	<p>A Card Issuing Official must ensure that:</p> <ul style="list-style-type: none"> <li>(a) where appropriate, each Credit Cardholder has the necessary prerequisite financial delegations to support the proposed use of his or her card; and</li> <li>(b) an official to whom a credit card is proposed to be issued and, when necessary, existing Credit Cardholders, are appropriately briefed and/or receive training in the use of his or her credit cards.</li> </ul>
7A.4	<p>Fuel cards will only be issued to officials provided with a vehicle under the Executive Vehicle Scheme as set out in OPC No. 12—<i>Executive Vehicle Scheme</i>. Officials issued with fuel cards under the Executive Vehicle Scheme must sign a Fuel Cardholder Agreement and Acknowledgement form.</p>
7A.5	<p>Credit and Fuel Cardholders must comply with the conditions applying to the issue and use of their credit or fuel cards, as specified in their signed <i>Credit Cardholder Agreement and Acknowledgment</i> form or <i>Fuel Cardholder Agreement and Acknowledgment</i> form.</p>
7A.6	<p>The Accountant must monitor the account payments for all OPC credit and fuel cards:</p> <ul style="list-style-type: none"> <li>(a) to ascertain whether any improper or unauthorised use of a card has occurred or is suspected (and report any such instance to the General Manager or, if necessary, to FPC); and</li> <li>(b) to ensure that individual Cardholders have a continuing need for their cards.</li> </ul> <p>If a card is under-used, or if a Cardholder leaves OPC, the Card Issuing Official will take appropriate steps to have the card cancelled as soon as practicable.</p>
7A.7	<p>All officials responsible for the issue or use of OPC’s credit and fuel cards must ensure that, before they issue or use such a card in any instance, they fully understand (if necessary, through reasonable inquiry to appropriate expert sources), and have regard to, the principles and procedures set out in Procedural Guidelines. If, for any reason, an official departs from these principles and procedures, he or she must immediately make a written report of the circumstances and submit the report to First Parliamentary Counsel or the General Manager.</p>

**Background**

109 Section 60 of the FMA Act defines *Commonwealth Credit Card* to mean a credit card issued to enable the Commonwealth to obtain cash, goods or services on credit. In OPC, that includes our Corporate Credit Cards and Fuel Cards issued in respect of our vehicles.

110 The Act imposes a penalty of up to 7 years imprisonment for misuse of a card (or its number), so it is important that officials responsible for the use and management of credit and fuel cards fully understand their obligations.

111 There are three categories of officials who have direct and ongoing responsibilities in relation to OPC's credit cards:

- any Official authorised by FPC to issue cards (Card Issuing Officials);
- officials to whom cards have been issued (Cardholders); and
- the Accountant.

112 Procedural Guidelines have been issued to assist these officials in carrying out their responsibilities.

113 See Attachment A for the position that carries with it the role of Card Issuing Official.

**Procedural Guidelines:**

OPC No. 12—Executive Vehicle Scheme

OPC No. 55—Credit and fuel cards

**7B—Care and custody of accountable forms**

**Chief Executive Instructions**

7B.1	The Chief Finance Officer is responsible for designating officials as custodians authorised to hold accountable forms.
7B.2	Custodians must ensure that accountable forms are stored in a secure place when not in use or required.
7B.3	If an official who is not a custodian authorised to hold accountable forms comes into possession or control of such a form, he or she must immediately pass it to an official who <i>has</i> been assigned custodian responsibilities and obtain a signed acknowledgment from the custodian that adequately identifies the form(s) being transferred. (This does not apply where an official who has been assigned custodian responsibilities provides the form to another official for use by that official in the course of his or her duties.)
7B.4	An official who has been issued with an accountable form that has not been used within the timeframe agreed with the custodian authorised to hold accountable forms, must return them to the custodian.

## **Background**

114 The term *Accountable Forms* are the various kinds of blank forms which, if they fell into the wrong hands and were misused, could provide an unjustified benefit to someone and cause loss or damage directly to OPC/the Commonwealth, or to any other person or organisation. In keeping with this potential, it is generally accepted practice (in all types of organisations) that particular officials be given personal responsibility for the care, custody and control of such forms and that, in turn, those officials be held accountable for their performance of that responsibility.

115 Currently, with our reliance on systems-generated receipts, purchasing and payments operations, OPC makes use of only a limited range of hard copy accountable forms—Cabcharge vouchers, carwash vouchers and stamps.

116 But in other circumstances, accountable forms might also include, for example, Official Receipt Books; Credit Note Forms; Blank Cheque Stationery; Requisition Forms; etc.

117 There are four elements to managing accountable forms. First is the need to designate particular officials as custodians of the forms and set out their responsibilities not only for the forms' custody, but also for their control—the issue/recording/reconciliation of the forms. Second is to provide a secure environment/storage for the stocks of forms. Third is management's oversight (spot checks) of the custodians' performance of their responsibilities. Fourth is the controlled disposal of surplus or obsolete forms.

118 The process of spot checks should never be seen, either by a manager or a custodian, as a mistrust of the custodian or his or her diligence. Rather, it is a positive manifestation of OPC's commitment to financial integrity and accountability.

119 The Chief Finance Officer has been given the corporate responsibility for developing and implementing Procedural Guidelines aimed at ensuring that OPC's accountable forms are properly managed, controlled and accounted for.

## **Procedural Guidelines:**

OPC No. 103—Public money in non-bankable currency

**7C—Hospitality and gifts given or received by OPC officials**

**Chief Executive Instructions**

7C.1	<p>No official is to agree, on behalf of OPC, to provide to another person;</p> <ul style="list-style-type: none"><li>(a) the gift of Commonwealth equipment;</li><li>(b) the free use of OPC facilities or staff, sponsorship or material hospitality;</li></ul> <p>unless the proposal has been approved by the Finance Minister, FPC or a delegate, as appropriate.</p>
7C.2	<p>Officials who, in the course of their duties, are offered a gift or a material benefit, must inform FPC, as soon as practicable, of the circumstances and nature of the offer and must comply with any directions given by FPC.</p> <p><i>(Note: While this CEI is all-embracing, it has particular relevance and risk context in the case of any offer from a person who was, is, or could be in the foreseeable future, in a working or business relationship with OPC.)</i></p>

### **Background—Giving**

120 The FMA Act places express constraints on making gifts of Commonwealth property; s.43 of that Act prohibits gifts of public property unless the proposed gift:

- is authorised by law; or
- has been approved by the Finance Minister; or
- is property acquired to be used as a gift.

121 Gifts of our services would be encompassed by s.44 of the Act, which imposes an obligation on each Chief Executive to pursue the efficient, effective and ethical use of the resources for which that Chief Executive is responsible.

122 It follows that OPC could consider providing any person with a gift of property, hospitality, free use of facilities or staff resources *only* where the proposal was demonstrably consistent with OPC meeting its functional objectives.

### **Background—Receiving**

123 The first question that must always be objectively addressed in the face of hospitality, gifts or sponsorships offered to OPC is “who benefits?”. The answer may be:

- OPC’s clients; or
- OPC; or
- an official; or
- the donor; or
- someone else; or
- a combination of any of these.

124 Decisions to accept such benefits require sensible and sensitive judgement. For example, a thing that can be viewed in one light, say, as fostering good business relationships between the donor firm and the OPC official with whom it deals, may equally be capable of being painted in an entirely different light—that of a bribe to influence an outcome, or a reward for delivering an outcome favourable to that firm. When there are valuable benefits on offer, questions of conflict of interest take on a hard-edged reality. How the world might view a particular action (rightly or wrongly), will depend on the circumstances, including the circumstances of any disclosure.

### **Procedural Guidelines:**

OPC No. 33—Acceptance of gifts and/or benefits by employees, and official hospitality

**7D—Use of Commonwealth motor vehicles**

**Chief Executive Instructions**

7D.1	Any official who is given responsibility for, or who is likely to be given responsibility for, operating a motor vehicle that is owned or leased by the Commonwealth, must ensure that he or she takes fully into account (if necessary, through reasonable inquiry to appropriate expert sources), and complies with, the policy and procedural requirements as set down in Procedural Guidelines.
7D.2	If, for any reason, an official acts contrary to the requirements of the Procedural Guidelines, the official must report the circumstances, as soon as practicable, to the General Manager. If the official concerned is the General Manager, the report is to be to FPC.

**Background**

125 The policies and principles that are to apply to the use of our motor vehicles are set out comprehensively in Procedural Guidelines issued by FPC.

126 The fact that Commonwealth leased motor vehicles, made available to certain officials as part of their remuneration packages, are permitted to be used for private purposes, does not alter the obligation on those officials to ensure that the manner and circumstances of the vehicles' use is above reproach and consistent with the vehicles' status as public property.

127 This same obligation equally applies to every other official who might use such a vehicle in the course of duty.

**Procedural Guidelines:**

OPC No. 12—Executive Vehicle Scheme

## Attachment A

### *Functions and powers under the CEIs*

#### Functions and powers conferred directly

1 Various CEIs confer functions or powers on specified staff. The following table sets out a number of the functions and powers conferred by the CEIs and the staff members on whom the functions or powers are conferred.

<b>CEI</b>	<b>This power or function ...</b>	<b>... is conferred on this staff member</b>
2A.1	Issue directions in relation to the preparation and management of OPC's budget and the preparation of the financial statements.	Chief Finance Officer
3A.5	Request information/documentation relating to bank transactions from officials.	Chief Finance Officer
3C.3	Designate a person to undertake periodic verifications of cash advances.	Chief Finance Officer
5C.1	Enter into commitments for the purchase of goods and/or services on behalf of OPC.	Any staff member, if approval to spend public money under the FMA Act has been obtained from an official with delegated power to give that approval (see Attachment C)
7A.5	Monitor use of credit and fuel cards and report actual/suspected misuse to GM or FPC as appropriate.	Accountant
7B.1	Designate officials as custodians of accountable forms.	Chief Finance Officer

**Functions and powers conferred by reference to roles**

2 Various CEIs confer functions or powers on certain staff by reference to a role that a person has under the CEIs. The following table sets out those roles, and the positions in OPC whose occupants are taken to have those roles.

<b>CEI</b>	<b>Role</b>	<b>Position/s taken to have the role</b>
3B	Collector of Public Moneys	Assistant Accountant
3C.1	Advance Holder	For petty cash—Assistant Accountant Other—as nominated by Chief Finance Officer when required
5D.1	Contract managers	Members of the SMT and Director of IT
5D and 5G.1	Certifying Official	Bills Officer Corporate Services Officer
5F.4 and 5F.7	Payroll official	Corporate Services Officer Executive Officer General Manager
7A.1	Card Issuing Official	Executive Officer Accountant (in the absence of Executive Officer)

**Authorisations by FPC**

3 Various CEIs confer powers on persons authorised to act on behalf of FPC for the purposes of the CEI concerned. The following table sets out the persons who are, by the operation of this provision, authorised by FPC to act on behalf of FPC for the purposes of the CEIs specified.

<b>CEI</b>	<b>Power conferred by CEI</b>	<b>Person authorised by FPC to act on behalf of FPC for the purposes of the CEI</b>
3D.1	Endorse:  (a) an official's agreement to the recovery of a debt by instalments; or  (b) an official's treating a debt as irrecoverable, or holding out to a debtor the prospect of the debt being written off.	Chief Finance Officer

**Powers that FPC has not delegated**

<b>CEI</b>	<b>Role</b>
3A.1	Open and closing a bank account
7C.1	Approve a gift of Commonwealth equipment, free use of OPC facilities or staff, or material hospitality.

## Attachment B



# Office of Parliamentary Counsel

## Issuance of Drawing Rights

### *Financial Management and Accountability Act 1997*

#### **Section 27**

I, Peter Quiggin, First Parliamentary Counsel of the Office of Parliamentary Counsel, **revoke**, under sub-section 27(4) of the *Financial Management and Accountability Act 1997 (FMA Act)*, from the date of this instrument, all drawing rights issued by First Parliamentary Counsel.

I **issue** drawing rights, under Section 27 of the FMA Act, to officials of the Office of Parliamentary Counsel holding, occupying or performing the duties of the positions specified, for the appropriations listed, subject to the limits and conditions detailed, and for the actions set out in the attached Schedule 1, in accordance with the requirements of the financial framework.

[Signed]

Peter Quiggin  
First Parliamentary Counsel  
Office of Parliamentary Counsel  
Delegate under Section 27 of the FMA Act

March 2007

**Schedule 1**

<b>Position</b>	<b>Appropriation</b>	<b>Limits and conditions</b>	<b>Authorised action/s</b>
Second Parliamentary Counsel	Departmental appropriation (Outcome 1)	Up to the amount of available appropriation for: <ul style="list-style-type: none"> <li>• signing cheques to pay creditors; and</li> <li>• authorising RossLogic to request an amount be debited against appropriation to pay salaries.</li> </ul>	Section 27 (1)(a) (1)(b)
General Manager	Departmental appropriation (Outcome 1)	Up to the amount of available appropriation for: <ul style="list-style-type: none"> <li>• signing cheques to pay creditors; and</li> <li>• authorising RossLogic to request an amount be debited against appropriation to pay salaries.</li> </ul>	Section 27 (1)(a) (1)(b)
	Other Trust Money Special Account	Up to the amounts standing to the credit of the special account.	Section 27 (1)(c)
	Services for other Govt. & Non-Agency Bodies Special Account	Up to the amounts standing to the credit of the special account.	Section 27 (1)(c)
Executive Officer	Departmental appropriation (Outcome 1)	Up to the amount of available appropriation for: <ul style="list-style-type: none"> <li>• when Accountant is on leave or unavailable: <ul style="list-style-type: none"> <li>- transfer amounts from OPC's bank account to pay creditors;</li> <li>- make ledger entries to reflect a debit to appropriation;</li> <li>- authorise someone else to make a ledger entry to reflect a debit to appropriation;</li> </ul> </li> <li>• when Assistant Accountant is on leave or is unavailable, dispense cash up to \$500 from Petty Cash, but only in accordance with Chief Executive Instructions, Official Advance Approval and relevant Office Procedural Circulars.</li> </ul>	Section 27 (1)(a) (1)(a) (1)(a) (1)(a)
Accountant	Departmental appropriation (Outcome 1)	Up to the amount of available appropriation for: <ul style="list-style-type: none"> <li>• transferring amounts from OPC's bank account to pay creditors</li> <li>• making ledger entries to reflect a debit to appropriation;</li> <li>• authorising someone else to make a ledger entry to reflect a debit to appropriation.</li> </ul>	Section 27 (1)(a) (1)(c) (1)(c)
Assistant Accountant	Departmental appropriation (Outcome 1)	Dispense cash up to \$500 from Petty Cash, but only in accordance with Chief Executive Instructions, Official Advance Approval and relevant Office Procedural Circulars.	Section 27 (1)(a)

## Attachment C



# Office of Parliamentary Counsel

## Instrument of Delegation

### *Financial Management and Accountability Act 1997*

#### **Section 53**

I, Peter Quiggin, First Parliamentary Counsel, pursuant to section 53 of the *Financial Management and Accountability Act 1997*, delegate my power under section 44 of the Act to approve proposals to spend public money out of the funds appropriated by the Parliament for the services of the Office of Parliamentary Counsel, as follows:

- The power is delegated to the officials identified, by position, in the table.
- The amounts approved by each official must not exceed the amount specified for that official in the table.
- The exercise of the power must comply with any further conditions as specified in the table.

When exercising these delegations, delegates must comply with any directions issued pursuant to section 53 of the Act or any Chief Executive Instructions issued under the authority of FMA Regulation 6.

All previous delegations to approve proposals to spend public money are revoked.

#### ***The table***

<b>Official</b>	<b>Limits and conditions of delegation</b>
Second Parliamentary Counsel	\$350,000
General Manager	\$300,000 for payroll \$85,000 for rent \$50,000 for all other purchases of goods and services

[Signed]

Peter Quiggin  
First Parliamentary Counsel  
Office of Parliamentary Counsel

October 2006

