



FGG 4 – FINANCIAL GOVERNANCE GUIDELINES

DIRECTOR GENERAL INSTRUCTIONS

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STATEMENT BY THE DIRECTOR-GENERAL/CHIEF EXECUTIVE/GOVERNING BOARD ON ADOPTION OF DIRECTOR-GENERAL INSTRUCTIONS

I authorise use of these whole of government Director-General Instructions for use in the [xx Directorate/yy Territory Authority].

I acknowledge I am responsible to ensure that appropriate underpinning policies and procedures exist to support these DGIs.

xxx

[Director-General/Chief Executive Officer/ Chairperson]

[Directorate/Territory Authority Name]

[Date]

1. NOTES FOR DIRECTORATE AND TERRITORY AUTHORITIES WHEN ISSUING THESE INSTRUCTIONS

1.1 BACKGROUND

These model Director-General Instructions (DGI's) have been developed to cover the core legislated resource management requirements and related whole of government policies that are relevant to all ACT Government Directorates and applicable Territory Authorities. The intention is that with minimal modification required, they can be issued by all Directorates (as DGIs); and for Territory Authorities which are prescribed under section 54 of the *Financial Management Act 1996* (section 54 prescribed Territory Authorities) can be released as Chief Executive Instructions (CEI's) or Governing Board Instructions (GBI's).

Each Instruction contains useful references and a table of related legislation and whole of government policy, to provide greater context to readers. As with all such Instructions, they are not intended to replace organisation issued detailed procedures or guidelines.

1.2 WHICH PARTY ISSUES THE INSTRUCTIONS

The need for these Instructions arises from the legal requirement imposed on all Director-Generals; Chief Executive Officers and Governing Boards of Territory Authorities prescribed under section 54 of the *Financial Management Act 1996* (FMA) to be accountable (for Director-Generals) or responsible (for Chief Executive Officers and Governing Boards) for the efficient and effective financial management of their respective organisation's resources.

For Directorates, this requirement is imposed on Director-Generals by section 31(1) of the FMA.

For Territory Authorities, the requirement imposed on either the Chief Executive Officer or the Governing Board depends on the governance structure of the Territory Authority (sections 55(2) or 56(2) respectively, of the FMA).

The section 54 prescription of a Territory Authority is made in the form of a Financial Management Guideline issued by the Treasurer under section 133 of the FMA, advising that for the nominated Territory Authorities, Part 8 of the FMA (*Financial Provisions of Territory Authorities*) applies. As at 15 January 2021, there were 16 prescribed Territory Authorities, identified at section 3 in the *Financial Management (Territory Authorities) Guidelines 2020 (No2)*, also known as *Disallowable Instrument number 2020-273*: <https://www.legislation.act.gov.au/di/2020-273/> and five Territory Authorities prescribed for Outputs, identified at section 3 in the *Financial Management (Territory Authorities prescribed for Outputs) Guidelines 2020*, also known as *Disallowable Instrument number 2020/183*: <https://legislation.act.gov.au/View/di/2020-183/current/html/2020-183.html>. Agencies should be mindful this is subject to change and are advised to regularly check for updates on the ACT Legislation Register: <https://www.legislation.act.gov.au>

A subset of the list has been extracted below and identifies which Territory Authority has opted in to adopt these Instructions. All other Territory Authorities are required to ensure similar instructions exist within their organisation.

- ACT Gambling and Racing Commission;
- ACT Insurance Authority;
- City Renewal Authority;

- Cultural Facilities Corporation;
- Motor Accident Injuries Commission; and
- Office of the Work Health and Safety Commissioner (to be known as WorkSafe ACT);

For Territory Authorities which are not featured in the FMA Guidelines, the Director-General of the lead Directorate for their portfolio is usually responsible for the efficient and effective financial management of their resources. Therefore, the DGIs for that Directorate may also be applied to any Territory Authority that fits this criterion.

Note: the issuing party would also need to consider the development and release of a complementary schedule of delegations to their Instructions, for every organisation that they cover.

Organisation	Instruction
Directorate	Director-General's Instruction (DGI)
Non-prescribed Territory Authority (under section 54 FMA Act 1996)	Director-General's Instruction (DGI) (of related key Directorate for portfolio)
Prescribed Territory Authority (under section 54 FMA Act 1996)	Chief Executive's Instruction (CEI) or Governing Board's Instruction (GBI).

Notes:

1. For literary expediency, all references to DGIs, CEIs and GBIs in this model set of Instructions will be collectively referred to as DGI's, unless stated otherwise.
2. For literary expediency, all references in this model set of Instructions to a Director-General having certain responsibility for their Directorate, it will also include responsibility for all non-section 54 FMA prescribed Territory Authorities (for the Directorate which is in the Territory Authority's primary portfolio), unless stated otherwise.

1.3 GUIDANCE FOR MODIFICATION

These DGIs have been developed for use in this common form and content, across the ACT Government.

The issuing party may also wish to preface these Instructions with a Foreword which states the source of their overarching obligation for efficient and effective financial management of resources (i.e. section 31(1), 55(2) or 56(2) of the FMA); and explain that the Instructions are intended to provide a clear framework under which officers can exercise their core duties in relation to resource management. The Foreword may also be personalised by the issuing party to express the importance of resource management to the Directorate or Territory Authority.

While the legislative and whole of government policy requirements for resource management apply to Directorates and Territory Authorities in parallel ways, there are some differences in the source of the requirements and terminology used, as well as some minor differences in content. Where these differences have identified in the development of these model Instructions, appropriate options have been provided.

1.4 NOTES FOR READERS

1.4.1 Format of these Instructions

These Instructions are designed to provide readers with clear direction about their key compliance obligations with respect to resource management for their ACT Government organisation.

Each Instruction has been structured to provide readers with concise background on a core compliance obligation and then to provide practical direction in relation to meeting the core obligations.

1.4.2 Directions for Specific Officers

Directions for specific officers are highlighted within each Instruction.

Within these directions, senior officers are sometimes identified by the responsibility they hold, rather than by a specific title. For example, 'the Executive responsible for risk management'. These descriptions have been used to allow for the different allocation of the same responsibilities across Directorates and Territory Authorities. This approach also means that Instructions do not need to be updated as frequently in response to reorganisations and changes to position titles.

Some directions are also given to 'Managers of Business Units'. Again, this general term has been used to allow for changes in titles and different usage across Directorates and Territory Authorities. For the purposes of these Instructions the term 'Managers of Business Units' should be read to refer to what are normally Senior Officer Grade A or B (SOGA or SOGB) level staff who manage a section, Executive Branch Managers and Executive Group Managers (or their job level equivalent). These responsibilities will overlap and have been described to allow for that overlap.

1.4.3 Delegations for Specific Functions

Directors-General/Chief Executive Officers may sub-Delegate any of their Delegated functions to other Executives/Senior Staff across Directorates and Territory Authorities (see also section 2.1 Delegation of Authority below). For the purposes of these instructions, it is recommended that the readers refer the Directorate/Territory Authority Financial Delegations Register to identify the appropriate Delegate for relevant approvals.

1.4.4 Shared Services

Agreements are in place for Shared Services to perform corporate functions on behalf of Directorates and Territory Authorities. Shared Services' responsibilities are described in detail in the Services and Performance Measures Catalogues.

In cases where these Instructions cover a function that is performed by Shared Services on behalf of a Directorate or Territory Authority, the officer named in these Instructions retains responsibility for ensuring arrangements are in place to perform the function. For example, Shared Services prepares invoices on behalf of Directorates and Territory Authorities but Chief Finance Officers retain responsibility for ensuring these arrangements are in place. Shared Services' responsibilities (and performance measures) for the function are described in the relevant Services and Performance Measures Catalogue.

For the purpose of these Instructions, directions addressed to 'Managers of Business Units' and 'All Officers' apply equally to Shared Services' personnel.

2. GENERAL GOVERNANCE

2.1 DELEGATION OF AUTHORITY

2.1.1 Background

Officials must only make decisions on the management of public resources in accordance with legislative authority.

Legislative authority for decision-making is usually provided to the holder of a specific public office, including ACT Government Ministers to allow for the efficient administration of a Directorate or Territory Authority. The office holder (the Appointer) may also be given authority to Delegate (and sometimes sub-Delegate) their decision-making authority.

Delegation of Executive Powers

Importantly, the ACT Government also has Executive authority, granted to it under the *Australian Capital Territory (Self-Government) Act (Cth) 1988* which is then assigned to individual Ministers under the Chief Minister's *Administrative Arrangements*. Although not as precise as legislative authority, these assigned Executive powers can also be Delegated by Ministers and are subject to the same requirements that govern the delegation of Legislative authority. However, given there is no express legal authority to refer to, the description of authority being Delegated, and any related limitations must be very carefully worded by the appointing Minister, to ensure these Delegated decisions are all made within their intended scope.

Scope of authority to Delegate is variable between positions

For Directorate's, only the ACT Public Sector Standards Commissioner, the Head of Service and all other Directors-General's have the broad authority to Delegate any of their functions given to them under any law operating in the ACT. This includes laws created outside of the ACT jurisdiction. For Territory Authorities, the same broad delegation powers only apply to Statutory Office holders or Chief Executive Officers who have been given 'public employer' legislated authority i.e. they can employ staff, but any staff they do employ must be ACT Public Servants. However, they can only exercise these broad powers in the context of direct staff management issues such as recruitment, retention and separation.

For Territory Authorities, Statutory Office holders or Chief Executive Officers without 'public employer' legislated authority can only Delegate those functions where there is legislation that expressly authorises their delegation of a particular function.

Authority to sub-Delegate is limited to certain positions

Only the Head of Service and all other Directors-General's have the broad authority to sub-Delegate any of their Delegated functions given to them under any law operating in the ACT. This includes laws created outside of the ACT jurisdiction. This usually occurs when a Minister has Delegated their delegable Ministerial authority to a Director-General, or the Head of Service has Delegated their authority to a Director-General, who then sub-Delegate these powers to their Directorate staff.

The ACT Public Sector Standards Commissioner has the same broad sub-delegation authority as that given to the Head of Service and all Directors-General, with the exception that they cannot sub-Delegate any functions Delegated to them specifically under the *Public Sector Management Act 1994*.

Delegations to ACT Government employees only

All delegations and sub-delegations of authority should be assigned to public employees only. Public servants, staff employed under a Territory Instrument, statutory office holders and people employed by statutory office holders are all public employees. The only exception is when the person appointing the Delegate or sub-Delegate is satisfied the delegation or sub-delegation needs to be exercised by someone who is not a public employee Delegate (and sub-Delegate) and must be in written form.

All delegations (and sub-delegations) by the Appointer must be made in writing, clearly identifying the Delegate (or sub-Delegate), usually by position held (by name is also permissible but appropriate in rare cases only due to business continuity considerations), and any limitations to the authority being issued. The same authority may be assigned concurrently to a multiple number of positions. Importantly, delegations are not a Notifiable Instrument and therefore can remain as an internal document (to the organisation).

The written delegations (and sub-delegations) may be made in the form of an Instrument issued by the Appointer, identifying the time from which the delegations (and sub-delegations) are to take effect. The Appointer is free to amend or revoke any delegations (or sub-delegations) issued, at any time, either partially or completely, but it must be done in writing. Unless a change in delegations (or sub-delegations) is issued by the Appointer, the written delegations (or sub-delegations) remain in operation, regardless of whether there has been a change in officer holding the position of Appointer.

Appointer of Delegates retains responsibility for function

Although the Appointer may Delegate their authority for exercising a function, the Appointer retains the responsibility for ensuring the function is properly exercised. They are also free to personally exercise these functions at any time, irrespective of them being Delegated (or sub-Delegated) to other staff.

Responsibility of all Delegates

Prior to making any decisions or exercising any functions governed by law, staff must check they have the legislated, Delegated or sub-Delegated authority to do so. This includes:

- being the official occupant of a position assigned this authority at the time, (ideally determined by the organisation's official Human Resource system or evidence that confirms that person's appointment);
- observing any limitations issued with the delegation and any laws governing the function; and
- being in possession of the required skills and knowledge to properly exercise the Delegated function.

The actions and consequences arising from a Delegate's proper exercise of their delegation is equivalent to the Appointer personally exercising the function. However, a delegation or anything done under a delegation will not be considered invalid only because of a defect or irregularity in the delegation.

To ensure that decisions are properly authorised at all times and remain relevant to the legislated powers, it is important that a clear, current and consolidated record of Delegated powers is maintained and that officers refer to that record prior to making decisions.

Direction

When authorised to do so, the **Minister/Head of Service/Director-General/Chief Executive/Governing Board** will:

- ✓ Delegate/sub-Delegate their powers in writing, where this allows for the efficient administration of the Directorate/Territory Authority; and
- ✓ ensure the function is properly exercised.

The **Chief Finance Officer (or other nominated Executive)** will:

- ✓ maintain a register of current financial delegations and ensure it is available to all officers;
- ✓ periodically review the current financial delegations to ensure they remain aligned with the current organisational structure, the ACT Government's financial governance framework, and the organisation's risk appetite, thereby continuing to promote efficient and effective administration of the organisation; and
- ✓ make recommendations to the Minister/Head of Service/Director-General/Chief Executive/Governing Board for changes to delegations when required.

All officers must:

- ✓ ensure that they only make decisions regarding public resources when they have the Delegated authority, skills and knowledge to do so;
- ✓ comply with all directions within the delegation, including those that relate to the maximum value of transactions that can be approved and any other limitations issued with the delegation;
- ✓ not exercise their delegation when they have a clear conflict of interest such as approving their own personal expenditure or the transaction involves family members or friends; and
- ✓ seek authority from a more senior financial Delegate in their management structure to approve their own personal expenditure unless another arrangement is permitted within the applicable delegation instrument.

2.1.2 Useful References

ACT Government *Financial Delegations Better Practice Guideline* – January 2007 available at <https://www.treasury.act.gov.au/accounting>.

Directorate/Territory Authority Financial Delegations or associated Register.

2.1.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Legislation Act 2001</i>	Part 19.4 (<i>Delegations</i>) and section 254A	Governs the manner in which functions may be Delegated and exercised.

Legislation/Policy	Relevant Content	Relevance
<i>Australian Capital Territory (Self Government Act) (Cth) 1988</i>	Section 37 (General Powers of Executive) and Schedule 4 (Matters concerning which the Executive has power to Govern the Territory) to the Act.	Provides the legislative source of Authority for ACT Executive power.
Administrative Arrangements (issued by the Chief Minister)	All	Assigns the Executive powers granted under the <i>ACT Self Government Act 1988</i> to specific members of the Executive (i.e. Ministers).
<i>Financial Management Act 1996</i>	Sections 31, 55 and 56 Section 152 (Certain office holders have management powers)	Assigns overall responsibility for efficient and effective financial management of public resources to Director-Generals; Chief Executive Officers and Governing Boards of Directorates and section 54 FMA prescribed Territory Authorities (respectively). Provide authority for Head of Service, Director-Generals and the Public Sector Standards Commissioner (respectively) to Delegate or sub-Delegate functions.
<i>Public Sector Management Act 1994</i>		Provides broad delegation and sub-delegation authority to any statutory office holders or Chief Executive Officers with public sector employer authority.
Any ACT legislation that creates a Territory Authority and assigns functions, responsibilities, etc e.g. <i>City Renewal Authority and Suburban Land Agency (CRA/SLA) Act 2017</i>	Sections in the legislation of a Territory Authority giving express authority to Delegate a function e.g. Sections 14A, 19, 31, 44A, 49, and 59 of the CRA/SLA Act 2017	Provides express authority for delegation of specific functions e.g. CEO and Governing Board functions in relation to the City Renewal Authority and Suburban Land Agency.

2.2 MANAGEMENT OF RISK, FRAUD AND CORRUPTION PREVENTION

2.2.1 Background

Part 2.3 (Fraud and Corruption) of the *Public Sector Management Standards 2006 (repealed)* assigns Directors-Generals with broad responsibility for upholding the integrity of their organisation, and to do so through a systematic approach.

The risk assessment process may identify systems or functions within the organisation where fraudulent or corrupt behaviour can put organisational integrity at risk. These risks must be identified and addressed in detailed fraud and corruption prevention plans, assessing the effectiveness of existing controls already in place for addressing the risks, as well as identifying where new strategies are needed to further reduce the likelihood and/or consequence of the risk occurring.

2.2.3 Risk Management

Australia's observed Risk Management Standard (ISO 31000:2018 – International Standard on Risk Management) defines **risk** as '*the effect of uncertainty on objectives*'; and **risk management** as '*the co-ordinated activities to direct and control an organisation with regard to risk*'.

The ACT Insurance Authority (ACTIA) has legislated authority under the *Insurance Authority Act 2005* to drive best practice risk management across the ACT Government. This encompasses delivering support services such as policy advice and training to ACT Government organisations to assist them to assist them to effectively manage risk, in compliance with the Standard. The Internal Audit function ensures effective implementation of the Directorate's risk management framework and better practices across the Directorate.

Under the Territory's *ACT Government Risk Management Policy*, all staff have an obligation to manage risk in their daily work activities, embedding and integrating risk management into all organisational processes and functions, ranging from strategic corporate planning and reporting to the conduct of line area operational activities. The Directorate should have Risk Management Framework which aligns with Risk Management Standard and the policy. The policy outlines six attributes which each organisation is required to demonstrate adherence to, in its approach to managing risk which are to:

- i) cultivate a positive risk culture;
- ii) establish a risk management framework and risk management plan;
- iii) establish a robust risk assessment process – identify, analyse and evaluate (in the context of likelihood and consequence of a risk occurring);
- iv) define responsibility and accountability for risk management;
- v) align risk management activities with strategic objectives; and
- vi) embed risk management activities into all operations and processes.

Unless stated otherwise, the selection of risk treatment options should be made in accordance with the organisation's objectives, risk criteria, available resources and stakeholder views.

The Audit Committee is responsible for reviewing and monitoring the organisation's compliance with Australian Standards for the organisation's risk management policies, practices and processes. Refer also to **DGI 2.5 – Role of the Audit Committee and Internal Audit**.

2.2.4 Fraud and Corruption Prevention

Part 2.3 (Fraud and Corruption) of the Public Sector Management Standards 2006 (repealed) requires detailed fraud and corruption prevention plans to be developed and maintained by the Director-General, for managing risks to organisational integrity. It defines the key terms of corruption, fraud and integrity as follows:

Corruption – means that the officer or employee seeks, obtains, or receives any benefit, other than lawful salary and allowances, on the understanding that the officer or employee will do or refrain from doing anything in the course of their duties or will attempt to influence any other officer or employee on behalf of any person.

Fraud – means taking or obtaining by deception, money or another benefit from the government when not entitled to the money or benefit or attempting to do so – this includes evading a liability to government.

Integrity – means the exercise of authority in accordance with the stated values and principles of the ACTPS and includes the control of fraud and corruption.

The *ACT Public Service Integrity Policy* sets out the broad whole-of-government policy on the promotion of integrity and the control of fraud and corruption in the ACT Public Sector. The policy states that each agency should appoint an Executive to take responsibility for the implementation of integrity strategies and processes for the detection and investigation of fraud and corruption. These officers are known as the Senior Executive Responsible for Business Integrity Risk (SERBIR).

The Directorate's/Territory Authority's detailed fraud and corruption prevention plan (the Plan) should demonstrate that it proactively manages the potential for fraud and corruption through effective prevention and detection mechanisms (internal controls). However, the selected techniques and overall strategy must be balanced against the need for compliance with privacy laws and demonstrated cost effectiveness.

Although there is no ACT Government prescribed format for the Plan, it should contain or reflect the following:

- i) a recent assessment of the risks to the Directorate/Territory Authority and how it will deal with those risks in priority order;
- ii) all risks to the integrity of the Directorate/Territory Authority should be managed by reducing their likelihood, by improving controls and raising employee awareness;
- iii) clear identification of the organisational line area responsible for dealing with each identified risk;
- iv) assign to the SERBIR the primary role of monitoring the plan's implementation and coordinating any risk treatments that involve more than one area of the organisation;
- v) a management plan for each of the risks identified, with detailed and clearly identified actions, that easily identify when the action has been completed and should not involve the creation of a new monitoring mechanism;
- vi) for each of the risks identified, a realistic timetable for implementation of the actions, reflecting the priority assigned to the risk in the risk assessment process; and
- vii) for integrity risks only, the plan should coordinate the response with other governance mechanisms including – internal audit, physical security and IT security.

For continued effectiveness, the fraud and corruption plan should be reviewed every two years or more frequently when significant suspected fraud or corruption is discovered; or there is significant change in the nature or scope of operations, procedures or systems.

Personal Obligations for Public Sector Employees

Every public sector employee is legally required to always personally conduct themselves in a manner that promotes the integrity and reputation of the public sector, including proactively declaring any conflicts of interest they may have in performing their duties. They are also obliged to report any maladministration or corrupt or fraudulent conduct by a public servant or other public sector member, of which they have become aware of. The ACT Integrity Commission has been established to investigate conduct within the ACT Government that is alleged to be corrupt.

Under the *Integrity Commission Act 2018*, the Director-General/Chief Executive is a mandated reporter. They are required to notify the ACT Integrity Commission about any matters they suspect, on reasonable grounds, to involve serious or systemic corrupt conduct.

Direction

The Director-General/Chief Executive must:

- ✓ establish and maintain a Risk Management Framework and Fraud and Corruption Prevention Plan (the Plan) for the Directorate/Territory Authority;
- ✓ review the Plan every two years or, more frequently, following significant threats or significant organisational changes such as the replacement of a major business system or major organisational restructure;
- ✓ pursue opportunities to actively detect fraud and corruption, mindful of privacy laws and cost efficiencies;
- ✓ assign responsibility to a Senior Executive for the implementation of strategies to promote business integrity, including processes for the detection and investigation of fraud and corruption (SERBIR); and must forward details of the appointment to the ACT Public Service Commissioner;
- ✓ ensure that cases of detected or notified fraud and corruption are investigated, and that serious or complex cases are reported to the Australian Federal Police; and
- ✓ include details of the implementation of the fraud and corruption prevention plan in the Annual Report to the Minister, making a number of personally issued certifications including:
 - the assessment of risks to the integrity of the Agency has been conducted according to the Risk Management Standard and ACT Risk Management Policy (and Implementation Guide) 2019;
 - treatments for adequately dealing with the integrity risks identified have been addressed in the fraud and corruption prevention plan and are compliant with ACT Government policy;
 - for any actual or planned engagement of external service providers the risks to organisational integrity have been assessed and dealt with in the fraud and corruption prevention plan; and
 - the progress during the reporting year on the implementation of the fraud and corruption prevention plan.

The Executive Responsible for Risk Management (SERBIR) will:

- ✓ regularly report on the Directorate's/Territory Authority's overall compliance with the ACT Public Service Integrity Policy to the Director-General/Chief Executive, and/or Board of Management as well as the Audit Committee; and
- ✓ perform the specific functions listed in Appendix E of the ACT Public Service Integrity Policy, including:
 - establish and maintain a Fraud and Corruption reporting system, recording data on all fraud and corruption incidents, including: detections, investigative and disciplinary actions taken, resultant losses (financial and reputational), and resultant changes (procedures and practices);
 - regularly make available to the Audit Committee reports from the Fraud and Corruption reporting system;
 - provide advice and assistance to the Audit Committee in relation to risk management; and
 - provide practical advice and assistance to other staff in relation to risk management.

All Managers of Business Units must:

- ✓ ensure that the Risk Management Framework and Fraud and Corruption Prevention Plan are effectively implemented within their own Business Units, ensuring the control procedures are being followed; and
- ✓ regularly assess their Business Unit for the threat of fraud or corruption and ensure the control procedures remain effective.

All officers must:

- ✓ familiarise themselves with the Directorate/Territory Authority's Risk Management Framework and Fraud and Corruption Prevention Plan;
- ✓ identify, analyse, assess and treat significant business risks in relation to their activities;
- ✓ conduct and document risk management activities in accordance with the Directorate /Territory Authority's Risk Management Framework and the ACT Government's Risk Management Policy;
- ✓ ensure that they comply with the Directorate/Territory Authority's Fraud and Corruption Prevention Plan and report any suspicious activities to the SERBIR, their Business Unit manager and the Director-General/Chief Executive Officer;
- ✓ ensure their personal conduct is always of the highest order, including declaring any personal conflicts of interest, thereby safeguarding the integrity of the ACT public sector; and
- ✓ report any maladministration, corruption or fraudulent conduct by a public servant or public sector member of which they have become aware, to the Head of Service, or where more appropriate, their Director-General/Chief Executive.

The Audit Committee will:

- ✓ monitor the effectiveness of the organisation's integrity arrangements, particularly the conduct of the risk assessments and the implementation of the Fraud and Corruption Prevention Plan.

2.2.2 Useful References

Directorate/Territory Authority Risk Management Framework

Directorate/Territory Authority Fraud and Corruption Prevention Plan

ACTIA Products and Services – July 2019

2.2.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Public Sector Management Standards 2006</i> (repealed)	Part 2.3 – Fraud and Corruption	Provides the broad legislative framework for managing risk; and fraud and corruption prevention in the ACT Government.
<i>ISO 31000: 2018 Risk Management Guidelines (the Risk Management Standard)</i>	All	Mandated by section 12 <i>Public Sector Management Standards 2006</i> (repealed) for assessing and treating Directorate risks.
<i>ACT Government Risk Management Policy – February 2019</i> (maintained by ACTIA)	All	Provides the mandated ACT Government requirements for achieving the required standard of risk management, in line with ISO 31000:2018.
<i>ACT Public Service Integrity Policy 2010</i>	All	Establishes broad whole-of-government policy on the promotion of integrity and the control of fraud and corruption in the ACT Public Sector.
<i>Public Sector Management Act 1994</i>	Section 9 – Public Sector Conduct	Formally sets out key conduct requirements for the ACTPS.
<i>ACT Public Service Code of Conduct 2013</i>	All	Provides guidance on appropriate behaviour for ACTPS employees.
<i>ACT Public Service Code of Ethics 2010</i>	All	Gives a practical address of the ethical obligations of staff.
<i>Integrity Commission (Mandatory Corruption Notification) Directions 2019 (No 2)</i>	Attachment 1 – Integrity Commission (Mandatory Corruption Notification) Directions 2019 (No 2)	Provides detailed interpretive information concerning mandatory corruption notifications.
<i>Public Interest Disclosure Act 2012</i>	All	Provides a mechanism for making public interest disclosures, protecting people making such disclosures

Legislation/Policy	Relevant Content	Relevance
		(whistle blowers) and ensuring the disclosures are properly investigated and dealt with.
<i>ACTPS Standards for the Conduct of Inquiries and Investigations 2010</i>	Section 2 – for fact finding inquiries concerning allegations of fraud and corruption or breaches of the conduct requirements at Section 9 <i>Public Sector Management Act 1994</i>	Provides authoritative and detailed best practice standards, procedures and guidelines for the conduct of investigations in the ACTPS.
<i>ACTPS Standards for the Conduct of Inquiries and Investigations 2010</i>	Section 3 – for SERBIR staff managing complex investigations in the ACTPS	Provides authoritative and detailed best practice standards, procedures and guidelines for the conduct of investigations in the ACTPS.
<i>ACT Government Framework for Internal Audit Committee and Function – 2020</i>	Section 4 – Audit Committee	Provides ACT Government organisations with a framework for establishing and maintaining an effective Audit Committee and Internal Audit Function.
The specific ACT law creating the Territory Authority	Any provisions concerning the Territory Authority's upholding of organisational integrity; its management of risk; and prevention of fraud/corruption.	Provide requirements for the specific Territory Authority to uphold its integrity through managing its risks and preventing fraud/corruption.

2.3 BUDGET MANAGEMENT AND CONTROL

2.3.1 Background

Government Appropriations

Part 2 – Budget Management of the *Financial Management Act 1996* (FMA) governs budget management within the ACT Government. It requires that no payment of public money may be made, otherwise than in accordance with an approved appropriation. This includes Advances from the Treasurer and payments from the Capital Works Reserve.

The Director-General/Chief Executive Officer/Governing Board is responsible for ensuring any amount of the appropriation spent by the Directorate/Territory Authority is spent in accordance with the appropriation.

Importantly, the FMA does not consider money received directly by a Territory Authority to be public money. This usually involves receiving funds directly from customers for payment of fees for service charges, set by the Territory Authority directly to its customers.

Appropriations of public money are made available to Directorates/Territory Authorities through the Legislative Assembly's annual budget process, approved in the form of three discrete funding streams, which must be managed separately. *Part 2 – Budget Management* of the FMA describes these appropriations and how they may be used, along with how they may be varied during the financial year to which they relate.

Each year Treasury releases the Budget Process Rules (BPRs), which are standing rules endorsed annually by Cabinet. The BPRs set out the key administrative and operational arrangements that underpin the management of the ACT budget process. They provide a common framework and identify the requirements that apply to the development of the annual Budget.

Treasury needs to be consulted any time a variation of appropriation is contemplated after a budget has been passed for the current financial year.

2.3.2 Budgeted Outputs/Objectives of Agencies

During the budget process, the Legislative Assembly is provided with an outline of the outputs/objectives that will be provided/pursued by the Directorate/Territory Authority and the budgeted expense for achieving them. A similar process is undertaken by Prescribed Territory Authorities under section 54 of the FMA.

2.3.3 Internal Budget Allocation

Once approved, the Director-General/Chief Executive/Governing Board manages the Directorate's/Territory Authority's approved budget by allocating budgets within their organisation, where necessary, to best deliver the Government's objectives, and ensuring compliance with the ACT Government's financial management framework.

Business areas need to follow their Directorate's/Territory Authority's requirements, and ensure their total allocated budget is accurately phased across the months of the year to reflect how and when expenditure and revenue are expected to occur or be recognised.

2.3.4 Budget Expenditure

For any proposed expenditure, all staff must obtain authorisation in advance, from a valid financial Delegate, with sufficient budget funding made available to meet the costs to be incurred. They must also ensure the proposed expenditure supports delivery of the organisation's budgeted outputs and complies with ACT Government legal and policy requirements, particularly the demonstration of value for money in all procurements.

Staff with a financial delegation cannot approve their own expenditure and they must generally seek proposed expenditure authorisation from a more senior financial Delegate in their management structure. However, there may be a small number of cases where staff need to seek proposed expenditure authorisation from an equal or more junior financial Delegate (for example the Director-General may seek approval from the Deputy Director-General or the CFO). Also refer **DGI**

2.1 – Delegation of Authority.

2.3.5 Budget Monitoring and Review

It is important that the expenditure of internal budget allocations is closely monitored and pro-actively managed to ensure it remains within the total budget allocation and that the phasing continues to accurately reflect the timing of expenditure requirements. Staff should clearly understand their expenditure budgets and should regularly and carefully monitor these budgets.

The Director-General/Chief Executive/Governing Board of a Territory Authority is required to ensure that as far as practicable, the Directorate's/Territory Authority's operations during a financial year are consistent with, and comparable to, the Directorate's budget estimates or the Territory Authority's Statement of Intent for the year.

When managing a budget for high value, irregular expenditure activities such as capital projects, or paying out large accrued leave entitlements for departing staff members, staff are encouraged to consult early with their Finance area for support and guidance.

In the event of both forecast and unforeseen funding pressures, staff should first seek to resolve these by reprioritising their expenditure within their approved funding limit and seek assistance as early as possible from the Directorate's/Territory Authority's Strategic Finance area to manage any remaining budget funding difficulties.

Note: For external reporting of expenditure against budget, refer **DGI 2.4 Reporting Responsibility and the Maintenance of Accounts and Records**.

Direction

The Director-General/Chief Executive Officer/Governing Board must:

- ✓ determine the proposed outputs and required budget funding to achieve the strategic organisational outcomes, for presentation to the Legislative Assembly in the form of Budget Papers/Minister approved Statement of Intent;
- ✓ approve the internal allocations of the approved external budgets, to best achieve the stated strategic organisational outcomes;
- ✓ ensure Government appropriations are spent in accordance with the appropriation; and
- ✓ ensure that as far as practicable the operations of the Directorate/section 54 FMA prescribed Territory Authority during a financial year are consistent with, and comparable to, the Directorate's budget estimates or the Territory Authority's Statement of Intent for the year.

The Chief Finance Officer will:

- ✓ co-ordinate the external and internal budget development process and the allocation of budgets to Business Units;
- ✓ monitor the Directorate or Territory Authority's overall performance against budget; and
- ✓ provide advice to the Directorate or Territory Authority on strategic and operational budget matters.

All Managers of Business Units will:

- ✓ participate in the budget development process as requested by the Chief Finance Officer;
- ✓ closely monitor any budgets for which they are responsible for, with a particular focus on budget limits and understanding their budget needs (where applicable);
- ✓ promptly advise the Chief Finance Officer if they believe they may exceed their budget and suggest ways to bring expenditure back in line with budget; and
- ✓ report on financial performance (including variance reporting) through relevant governance structures.

All Officers must:

- ✓ ensure any proposed expenditure contributes to the delivery of budgeted outputs (directly or indirectly) and is authorised by an appropriate financial Delegate.

2.3.6 Useful References

ACT Government Budget circulars issued by ACT Treasury

ACT Government Accounting Policies

Directorate/Territory Authority Procedures

Delegation Registers

2.3.7 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Part 2 – Budget Management	Governs budget management within the ACT Government. Defines appropriations, how they may be used and how they may be varied.
<i>Financial Management Act 1996</i>	Section 61 – Territory Authority Statement of Intent	Prescribes the budget information required of all section 54 FMA prescribed Territory Authorities (<u>excluding</u> section 61(6) if the Territory Authority is <u>not</u> also a section 61(6) FMA prescribed Territory Authority) – see below in this table.
<i>Financial Management (Territory Authorities Prescribed for Outputs) Guidelines 2020</i>	All	Identifies which section 54 FMA prescribed Territory Authorities are also section 61(6) FMA prescribed Territory Authorities and therefore section 61(6) but not section 61(7) of the FMA applies, concerning the Statement of Intent requirements.
<i>Appropriation Bills/Acts</i>	Schedules to the Bill/Acts	Tabulates the approved public funding limits for a financial year, by organisation and appropriation type.

Legislation/Policy	Relevant Content	Relevance
<i>Australian Capital Territory (Self Government) Act 1988 (Cth)</i>	Sections 57, 58 (Public Money, Withdrawals of Public Money)	Declares the Territory's public money to be made available for the Territory's expenditure; and the receipt, spending and control of the Territory's public money shall be regulated as provided by enactment.
<i>Financial Management (Budget Financial Statements) Guidelines 2016</i>	All	Prescribes the budget reporting requirements for Directorates and Territory Authorities for the external budget approval process.
Budget Process Rules	Section entitled 'Management of Agency Budgets'.	Describes responsibility of Agency Heads, as well as the requirements regarding amendments to appropriations, accounting policies and operating losses.
The specific legislation creating the Territory Authority	Any provisions concerning management of the Territory Authority's budget.	Expressly identifies any specific requirements for managing the Territory Authority's budget.

2.4 REPORTING RESPONSIBILITY AND THE MAINTENANCE OF ACCOUNTS AND RECORDS

2.4.1 Background

Division 3.2 (Financial Reports and Performance Statements of Directorates) and Part 8 (Financial Provisions of Territory Authorities) of the *Financial Management Act 1996* (FMA), govern the main financial reporting requirements for Directorates and section 54 FMA Prescribed Territory Authorities. They comprise of:

- i) Financial Reports at both the organisational and consolidated Territory levels, for each month, quarter and year;
- ii) Performance Reports which are required on a half yearly basis, providing current information about the delivery of budgeted organisational outputs; and
- iii) Capital Works Reports required at least every six months by the Treasurer for presentation to the ACT Legislative Assembly.

Note: Divisions 9.3, 9.6 and 9.7 of Part 9 (Governance of Territory Authorities) of the FMA also stipulate reporting requirements, but they only apply to certain Territory Authorities in certain circumstances.

2.4.2 Financial Reporting

Monthly

All ACT Government organisations are required to report on their financial management outcomes every month, following the financial system's general ledger closure and rollover to a new reporting period.

Quarterly

The months of September, December and March require the monthly reporting outlined above and the additional completion of a Management Discussion and Analysis (MD&A) report, for the preceding quarter. The format and timeframes are prescribed by ACT Treasury. The reporting scope is all accumulated expenditure and revenue earned, commencing from the start of the first quarter (1 July) until the close of the current reporting quarter.

Interim Reporting

A section 54 FMA Prescribed Territory Authority may be directed in writing by the Treasurer to provide them and the Territory Authority's responsible Minister with financial statements or other statements relating to the Authority for each month, quarter or other stated period for the year.

The Territory Authority's Governing Board Chair or Chief Executive Officer must comply with the Treasurer's direction within one month after the day it is received (or within the longer period stated in the direction). Similarly, section 102 (Ministerial directions to authorities about Financial Statements, etc) of the FMA allows the Minister for a section 54 FMA Prescribed Territory Authority to issue the Governing Board or Chief Executive Office, with a written direction to provide the Minister with financial or other statements relating to the Territory Authority. The Minister's direction may state the form in which the statements are to be given and the period to which they must relate.

Note: The Minister cannot issue this request under section 102 of the FMA if the Territory Authority's legislation states that it is not a section 54 FMA prescribed Territory Authority.

Annual

As soon as practicable at the end of each financial year, the FMA requires each Directorate/Territory Authority to prepare their annual financial statements for its operations during the year. They must meet certain requirements which are primarily addressed in ACT Treasury's Model Financial Statements for Directorates and Territory Authorities (updated at least annually).

Audit (of Financial Statements)

The responsible Director-General/Chief Executive Officer of a Directorate/Territory Authority must give the Auditor-General the Directorate's/Territory Authority's annual financial statements for a financial year as soon as practicable after they have been prepared within the prescribed period after the end of the year. Timeframes for the annual audit process are issued through ACT Treasury memorandum annually.

The Auditor General must give the responsible Director-General/Chief Executive Officer an audit opinion about the Directorate's/Territory Authority's financial statements as soon as practicable after the Auditor-General receives them.

The annual financial statements must be accompanied by a signed Statement of Responsibility from the Director-General/Governing Board Chair, otherwise Chief Executive Officer, advising that in their opinion the annual financial statements fairly reflect:

- i) the financial operations of the Directorate/Territory Authority during the year; and
- ii) the financial position of the Directorate/Territory Authority at the end of the year.

For Territory Authorities, the Governing Board Chair, otherwise Chief Executive Officer must also:

- i) state their responsibility for the preparation of the annual financial statements and the judgements exercised in preparing them.

The Statement of Responsibility must be signed by the Director-General/Governing Board Chair, otherwise Chief Executive Officer before the Auditor-General can give the Director-General Governing Board Chair, otherwise Chief Executive Officer, an audit opinion on the Directorate's/Territory Authority's financial statements.

The Director-General/Governing Board Chair or Chief Executive Officer should first seek guidance and independent advice from the Audit Committee about the prepared financial statements before signing the Statement of Responsibility and submitting Financial Statements to the Auditor-General. Also refer **DGI 2.5 Role of the Audit Committee and Internal Audit**.

Annual Report

The *Annual Reports (Government Agencies) Act 2004* requires the Directorate's/Territory Authority's annual report for a financial year to include or have attached to it:

- i) the Directorate's/Territory Authority's annual financial statements for the year; and
- ii) the accompanying audit opinion about these annual financial statements.

Consolidated Quarterly Accounts for the Territory

This report must be completed within 45 days after the end of the reporting quarter and presented on the first sitting day after they are prepared to enable the Treasurer to meet their legislated requirement of presenting copies of the Territory's consolidated quarterly financial statements (quarter to date and year to date) to members of the Legislative Assembly.

2.4.3 Performance Reporting

Half Yearly

Within 45 days after 31 December in each financial year, Ministers must present half-yearly performance reports to the Legislative Assembly for each of the Directorates they are responsible for. These reports must include:

- i) a progress report on the delivery of budgeted outputs; and
- ii) an explanation for any significant variations from pre-set performance criteria.

The above requirement does not apply to Officers of the Legislative Assembly or Territory Authorities.

Annual

As soon as practicable at the end of each financial year, the FMA also requires each Directorate and most section 54 FMA Prescribed Territory Authorities to prepare their Statement of Performance. The Statement of Performance outlines each class of outputs set out in their budget, meeting the objectives outlined in their Statement of Intent for the financial year.

Audit (of Performance Report)

The responsible Director-General/Chief Executive Officer of a Directorate/Territory Authority must give the Auditor-General the Directorate's/Territory Authority's Statement of Performance for a financial year as soon as practicable after the Statement is prepared within the prescribed period after the end of the year. Timeframes for the annual audit process are issued through ACT Treasury memorandum annually.

The Auditor-General must give the Director-General/Chief Executive Officer a Limited Assurance Report about the Statement of Performance as soon as practicable after the Auditor-General receives it. The report must be prepared in accordance with the financial management guidelines (issued under section 133 of the FMA).

As is the case with the annual financial statements, the annual Statement of Performance must be accompanied by a signed Statement of Responsibility from the Director-General/Governing Board Chair, otherwise Chief Executive Officer.

The Statement of Responsibility must be signed by the Director-General/Governing Board Chair or Chief Executive Officer before the Auditor-General can give their Limited Assurance audit report.

Annual Report

The *Annual Reports (Government Agencies) Act 2004*, the Directorate's/section 54 FMA prescribed Territory Authority's annual report must include or have attached to it:

- i) the Directorate's/Territory Authority's Statement of Performance for the year; and
- ii) the accompanying Audit report about the Statement of Performance.

These documents must also be prepared in time to meet the legislated timing for tabling of the Directorate's/Territory Authority's Annual Report in the Legislative Assembly.

2.4.4 Capital Works Reporting

The FMA requires the Treasurer to prepare a report in relation to Capital Works for the Territory at least once every six months. Once prepared, the Treasurer must make Members of the Legislative Assembly aware of the report details, usually by presenting it to the Members on the first sitting day after its completion.

Directorates and Territory Authorities must contribute information to inform the Treasurer's capital works report, which includes a progress report on the delivery of the capital works program for the Territory during the period since the previous capital works report, and a statement of the expenditure on capital works for each Directorate and Territory Authority for the financial year.

2.4.5 Accounts and Records Management

The FMA requires that Director-Generals/Chief Executive Officers/Governing Boards keep proper accounts and records of the transactions and affairs of the Directorate/Territory Authority, in accordance with accounting standards. Detailed below are a number of other key specific legal requirements concerning the management of these records:

The *Territory Records Act 2002* stipulates a number of primary requirements of Agencies concerning their ACT Government records.

Seven-year Retention

In Australia, the legal requirement for retaining accounting records detailing business transactions, including the supporting documents, varies between five and seven years, according to the nature of the document and the type of organisation it belongs to. Therefore, seven years is the recommended period of retention.

Direction

The Audit Committee will independently support and advise the Director-General/Chief Executive Officer/Board Chair:

- ✓ that the annual financial statements and Statement of Performance are compliant with ACT legislation, ACT treasury guidance and relevant accounting standards and policies; and
- ✓ provide recommendations to the Director-General/Chief Executive Officer/Board Chair about the annual financial statements and Statement of Performance.

The Director-General/Chief Executive Officer/Governing Board Chair must:

- ✓ seek independent advice and guidance from the Audit Committee about their organisation's prepared annual financial statements and Statement of Performance before signing the Statements of Responsibility for each;
- ✓ sign the Statement of Responsibility advising that in their opinion the organisation's annual financial statements accurately reflect the financial operations of the organisation during the year and financial position of the organisation at the end of the year. (This must be done before the Auditor-General can provide their audit opinion on the financial statements);
- ✓ sign the Statement of Responsibility advising that in their opinion, the organisation's Statement of Performance fairly reflects the organisation's performance in providing each class of output during the year, as set out in the Directorate's annual financial budget/Territory Authority's Statement of Intent (this must be done before the Auditor-General can provide their report on the Statement of Performance);
- ✓ provide the Auditor-General with the organisation's prepared annual financial statements for their audit and issue of an audit opinion;
- ✓ provide the Auditor-General with the organisation's prepared Statement of Performance for their audit and issue of an audit report;
- ✓ ensure the organisation's annual report includes or has attached to it a copy of the organisation's audited annual financial statements and the Auditor-General's audit opinion on those statements; and
- ✓ keep proper accounts and records of the transactions and affairs of the organisation, in accordance with accounting standards and record keeping requirements.

The Chief Finance Officer will:

- ✓ oversee all requirements concerning the preparation and tabling of the Directorate's/Territory Authority's audited annual financial statements; and
- ✓ monitor the Directorate's/Territory Authority's financial performance and escalate any key concerns with the Director-General/Chief Executive as and when appropriate.

The Chief Finance Officer or Executive responsible for performance reporting will oversee all requirements for the preparation and tabling of the Directorate/Territory Authority's annual statements of performance and half-yearly performance reports (half-yearly performance reports are for Directorates only).

The Chief Finance Officer or Executive responsible for capital works reporting will contribute to whole of government capital works reporting, ensuring the content required for this report is kept, maintained and made available, as directed by ACT Treasury.

All Managers of Business Units must:

- ✓ ensure that the financial and non-financial activities of their business units are accurately and promptly recorded in the format required;
- ✓ ensure that adequate controls are in place to maintain the integrity of financial information and records; and
- ✓ ensure that appropriate documentary evidence is retained to verify financial and non-financial activities, compliant with key record keeping requirements for storage and retention; upholding privacy and Freedom of Information law.

All officers must contribute to the creation and maintenance of complete and accurate financial and non-financial records as directed by their Business Unit Manager and/or relevant authority within their Directorate/Territory Authority (e.g. Chief Finance Officer, Chief Operating Officer, etc.)

2.4.6 Useful References

Directorate/Territory Authority Procedures

ACT Government Accounting Policies (released by ACT Treasury)

ACT Treasury's *Model Financial Statements for Directorates and Territory Authorities* (updated at least annually)

ACT Government *Management Discussion & Analysis (MD&A) – Better Practice Guideline* June 2007 (released by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD))

Strengthening Performance and Accountability: A Framework for the ACT Government – February 2020 (released by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD))

Territory Records Office Records Advice – <https://www.territoryrecords.act.gov.au/recordsadvice>

2.4.7 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Division 3.1 – Financial reports of the Territory	Governs the requirements for consolidated reporting of the Territory's periodic and annual financial statements (reliant on monthly reporting by Directorates and Territory Authorities).
<i>Financial Management Act 1996</i>	Division 3.2 – Financial reports and performance statements of Directorates	Governs each Directorate's reporting requirements for Financial Statements and Statements of Performance.

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Division 3.3 – Capital Works reports of the Territory	Governs the requirements for consolidated reporting of the Territory's Capital Works (reliant on monthly reporting by Directorates and Territory Authorities).
<i>Financial Management Act 1996</i>	Part 8 (Financial Provisions for Territory Authorities); Sections 63-67; and Sections 68-71.	Governs each section 54 FMA prescribed Territory Authority's reporting requirements for Financial Statements and Statements of Performance (respectively)
<i>Financial Management Act 1996</i>	Section 102 – Ministerial directions to Territory Authorities about financial statements, etc	Prescribes that the Minister of <u>certain</u> section 54 FMA prescribed Territory Authorities can direct it to provide them with financial statements and other reports, in a form and for the period the Minister requests.
<i>Financial Management Act 1996</i>	Section 101 – Obligation of Authorities to tell Minister about significant events	Prescribes that certain section 54 FMA prescribed Territory Authorities must advise the Minister of certain <u>significant events</u> .
<i>Financial Management (Periodic and Annual Financial Statements) Guidelines 2016</i>	All	Prescribes the reporting requirements for the periodic and annual financial statements of the Territory, Directorates and section 54 FMA prescribed Territory Authorities.
<i>Financial Management Territory Authorities Prescribed for Outputs) Guidelines 2020</i>	All	Identifies which section 54 FMA prescribed Territory Authorities are also section 61(6) FMA prescribed Territory Authorities and therefore section 68(3) but not section 68(2) of the FMA applies, concerning Statement of Performance requirements.
<i>Financial Management (Statement of Performance Scrutiny) Guidelines 2019</i>	All	Prescribes the source of the performance criteria on which the Statement of Performance reports are to be based; and stipulates the Auditor General must issue a Limited Assurance Audit Report.

Legislation/Policy	Relevant Content	Relevance
<i>Annual Reports (Government Agencies) Directions 2019</i>	Part 2 – Annual Reporting Requirements Section C – Financial Management Reporting	Governs the required content in the organisation’s Annual Report concerning the annual financial statements and statements of performance.
<i>Financial Management Act 1996</i>	Section 31(4)(d); Section 55(4)(f); and Section 56(4)(f).	Prescribes the financial record keeping responsibilities of: - Director-Generals; - Chief Executive Officers (of Section 54 FMA prescribed Territory Authorities); and - Governing Boards (of Section 54 FMA prescribed Territory Authorities), respectively.
<i>Financial Management Act 1996</i>	Section 75	Prescribes that for certain section 54 FMA prescribed Territory Authorities, certain provisions of the <i>Corporations Act 2002 (Cth)</i> apply concerning the execution of documents.
<i>Territory Records Act 2002</i>	Part 2 – Management and Care of Records	Governs the management and care of records.
<i>Information Privacy Act 2014 (ACT)</i>	Schedule 1 – Territory Privacy Principle 11: Security of Personal Information	Governs the handling of information related to individuals (including corporations).
<i>Freedom of Information Act 2016 (ACT)</i>	All	Provides the public with a legal right of access to government information (unless, on balance, it would be contrary to the public interest).
The specific legislation creating the section 54 FMA prescribed Territory Authority	Any provisions concerning the Territory Authority’s financial reporting responsibilities and/or maintenance of its accounts and records	Expressly identifies any specific requirements for the Territory Authority concerning its responsibilities for financial reporting and/or maintaining its accounts and records.

2.5 ROLE OF THE AUDIT COMMITTEE AND INTERNAL AUDIT

2.5.1 Background

The Director-General/Chief Executive/Governing Board of the Directorate/Territory Authority prescribed under section 54 of the *Financial Management Act 1996* (FMA) is responsible for the efficient and effective financial management of public resources under the terms of the FMA. As part of this overarching responsibility, the Director-General/Chief Executive/Governing Board is also responsible for their respective organisation's corporate governance, including maintaining an appropriate system of internal control.

The Audit Committee and internal audit function are key components of the Directorate/Territory Authority's system of internal control. The ACT Government's endorsed *Framework for Internal Audit Committee and Function* (the Framework) provides a mandatory set of principles that must be followed when establishing and maintaining an effective Audit Committee and internal audit function. Staff should consult the Framework to identify all the mandated requirements.

The Framework provides guidance for meeting the required outcomes by smaller prescribed Territory Authorities, where a separately created Audit Committee is not viable. It also provides guidance in cases where the cost of creating the Internal Audit function outweighs the possible governance benefits and alternative arrangements must be made to obtain an appropriate level of assurance from an equivalent function.

2.5.2 Audit Committees

The Audit Committee is established by the Director-General/Chief Executive/Governing Board to support and advise them as they fulfil their governance responsibilities. The Audit Committee's specific responsibilities are defined by the Director-General/Chief Executive/Governing Board in an Audit Committee Charter. Audit Committee responsibilities vary but will include overseeing the internal audit program, providing assurance in relation to annual financial statements and Statements of Performance and monitoring implementation of the Risk Management Framework and Fraud and Corruption Prevention Plan.

The Audit Committee is required to meet formally at least four times per year, preferably regularly throughout the year, and one of these meetings must be dedicated to the review of the annual financial statements.

The Audit Committee is directly accountable to the Director-General/Chief Executive/Governing Board and must report to them on significant governance, risk, fraud and internal control issues, as and when required. It must also provide an Annual Report which includes a self-evaluation of its collective performance and report on the conclusions.

On rare occasions, the Audit Committee Chair may find it necessary to report to the relevant Minister on significant and/or exceptional circumstances. Also refer to **DGI 2.2 – Management of Risk and Fraud and Corruption Prevention**.

2.5.3 Internal Audit Function

The Director-General/Chief Executive/Governing Board is responsible for establishing an internal audit function where it is cost effective to do so. The role of internal audit is to provide the Director-General/Chief Executive/Governing Board and Audit Committee with objective assurance in relation to the Directorate/Territory Authority's operations.

A written Internal Audit Charter must be developed and approved by the Director-General/Chief Executive/Governing Board and Audit Committee. It provides the necessary authority for the internal audit responsibilities.

A mandatory requirement of the Framework is that each Agency appoint a Head of Internal Audit (HIA) responsible for the Internal Audit function. The internal audit function services should undergo an independent external review at least once every five years.

Areas of focus for internal audit are set out in an internal audit program. This program indicates how internal audit resources are to be used over the planning period.

Direction

The Director-General/Chief Executive/Governing Board must:

- ✓ establish a separately constituted Audit Committee and Audit Committee Charter to independently support and advise them concerning their corporate governance responsibilities;
- ✓ establish an internal audit function (only when it is cost effective to do so) to provide assurance services concerning the organisation's effective operation;
- ✓ in consultation with the Audit Committee, develop and approve a written Internal Audit Charter (only where relevant – see preceding direction);
- ✓ appoint a Head of Internal Audit to lead the provision of assurance services according to the Internal Audit Charter; and
- ✓ ensure the independence of the Head of Internal Audit's functional accountability to the Audit Committee.

The Head of Internal Audit will:

- ✓ be responsible for managing the internal audit function in accordance with the Internal Audit Charter, including the conduct of internal audits;
- ✓ be responsible for providing assurance related information and administrative support to the Audit Committee; and
- ✓ be accountable functionally to the Audit Committee and administratively to the Director-General/Chief Executive/Governing Board.

The Executive responsible for internal audit will provide support to the Audit Committee to enable it to fulfil its Audit Committee Charter.

All Managers of Business Units must:

- ✓ take appropriate action to respond to Audit Committee endorsed recommendations; and
- ✓ report on the status of actions taken by their Business Unit to respond to Audit Committee recommendations.

All officers must co-operate with the Audit Committee and internal audit function and respond promptly to their requests for information.

2.5.4 Useful References

Directorate/Territory Authority Audit Committee Charter

Directorate/Territory Authority Internal Audit Program

Directorate/Territory Authority Procedures

Institute of Internal Auditors – International Professional Practices Framework (IPPF)

2.5.5 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Sections 31, 55 and 56	Assigns overall responsibility for efficient and effective financial management of public resources and maintenance of internal controls.
<i>Public Sector Management Standards 2006 (repealed)</i>	Part 2.3 – Fraud and Corruption	Provides the legislative framework for fraud and corruption prevention in the ACT Government.
<i>ACT Government Framework for Internal Audit Committee and Function – 2020</i>	All	Provides a set of mandatory principles (and guidelines for meeting the Principles) for establishing and maintaining an effective Audit Committee and Internal Audit Function.
<i>Annual Reports (Government Agencies) Directions 2019</i>	Part 2 – Annual Reporting Requirements Section B – Organisational Overview and Performance	Governs the required content in the organisation's Annual Report concerning the operation of its Audit Committee and the Internal Audit function.
The specific legislation creating the section 54 FMA prescribed Territory Authority	Any provisions concerning the Territory Authority's creation of a system of internal control such as establishing an Audit Committee and Internal Audit function.	Expressly identifies any specific requirements for the Territory Authority concerning its responsibilities for creating a system of internal control.

2.6 INSURANCE AND INDEMNITIES

2.6.1 Background

The *Financial Management Act 1996* (FMA) assigns direct responsibility to the Director-General/Chief Executive/Chief Executive Officer or Governing Board of section 54 of the FMA prescribed Territory Authority to manage their Directorate/Territory Authority in a way that:

- i) promotes its financial sustainability;
- ii) maintains adequate control over assets it owns or controls; and
- iii) maintains adequate control over the liabilities it incurs.

The achievement of these responsibilities must involve identifying, assessing and treating organisational risks. Also **refer DGI 2.2 Management of Risk and Fraud and Corruption Prevention**.

The Audit Committee of the Directorate/Territory Authority should also be engaged to independently assist and advise the Director-General/Chief Executive/Chief Executive Officer or Governing Board of a Territory Authority on how to best meet these responsibilities. Also **refer DGI 2.5 – Role of the Audit Committee and Internal Audit**.

2.6.2 Insurance

Insurance is a type of Indemnity, with the purchase of insurance being a key example of a risk treatment option to share or transfer the risk of loss or damage (according to the level of insurance purchased).

Maintaining appropriate insurances helps to mitigate against many foreseeable and insurable risks, and is essential to protecting the financial interests of the Directorates, Territory Authorities, and the Territory. The ACT Insurance Authority (ACTIA) takes out insurance cover on behalf of Directorates and Territory Authorities for a range of insurable risks.

ACTIA provides support and advice in relation to the purchase of insurance for other insurable risks, which are procured by the Directorates and Territory Authorities. Public Sector worker's compensation is covered by the Public Sector Workers Compensation Fund, and this is managed by the Workplace Safety and Industrial Relations area of CMTEDD.

ACTIA is a Territory Authority created by the *Insurance Authority Act 2005*. Its functions under this legislation, position it as the ACT Government's referral centre for all Directorates and Territory Authorities for all matters concerning insurance in the ACT Government:

- i) carrying on the business of insurer of Territory risks;
- ii) insuring Territory risks with other entities;
- iii) managing claims in relation to Territory risks;
- iv) promoting good risk management practices in the Territory; and
- v) advising the Minister (Special Minister of State) about insurance and the management of Territory risks.

Insurance covered directly by ACTIA – Examples	
Property and physical assets	Public and product liability
Professional indemnity	Medical malpractice
Directors' and officers' liability	Third party motor vehicle (for some agencies)
Aviation liability	Volunteer personal injury and liability

Directorates/Territory Authorities generally require that third parties with whom they engage, are required to hold certain insurances such as public liability insurance, product liability insurance, or professional indemnity insurance. The insurance terms and liability limits of insurances that are required to be held should be reviewed and assessed for each contract, to ensure that they adequately cover the relevant risks. ACTIA is able to provide advice to the Directorates/Territory Authorities in relation to these adequacy reviews.

It should be noted that the Territory's insurance coverage may not respond in the event that the Directorate/Territory Authority decides to transfer risk from a third party to the Territory. Advice should be sought from ACTIA before any consideration is given to providing an indemnity to a third party or transferring risk from the third party to the Directorate or Territory Authority.

Liability Limits

A liability limit is an arrangement where the Directorate/Territory Authority agrees to limit the liability of another party (e.g. a supplier). A liability limit may result in the creation of a contingent liability, if:

- it involves limiting the other party's contingent liability to a third party so that the Directorate/Territory Authority is liable to the third party for any excess above that limit; or
- it limits a third party's exposure for damage the third party has suffered, so that the Directorate/Territory Authority is liable to the supplier for any excess.

ACTIA Premiums

In setting its annual premiums, ACTIA will examine the type and levels of risks faced by Government agencies for which it provides cover and sets the annual premiums to ensure that the costs of claims and losses incurred each year and the funds necessary to maintain adequate reserves are fully covered by the premiums. The Directorate/Territory Authority will need to contact ACTIA's Insurance and Risk Manager to obtain specific information.

Ministerial Directions to Agencies about Territory Risks

Notwithstanding, the Director-General/Chief Executive/Governing Board being assigned direct responsibility under the FMA for their organisation's financial sustainability (and related controls over its assets and liabilities), the Minister (for ACTIA) has legislative powers which can take precedence over their planned management actions in this regard.

Specifically, under section 13 of the *Insurance Authority Act 2005*, the relevant Minister may give a written direction to the Directorate/Territory Authority in relation to the management of Territory risks or insurance risks. Compliance with the direction by the Directorate/Territory Authority is mandatory.

Also, under section 10 of the *Insurance Authority Act 2005*, the Directorate/Territory Authority must comply with any requests from ACTIA to provide it with any information or documentation that ACTIA requires to effectively carry out its legislated functions.

2.6.3 Indemnities

An indemnity is security or protection against a financial liability. It typically occurs in the form of a contractual agreement whereby one party (the indemnitor) agrees to compensate/pay for loss or damage suffered by another party, caused by the indemnitor or a third party. An indemnity is a form of contingent liability, that is, a commitment that may arise depending on the outcome of a specific event.

Section 11 (Indemnities for third parties) of the *ACTIA Act 2005* authorises ACTIA to issue indemnities. Specifically, ACTIA can grant an indemnity to a third party (non-ACT Government organisation) for a Territory risk arising under a contract to which the Territory or a Territory entity is a party, only if the Minister (for ACTIA) has certified that ACTIA's granting of the indemnity is in the Territory's interest. Care should be taken not to agree to provide an indemnity without first obtaining the proper approvals from ACTIA.

FMA Protections for Territory Authority Board Members

Section 90 (Protection of governing Board members from liability) of the FMA serves as a broad legislative protection from personal liability for Territory Authority Board members who undertake their work with appropriate due care and diligence.

Section 91 (Indemnification and Exemption of Governing Board members) of the FMA identifies when Governing Board members of a Territory Authority should not be indemnified.

Section 92 (Compensation for Exercise of Functions) of the FMA provides for a Territory Authority Board member to seek compensation from the Territory if they suffer loss arising from the exercise or purported exercise of a function under Part 9 (Governance of Territory Authorities) of the FMA or under the Act which established their Territory Authority.

2.6.4 Guarantees

A Guarantee is another form of contingent liability. It is an obligation of one party (the guarantor) assuring the other party that they, the guarantor, will perform the promise of the third party, if the third-party defaults. The FMA governs the granting of Guarantees in the ACT Government. Specifically, section 47 (Guarantees by Territory) and section 60 (Guarantees by Territory Authorities) (section 54 FMA prescribed Territory Authorities only) allow the granting of Guarantees by the Treasurer under certain conditions:

- i) the Guarantee can only involve the payment of money or the performance of an obligation, in accordance with the FMA;
- ii) the Guarantee must be approved in writing;
- iii) the Treasurer may specify certain conditions on their approval; and
- iv) all approved Guarantees must be tabled in the Legislative Assembly within three sitting days after approval.

Note: The Treasurer does not normally Delegate their FMA power to grant Guarantees.

Direction

The Audit Committee will independently support and advise the Director-General/Chief Executive Officer/Governing Board of a section 54 FMA prescribed Territory Authority in relation to:

- ✓ the organisation's effective use of insurance and other available remedies to safeguard the organisation's ongoing viability and that of its Board (where relevant).

The Director-General/Chief Executive Officer/Governing Board of a section 54 FMA prescribed Territory Authority must:

- ✓ manage their Directorate/Territory Authority in a way that:
 - promotes its financial sustainability;
 - maintains adequate control over assets it owns or controls; and
 - maintains adequate control over the liabilities it incurs.
- ✓ comply with any requests from ACTIA to provide any information or documentation that ACTIA requires to effectively carry out its legislated functions;
- ✓ comply with any Directions issued to them by the Special Minister of State (ACTIA's Minister) concerning the management of Territory risks or insurance risks; and
- ✓ seek expert independent advice and support from ACTIA and the Audit Committee about how to best use insurance and other available remedies to manage the risks to the organisation's ongoing viability.

The Chief Finance Officer or relevant Executive responsible for risk management (SERBIR) will:

- ✓ coordinate submission of the Directorate/Territory Authority's annual insurance declaration to ACTIA;
- ✓ monitor new and emerging risks to organisational sustainability, providing information and other support to assist the Director-General/Chief Executive Officer/Governing Board of a section 54 FMA prescribed Territory Authority and Audit Committee, in meeting their responsibilities;
- ✓ ensure all organisational needs for insurance services and support are met through consulting with ACTIA; and
- ✓ only enter into a Guarantee agreement if the Guarantee has been authorised by the Treasurer.

All Managers of Business Units must:

- ✓ actively co-operate with the co-ordination of the Directorate's/Territory Authority's annual insurance declaration to ACTIA, providing all requested information in a timely manner;
- ✓ promptly notify ACTIA and their Senior Manager of any actual events within their operational areas of responsibility that may become subject to an insurance claim; and
- ✓ promptly notify their Senior Manager and SERBIR or Chief Finance Officer of any work operations which they reasonably believe could become a new or emerging risk to organisational sustainability.

All officers must:

- ✓ ensure their work performance and conduct is not reckless, professionally negligent or otherwise not demonstrating the duty of care required of them; and
- ✓ only enter into an agreement to cover loss or damage of another party if the agreement has been authorised by the Treasurer (or their Delegate).

2.6.5 Useful References

Directorate/section 54 FMA prescribed Territory Authority Delegations Register

ACTIA webpage <https://apps.treasury.act.gov.au/insurance-and-risk-management/about-actia>

ACTIA *Products and Services* – July 2019

2.6.6 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Section 31	Assigns specific management responsibilities to Director-Generals, Chief Executive Officers and Governing Board members (respectively) concerning their Directorate/section 54 FMA prescribed Territory Authority: <ul style="list-style-type: none">- promoting financial sustainability;- maintaining adequate control of owned/controlled assets; and- maintaining adequate control of incurred liabilities.
<i>Financial Management Act 1996</i>	Sections 47 and 60	Provides that only the Treasurer may approve Guarantees for the Territory or Territory Authority (respectively), concerning guaranteeing the payment of money or the performance of an obligation. This would prevent any official entering into Guarantee arrangements without the Treasurer's approval.
<i>Financial Management Act 1996</i>	Sections 90 to 92	Provides for Indemnification and Compensation of Territory Authority Board Members (in certain cases).
<i>Insurance Authority Act 2005</i>	All	Establishes the ACT Insurance Authority and its mandate of managing risks to the Territory, through provision of insurance related services.

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management (Public Liability Insurance) Guidelines 2011</i>	All	Identifies mandatory requirements when the Territory is considering obtaining insurance for public liability cover.
<i>ACT Government Risk Management Policy – February 2019</i> (maintained by ACTIA); and complementary Implementation Guide: <i>ACT Government Risk Management Policy 2019: Implementation Guide</i> (the Guide)	All	Provides the mandated ACT Government requirements for achieving the required standard of risk management, in line with Australia's observed risk management standard: ISO 31000:2018.
The specific legislation creating the section 54 FMA prescribed Territory Authority	Any provisions concerning the Territory Authority's use of remedies such as insurance to manage organisational risk or professional personal liability.	Expressly identifies any specific requirements for the Territory Authority concerning the use of remedies such as insurance to manage organisational risk or professional personal liability.

2.7 TRUST AND OTHER THIRD PARTY MONEY

2.7.1 Background

Part 7 (Trust Money) of the *Financial Management Act 1996* (FMA) is the main legislative reference governing the management and handling of trust money in the ACT Government.

Definition

The FMA defines Trust money as being:

- money deposited with the Territory pending the completion of a transaction or the determination of a dispute and that may become repayable to the depositor or payable to the Territory or anyone else; or
- all money that is paid into a Territory court for possible repayment to the payee or a third party because of any Act, order, instruction or authority; or
- money that belongs to or is owing to any person and is collected by the Territory because of an agreement between the Territory and that person; or
- unclaimed money that is owing to or belongs to anyone and is deposited with the Territory; or
- money that is paid to the Territory in trust for any other lawful purpose including interest on trust money.

Examples of trust money include deposits, refunds, overpayments, and bond payments.

Note: The FMAs definition of 'Trust money' is broader than what would constitute a trust under the general principles of trust law. Therefore, in the ACT Government context, this Instruction applies to all money that meets the above FMA definition for Trust money.

Direction

The Director-General/Chief Executive/Governing Board of a section 54 FMA prescribed Territory Authority must:

- ✓ not invest any money held in trust by the Territory Authority.
- ✓ be responsible for administering Trust money on behalf of the Territory;
- ✓ maintain a Trust bank account (with an authorised banking institution);
- ✓ maintain and account for any Trust money held by the Directorate separately from its Public money holdings;
- ✓ comply with any directions from the Treasurer to transfer any Trust money or Trust bank accounts to another Directorate;
- ✓ by 31 January each year prepare a section 53A(3) FMA compliant statement for the Treasurer (or their Delegate) detailing any unclaimed trust money held by the Directorate on 1 January of that year (held for at least 6 years);
- ✓ publish the Statement of unclaimed moneys given to the Treasurer, on an ACT Government website or in a daily newspaper circulating in the ACT; and
- ✓ arrange for the trust money represented in the Statement of unclaimed moneys provided to the Treasurer (or their Delegate), to be transferred from the Directorate's trust bank account to the Territory's public money bank account.

The **Chief Finance Officer** must provide guidance to staff administering trust money and ensure any Trust money held by the Directorate is accounted for separately from its Public Money.

Public Trustees: must observe their legal duty of care to beneficiaries when administering (and investing) trust money. **All officers administering trust money** must:

- ✓ ensure that trust money is kept in bank accounts separate from public money;
- ✓ account for trust money accurately and perform monthly reconciliations of trust bank accounts to the general ledger;
- ✓ maintain comprehensive supporting records in relation to trust money; and
- ✓ advise the Chief Finance Officer of any trust money that has been inactive for six years as of 1 January each year.

2.7.2 Useful References

ACT Treasurer's delegation of authority in the *Financial Management Act 1996*

Public Trustee and Guardian webpage <https://www.ptg.act.gov.au/>

2.7.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Part 7 – Trust Money	Governs the management and handling of trust money (as defined by the Act), including unclaimed trust money.
<i>Financial Management Act 1996</i>	Dictionary	Defines Trust money for the purposes of the Act.
<i>Trustee Act 1925</i>	Subdivision 2.2.1 – Powers and Duties (of Trustees) – Investment	Governs how the public trustee and guardian (and other Delegates of the Treasurer’s section 53 FMA authority) must manage trust funds.
The specific legislation creating the section 54 FMA prescribed Territory Authority	Any provisions concerning the Territory Authority’s management of money held in trust	Expressly identifies any specific requirements for the Territory Authority concerning its management of money held in trust.

3. MANAGING PUBLIC MONEY

3.1 PROCUREMENT OF GOODS AND SERVICES

3.1.1 Background

ACT Government procurement is governed by the *Government Procurement Act 2001* and the *Government Procurement Regulation 2007*.

The *Government Procurement Act 2001* defines procurement as the process of acquiring goods, services, works or property by purchase, lease, rental or exchange; and the process of disposing of goods, works or property including by sale.

The *Financial Management Act 1996* (FMA) allows Director-Generals (or other designated Delegates) to enter into contracts. Territory Authorities also have the power to enter into contracts under the Act.

These powers to enter into contracts will usually be Delegated to officers within the Directorate/Territory Authority. Details of these delegations can be found in the Delegation Register.

The *Government Procurement Act 2001* requires the Directorate/Territory Authority to pursue value for money when undertaking procurements. The Act directs that the following factors should be considered when assessing value for money:

- probity and ethical behaviour;
- management of risk;
- open and effective competition;
- optimising whole of life costs; and
- anything else prescribed by regulation.

Quotation and Tender Thresholds

The *Government Procurement Regulation 2007* specifies quotation and tender thresholds for procurements. These thresholds do not apply to procurements under a standing-offer contract.

Select and Single Select Procurement

The *Government Procurement Regulation 2007* provides an exemption from general quotation and tender requirements for procurements of \$25,000 or more. Such exemptions must be approved by the relevant Directorate Delegate in writing (prior to entering into contractual arrangements) and may only be approved if the relevant Directorate Delegate is satisfied, on reasonable grounds, that the benefit of the exemption outweighs the benefit of compliance with the requirement.

Publication of Notifiable Contracts, Amendments and Invoices

The *Government Procurement Act 2001* defines 'notifiable' contracts, amendments and invoices. This definition will cover most contracts, amendments and invoices that exceed a prescribed value threshold (identified in the *Government Procurement Regulation 2007*) and that are not intergovernmental agreements, contracts of employment or contracts for the settlement of a legal liability. Notifiable invoices will not include invoices to other Territory entities or invoices for a lease of land or sale of a lease of land.

Notifiable contracts, amendments and invoices must be published on relevant ACT Government registers in accordance with the terms of the *Government Procurement Act 2001*.

3.1.2 Secure Local Jobs

All procurements for construction, cleaning, security and traffic management require:

- tenderers to have a Secure Local Jobs Code Certificate for a response to be accepted;
- a Labour Relations, Training and Workplace Equity Plan for work worth more than \$25,000; and
- standard Secure Local Jobs contract terms in contracts and purchase orders.

These requirements apply to purchasing services worth \$25,000 or more and not listed as an excluded service from 7 November 2019. Procurement includes new requests for tender, quotes, proposals, and inclusion on new panels and multi-use lists.

Businesses will need a Code Certificate to respond to a procurement request and for the duration of the project. Subcontractors used on the project will also need a Code Certificate, unless they are an excluded service.

3.1.3 Aboriginal and Torres Strait Islander Procurement Policy

The Aboriginal and Torres Strait Islander Procurement Policy requires the Directorate/Territory Authority to encourage officers to seek quotes from relevant Aboriginal and Torres Strait Islander Enterprises wherever possible, driving towards increasing the economic participation of Aboriginal and Torres Strait Islander Enterprises through an increase in the level of spend with them each financial year.

3.1.4 Local Industry Participation Policy

The ACT Government's Canberra Region Local Industry Participation Policy (LIPP) imposes certain tendering requirements on ACT Government entities which are designed to ensure competitive local businesses are given every opportunity to compete for government contracts.

3.1.5 ACT Government Sustainable Procurement Policy

The ACT Government Sustainable Procurement Policy aims to use procurement to advance the priorities of government and achieve value for money through a consideration of environmental, social and economic cost and non-cost factors on a whole of life basis.

ACT Government Social Procurement Circular

The ACT Government Social Procurement Circular provides guidance to officers in relation to how procurement can be conducted in ways that produce social benefits while maintaining compliance with other requirements.

Whole of Government Arrangements

The ACT Government has a number of whole of government procurement arrangements in place. These arrangements should be used if there is an appropriate option in place. More information can be found on the Procurement ACT webpage.

Direction

All officers responsible for procurement activities must:

- ✓ only conduct procurement activities in line with delegations;
- ✓ declare any actual or perceived conflicts of interest;
- ✓ pursue value for money when undertaking procurements;
- ✓ follow tendering requirements set out in the *Government Procurement Regulation 2007* and LIPP;
- ✓ ensure that any notifiable contracts or amendments entered into are published on the ACT Government Contracts Register within 21 days of their execution;
- ✓ ensure that any notifiable invoices paid are published on the ACT Government Invoices Register within 21 days after the end of the month in which the invoice is paid;
- ✓ make use of whole-of-government contract arrangements where an appropriate arrangement is in place;
- ✓ keep sufficient records to demonstrate compliance with the *Government Procurement Act 2001* and *Government Procurement Regulation 2007*;
- ✓ only authorise payment after confirming that the agreed goods or services have been delivered, or, in the case of a prepayment arrangement, monitor that goods and services are delivered in line with agreed milestones;
- ✓ consider social, economic and environmental outcomes and benefits that could be realised through a procurement (in accordance with the ACT Government's Sustainable Procurement Policy);
- ✓ seek quotes from relevant Aboriginal and Torres Strait Islander Enterprises wherever possible (in accordance with the ACT Government's Aboriginal and Torres Strait Islander Procurement Policy);
- ✓ comply with Secure Local Jobs requirements for all procurements for construction, cleaning, security and traffic management; and
- ✓ must consider whether there are opportunities to use procurement processes to generate identified social benefits in addition to other procurement objectives (in accordance with the ACT Government's Social Procurement Circular).

3.1.6 Useful References

Directorate/Territory Authority Delegations Register

Procurement ACT webpage <https://www.procurement.act.gov.au/home>

Secure Local Jobs webpage <https://www.procurement.act.gov.au/supplying-to-act-government/securelocaljobs>

3.1.7 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Sections 31A and 74	Allows Director-Generals and Territory Authorities to enter into contracts.
<i>Government Procurement Act 2001</i>	Section 2A – Meaning of Procurement	Defines procurement for the ACT Government.
<i>Government Procurement Act 2001</i>	Section 3 – Meaning of Territory entity	The Act's long title states that it is an Act about 'procurement by the Territory and Territory entities (and for other purposes)'. Understanding the term Territory entity will <u>identify the ACT Government organisations that must follow the ACT Government's overall procurement framework.</u>
<i>Government Procurement Act 2001</i>	Section 3A – Application of Act to land sales, etc	States that the Act does <i>not</i> apply to the purchase and sale of leased land and land requiring a licence, made under the <i>Planning and Development ACT 2007</i> .
<i>Government Procurement Act 2001</i>	Section 22A – Procurement Principal – Value for Money	Requires Territory entities (Directorates and unincorporated Territory Authorities) to pursue value for money when undertaking procurement and lists the matters that must be considered when pursuing value for money.
<i>Government Procurement Act 2001</i>	Parts 3 and 3A	Governs publication requirements for notifiable contracts, amendments and invoices.
<i>Government Procurement Act 2001</i>	Part 2B – Secure Local Jobs Code	Governs the secure local jobs code.

Legislation/Policy	Relevant Content	Relevance
Government Procurement Regulation 2007	Part 2	Specifies quotation and tender thresholds for procurements (does not apply to procurements under a standing offer contract).
<i>Government Procurement Regulation 2007</i>	Section 10	Governs exemptions from quotation and tender thresholds (select and single select procurement).
<i>Government Procurement Regulation 2007</i>	Part 5	Specifies notifiable contract, amendment and invoice thresholds.
<i>Aboriginal and Torres Strait Islander Procurement Policy</i>	All	Outlines ACT Government policy on Aboriginal and Torres Strait Islander Procurement.
<i>Local Industry Participation Policy</i>	All	Outlines ACT Government policy on local industry participation.
<i>ACT Government Sustainable Procurement Policy</i>	All	Outlines ACT Government policy on sustainable procurement.
<i>ACT Government Social Procurement Circular</i>	All	Outlines ACT Government policy on social procurement.

3.2 GRANTS ADMINISTRATION

3.2.1 Background

A grant is an arrangement for the provision of financial assistance to an entity separate from the ACT Government. The financial assistance should be designed to both help the recipient achieve its objectives and to further a policy objective of the ACT Government. Some grants are paid/received within ACT Government between agencies. Procurements of goods and services, sponsorship arrangements and compensation payments are not grants.

Effectively administering grant arrangements is part of the overarching responsibility of the Director-General/Chief Executive/Governing Board of the Directorate/Territory Authority under the terms of the *Financial Management Act 1996* (FMA).

3.2.2 Whole-of-Government Policy

The whole-of-government policy *Administration of Grants in the ACT* provides an overarching better practice framework for the administration of grants by the Directorate/Territory Authority. The Directorate/Territory Authority determines its own grants administration practices within this framework.

The whole of government policy sets out key principles for grants administration and identifies important factors that should be considered when planning and designing a grant program.

Consistent with the objectives of the grant program, funding for projects, activities or initiatives that contribute towards closing the gap on disadvantage between Aboriginal and Torres Strait Islander and non-Indigenous Canberrans will be considered.

Direction

The **Chief Finance Officer** must provide appropriate financial advice to Managers of Business Units administering grant arrangements.

All Managers of Business Units directly administering ACT Government grant programs must:

- ✓ ensure that the approach to managing a grant program is documented during the planning and design phase (this documentation should address the key considerations identified in Item 3 of the whole-of-government policy Administration of Grants in the ACT);
- ✓ ensure that the Delegate for the granting activity approves the documented approach described in the previous point;
- ✓ ensure that the assessment criterion aimed at closing the gap between Aboriginal and Torres Strait Islander and non-Indigenous Canberrans (reproduced in this Instruction) is included in program criteria;
- ✓ investigate whether the granting activity would duplicate other sources of funding;
- ✓ consult with the Chief Finance Officer in relation to the financial and taxation implications of grants;
- ✓ ensure that the reasons for approving or rejecting applications for grant funding are documented;
- ✓ ensure that both successful and unsuccessful applicants are advised of the outcome of their applications;
- ✓ should use the ACT Government Solicitor's Deed of Grant template (or document a reasonable justification for not using the template);
- ✓ ensure that grant agreements are only signed by officers with appropriate financial delegation;
- ✓ ensure that funding agreements require the recipient to perform the activity for which the grant is intended;
- ✓ ensure that funding agreements incorporate some mechanism for recipients to report on the outcomes of the grant (where it is cost effective to do so);
- ✓ ensure that there are arrangements for recipients to acquit expenditure of grant funds, and that these arrangements are made clear to recipients early in the granting process; and
- ✓ at the completion of the granting activity, arrange an evaluation of its efficiency and effectiveness. The depth and detail of the evaluation should be commensurate with the financial value of the granting activity.

3.2.3 Useful References

Delegations Register

3.2.4 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Sections 31, 55 and 56	Assigns overall responsibility for efficient and effective financial management of public resources.
<i>Policy for Administration of Government Grants in the ACT</i>	All	Provides a better practice policy for the use and administration of ACT Government grants.

3.3 TRAVEL

3.3.1 Background

Mandatory requirements for travel that must be observed by ACT Government officials are specified in the *Public Sector Management Standards 2006 (repealed)*. These requirements include seeking authorisation for travel, allowable standards for air travel and accommodation and reimbursement of travel expenses.

Territory Authorities has its own travel guidelines which provide further detail. The Chief Executive of the Authority will implement and communicate travel guidelines consistent with the *Public Sector Management Standards 2006 (repealed)*.

Direction

All travellers must:

- ✓ only book travel for legitimate business purposes;
- ✓ comply with their Territory Authority's own Travel Guidelines;
- ✓ seek and obtain approval for travel (from an officer with appropriate delegation) before making any arrangements for travel;
- ✓ seek and obtain approval for international travel from the Minister, Director-General or Chief Executive before making any arrangements for travel;
- ✓ book all travel through the ACT Government's contracted travel provider;
- ✓ ensure that all airfares and accommodation are booked in line with the standards specified in the *Public Sector Management Standards 2006 (repealed)*; and
- ✓ reconcile travel expenses promptly.

All travel approvers must:

- ✓ only approve travel within their delegation;
- ✓ not approve their own travel; and
- ✓ confirm that the travel is necessary for legitimate business purposes before granting approval.

All travel arrangers must book all airfares and accommodation in line with the standards specified in the *Public Sector Management Standards 2006 (repealed)*.

3.3.2 Useful References

Delegations Register

Directorate/Territory Authority Travel Guidelines

3.3.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Public Sector Management Standards 2006 (repealed)</i>	Part 7.1	Specifies mandatory requirements for travel that must be observed by ACT Government officials.

3.4 OFFICIAL HOSPITALITY AND MEETING EXPENSES

3.4.1 Background

Official Hospitality

For the purposes of this Instruction, hospitality is defined as the provision of free or discounted food, drink or recreation; or accommodation or travel connected with the provision of these items.

Under the *Financial Management Act 1996* (FMA) the Director-General/Chief Executive/Governing Board must manage the Directorate/Territory Authority in a way that promotes the achievement of its purpose. Therefore, public money should only be used to fund official hospitality where it will foster the efficient conduct of public business or promote the public interest. Public moneys should not be used to provide hospitality for ACT Government officers. The number of ACT Government officials attending a Directorate function involving official hospitality should be restricted to those who would be able to advance the interests of the Directorate/Territory Authority or where there would be benefit from their attendance.

The ACT Government's Gifts, Benefits and Hospitality Policy states that:

When deciding on the type of hospitality to provide, Directorates should make a balanced judgement between the costs to be incurred and the benefits to the Territory. The hospitality should always be in line with community expectations i.e. it is prudent, money well spent, not seen as overly lavish and a benefit to the community.

The policy also states that agencies must maintain a Gifts and Hospitality Register to record gifts, hospitality and benefits (offered and received) that exceed value thresholds set by the Directorate.

All hospitality expenditure is to be approved prior to the event. Staff may not approve their own hospitality, therefore approval is required from the relevant Delegate.

Meeting Expenses

The provision of light refreshments during business meetings can be categorised as a meeting expense if a genuine benefit to the Territory flows from the expenditure. Provision of light refreshment during business meetings may be justifiable if the meeting occurs over normal meal times.

Refreshments provided during meetings should normally be limited to items like tea, coffee, sandwiches and non-alcoholic drinks.

Alcohol

The *Public Sector Management Standards 2006 (repealed)* state that ACT Government officers must not carry alcohol in a government vehicle or consume alcohol while on duty or while on government premises during business hours without prior approval of the Director-General.

Direction

The **Chief Finance Officer** must establish arrangements and guidance for properly recording hospitality expenses so that they can be accurately reported and declared for the purpose of Fringe Benefits Tax (where appropriate).

All officers arranging official hospitality or catering for work meetings must:

- ✓ seek and receive approval from an appropriate Delegate to purchase items for any event before it takes place;
- ✓ consider whether the expense genuinely promotes the purpose of the Directorate/Territory Authority and document that reasoning when seeking approval for expenditure;
- ✓ consider whether the nature of the event or its expense would be publicly defensible and only proceed if it would be;
- ✓ seek the Director-General's approval for any provision of alcohol before it is provided;
- ✓ consider the application of the ACT Public Sector Healthy Food and Drink Choices Policy when arranging official hospitality;
- ✓ complete a Fringe Benefits Tax declaration form if ACT Government employees will be provided with official hospitality as part of an event involving external officials (not required for meeting expenses); and
- ✓ record the event on the Directorate/Territory Authority's Gifts and Hospitality Register.

All officers approving official hospitality or meeting expenses must:

- ✓ only approve expenses of a value and type within their delegation limits and Directorate /specific thresholds applicable to entertainment and official hospitality; and
- ✓ not approve any provision of alcohol (only the Director-General may approve the provision of alcohol).

3.4.2 Useful References

Delegation Register

Directorate/Territory Authority Gifts, Benefits and Hospitality Procedure

3.4.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Sections 31, 55 and 56	Assigns overall responsibility for managing the Directorate/Territory Authority in a way that promotes the achievement of its purpose.
<i>Public Sector Management Standards 2006 (repealed)</i>	Section 17	Specifies that an officer must not carry alcohol in a government vehicle or consume alcohol while on duty or while on government premises during business hours without prior approval of the Director-General.
<i>ACT Government Gifts, Benefits and Hospitality Policy</i>	All	Provides detailed guidance on official hospitality and meeting expenses and articulates the requirements imposed on ACT Government employees.
<i>ACT Public Sector Healthy Food and Drink Choices Policy</i>	All	Outlines a requirement for healthy food and drink choices to be provided and promoted to staff, volunteers and visitors at ACT Government workplaces, facilities, meetings, functions, conferences, education sessions and fundraising activities. Provides guidance for healthy choices based on a traffic light system.

3.5 ACT OF GRACE PAYMENTS

3.5.1 Background

The *Financial Management Act 1996* (FMA) provides the Treasurer with the authority to authorise an Act of Grace Payment to a person that would not otherwise be authorised by law or required to meet a legal liability.

The Act specifies that it is within the Treasurer's discretion to make an Act of Grace Payment to address 'special circumstances'. It is a broad power, intended to enable the Treasurer to provide redress to a person in relation to a moral (rather than legal) obligation of the Territory.

The *ACT Government Act of Grace Payments – Policy and Procedures Guide* explains the process for individuals and organisations to seek an Act of Grace Payment. It also provides guidance on what the decision maker may consider when assessing a request for an Act of Grace Payment.

Act of Grace Payments should only be considered when all other possible avenues of redress have been thoroughly investigated and found to be unavailable.

Direction

The **Chief Finance Officer** must ensure that any Act of Grace payments are disclosed as notes to the financial statements for the year to which they relate. The notes must indicate the amount of any such payments and the grounds for making them. The notes must not disclose the identity of the payee unless the payee agreed to such disclosure.

All officers:

- ✓ must not imply that an Act of Grace Payment will be made; and
- ✓ should, if they consider that an Act of Grace Payment may be appropriate, prepare and clear a submission for the Treasurer (or their Delegate) in accordance with the procedures set out in the *ACT Government Act of Grace Payments – Policy and Procedures Guide*.

3.5.2 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Section 130	Provides the Treasurer with the authority to authorise an Act of Grace Payment to a person that would not otherwise be authorised by law or required to meet a legal liability.
<i>ACT Government Act of Grace Payments – Policy and Procedures Guide</i>	All	Explains the process for individuals and organisations to seek an Act of Grace Payment. Also provides guidance on what the decision maker may consider when assessing a request for an Act of Grace Payment.

3.6 CASH MANAGEMENT AND ACCOUNTABLE FORMS

3.6.1 Background

The *Financial Management Act 1996* (FMA) requires the Treasurer to enter into agreement with an authorised deposit-taking institution for the Territory's banking. The FMA then allows the Director-General/Territory Authority to open one or more bank accounts with that institution. The Directorate/Territory Authority must not open a bank account with an institution other than the one the Treasurer has entered into an agreement with unless they have the Treasurer's written approval to do so.

All money received by the Directorate/Territory Authority should be banked regularly. Where money is not banked on a daily basis it should be kept secure and banked on a weekly basis.

Maintaining effective control over cash (either in a bank account or physically held) is important both to ensure that Directorates/Territory Authorities have sufficient liquidity to finance their operations and to safeguard the resources of the Territory and money held in trust.

Accountable Forms are documents with a potential cash value such as Cabcharge vouchers or cheques. Because of their similarity to cash they should be subject to similar controls.

Direction

The **Chief Finance Officer** must:

- ✓ monitor the Directorate/Territory Authority's cash levels to ensure that sufficient liquidity is available to fund operations;
- ✓ arrange transfers of appropriation to fund operations;
- ✓ maintain a register of approved signing and counter-signing officers for official bank accounts;
- ✓ perform (or monitor when Shared Services are responsible for reconciliations) a monthly reconciliation of all official bank accounts under the Directorate/Territory Authority's control and investigate any discrepancies;
- ✓ ensure that appropriate internal controls are in place for receipt, custody and banking of cash and Accountable Forms that are handled directly by the Directorate/Territory Authority; and
- ✓ ensure that appropriate internal controls are in place for cheque and EFT transactions processed by the Directorate/Territory Authority.

All Managers of Business Units must ensure that appropriate controls are in place in relation to any physical cash and Accountable Forms handled by their teams. Controls should include:

- ✓ ensuring their team's compliance with any cash handling guidelines issued by the Chief Finance Officer;
- ✓ ensuring that secure storage facilities are available and used for any physical cash and Accountable Forms held by their team; and
- ✓ maintaining a register of Accountable Forms held by their team. The register should identify the officer who holds the forms and the number held. The register should be regularly reconciled with the actual forms held and any discrepancies should be reported to the Chief Finance Officer.

All officers must:

- ✓ comply with all directions and procedures issued by the Chief Finance Officer for the management of cash and Accountable Forms;
- ✓ record receipt of any Accountable Forms issued to them on the register maintained by their Business Unit manager;
- ✓ return any unused Accountable Forms to their Business Unit manager and report any Accountable Forms that are lost or stolen;

- ✓ take reasonable efforts to recover any amounts lost through fraud, theft, or overpayment; and
- ✓ familiarise themselves with delegations relating to the management of cash and Accountable Forms and ensure that they comply with them. Delegations relating to the management of cash include approving the establishment of official bank accounts; approving the closure of bank accounts; approving the transfer of money between bank accounts; approving payments; and receiving money and issuing receipts.

3.6.2 Useful References

Delegations Register

3.6.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Part 5 and section 57	Sets banking requirements for Directorates and Territory Authorities.

3.7 CARE AND CUSTODY OF ASSETS

3.7.1 Background

The *Financial Management Act 1996* (FMA) requires the Director-General/Chief Executive/Governing Board to ensure that adequate control is maintained over assets of the Directorate/Territory Authority and other assets under the Directorate/Territory Authority's control.

Assets are economic resources controlled by the Directorate/Territory Authority as a result of past events. Assets can be tangible or intangible and include items of both low and high value. Examples of tangible assets may include buildings, plant and equipment and infrastructure. Examples of intangible assets may include software and software licences that will be used for an extended period of time.

It is important for the service potential of Territory assets to be maximised. Assets should be protected from theft, properly maintained, and disposed of appropriately.

Officers should refer to the Directorate/Territory Authority's asset management procedures for detailed guidance on how different types of assets should be managed. In addition, there are ACT Government accounting policies that relate to capital works and portable and attractive items. There is also a Procurement ACT Circular that provides guidance in relation to the disposal of assets.

The directions below are general and should be applied to all asset types.

Direction

The **Chief Finance Officer** must:

- ✓ ensure that asset values and transactions are reported consistently with Australian Accounting Standards;
- ✓ maintain a register of portable and attractive items;
- ✓ ensure that Directorate/Territory Authority asset registers are maintained (either by officers within the Directorate/Territory Authority or through Shared Services arrangements); and
- ✓ ensure that Directorate/Territory Authority maintain delegations relating to the management of assets.

All Managers of Business Units must:

- ✓ put in place appropriate physical controls for assets managed by their team to prevent loss, damage or theft;
- ✓ monitor the condition of assets managed by their team and arrange appropriate maintenance, disposal or replacement;
- ✓ provide any information on assets requested by the Chief Finance Officer or Shared Services Finance in a timely manner; and
- ✓ advise the Chief Finance Officer and/or Shared Services Finance promptly of the receipt, transfer, loss, damage, theft or disposal of assets managed by their team.

All officers must:

- ✓ take appropriate care of all Territory assets to maximise their service potential;
- ✓ familiarise themselves with delegations relating to the management of assets and ensure that they comply with them. Delegations relating to the management of assets include approving the disposal of assets; and
- ✓ consult with Shared Services Procurement when disposing of an asset with an estimated value in excess of the amount prescribed in *Procurement Policy Circular PC06: Disposal of Assets*.

3.7.2 Useful References

Delegations Register

Directorate /Territory Authority Asset Management Policies and Procedures

Australian Accounting Standards Board, Conceptual Framework for Financial Reporting

3.7.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Section 31	Assigns overall responsibility for maintaining control over the assets of the Directorate /Territory Authority and other assets under the Directorate /Territory Authority's control.
<i>ACT Government Capital Works Accounting Policy</i>	All	Provides general guidance to ACT Government agencies to assist them in determining when and what costs associated with capital works projects should be capitalised.
<i>ACT Government Portable and Attractive Items Accounting Policy</i>	All	Provides general guidance to ACT Government agencies on accounting for and the management of portable and attractive items.

Legislation/Policy	Relevant Content	Relevance
<i>Procurement Policy Circular PC06: Disposal of Assets</i>	All	Provides guidance in relation to the disposal of assets.

4. PERSONAL ACCOUNTABILITY

4.1 USE OF CREDIT CARDS

4.1.1 Background

A Corporate Credit Card is a method of payment that is used within the ACT Government as an alternative to other payment methods. The legal framework that requires public resources to be managed efficiently and effectively applies equally to the use of credit cards as it does to any other payment arrangement. The *Public Sector Management Standards 2006 (repealed)* specify core requirements for the use of Corporate Credit Cards. The Standards specify that Corporate Credit Cards must be used for official purposes only and must not be used for personal expenses.

The *Integrated Corporate Credit Card and Expense Management System Policy* sets out whole-of-government policy on the use of credit cards. It provides detailed guidance on:

- the responsibilities and accountabilities of cardholders, their supervisors, the Chief Finance Officer and other officers with a role in managing the Directorate's credit cards;
- when credit cards should be used;
- how officers can apply for a credit card and how their application should be assessed; and
- conditions on the use of credit cards.

This section provides Instruction to all officials in relation to the use of credit cards.

Direction

The **Director-General/Chief Executive's** approval (or the approval of their Delegate) is required before an officer may apply for a Corporate Credit Card or apply for a variation to their credit or transaction limits.

All officers must familiarise themselves with the Integrated Corporate Credit Card and Expense Management System Policy and comply with the policy in relation to Corporate Credit Cards.

All cardholders:

- ✓ should use their card for low-risk purchases (as defined in the Integrated Corporate Credit Card and Expense Management System Policy) unless there are valid reasons for not doing so;
- ✓ must use their card for official purposes only;
- ✓ must use their card consistently with ACT Government procurement policies and processes and **DGI 3.2 – Procurement of Goods and Services**;
- ✓ must ensure they hold the necessary financial delegations to approve/incur expenditure or obtain approval from an officer who does have the necessary delegation;
- ✓ must check availability of funds against budgets before using their card;
- ✓ must acquit card transactions within timeframes specified in the Directorate/Territory Authority's credit card procedures; and
- ✓ must report any misuse, loss or damage to their card.

4.1.2 Useful References

Delegations Register

DGI 3.2 – *Procurement of Goods and Services*

ACT Government procurement policies available on Procurement ACT intranet site

4.1.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Sections 31, 55 and 56	Assigns overall responsibility for efficient and effective financial management of public resources.
<i>Public Sector Management Standards 2006 (repealed)</i>	Section 530	Specifies core requirements for the use of Corporate Credit Cards by ACT Government officials.
<i>Draft ACTPS Integrated Corporate Credit Card and Expense Management System Policy</i>	All	Sets out whole-of-government policy on the use of credit cards.

4.2 USE OF ACT PUBLIC SERVICE (ACTPS) MOTOR VEHICLES

4.2.1 Background

The *Public Sector Management Standards 2006 (repealed)* specify core requirements in relation to the use of non-executive vehicles. The *ACTPS Non-Executive Passenger and Light Commercial Vehicles Management Guidelines* outline the principles for the management, control and use of those vehicles. The guidelines cover all vehicles, excluding plant, with a seating capacity up to and including 22 people.

The *Public Sector Management Standards 2016* specify core requirements in relation to executive vehicles. The *ACTPS Guidelines for the Management and Use of Executive Vehicles* support the provisions in those standards.

Direction

All officers driving an ACTPS non-executive vehicle must:

- ✓ hold a current and appropriate driver's licence;
- ✓ operate the vehicle safely and in a courteous manner;
- ✓ obey all road-rules and parking regulations and personally pay any fines associated with the use of the vehicle;
- ✓ report any accidents using the driver information card or kit provided with each ACTPS vehicle;
- ✓ not carry people other than ACTPS officers unless they have been given prior approval or if an emergency situation arises;
- ✓ not smoke or consume alcohol in the vehicle;

- ✓ not park the vehicle at home overnight (home garaging) or use the vehicle for private purposes unless they have been given approval to do so by the Director-General or Chief Executive;
- ✓ record vehicle usage accurately in the logbook provided; and
- ✓ only use ACT Government fuel cards for refilling the ACTPS non-executive vehicles. Fuel cards must not be used for any other purpose.

The Manager of the Business Unit with fleet management responsibilities must:

- ✓ ensure that ACTPS non-executive vehicles are maintained in a safe and roadworthy condition and serviced appropriately;
- ✓ ensure electronic logbooks are available for all vehicles;
- ✓ maintain appropriate records on the use of ACTPS non-executive vehicles (including any home garaging and private use of vehicles which must be reported for Fringe Benefits Tax); and
- ✓ advise the Territory fleet provider of any vehicle defects or arrange to have the defect corrected by an authorised repairer.

SES members who lease an executive vehicle as part of their salary package¹ must:

- ✓ be the registered operator of the vehicle;
- ✓ take reasonable care of the vehicle;
- ✓ make the vehicle reasonably available for business use while the SES member is at work;
- ✓ not modify the vehicle without approval;
- ✓ hold a current and appropriate driver's licence;
- ✓ operate the vehicle safely and in a courteous manner;
- ✓ obey all road-rules and parking regulations and personally pay any fines associated with the use of the vehicle; and
- ✓ report any accidents using the driver information card or kit provided with each ACTPS vehicle.

4.2.2 Useful References

Directorate/Territory Authority Vehicle Use Guidelines/Procedures

¹ Does not include instances where an SES member leases a vehicle under a personal salary-sacrifice arrangement.

4.2.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Public Sector Management Standards 2006 (repealed)</i>	Part 7.2	Specifies core requirements in relation to non-executive ACT Government motor vehicles including authorised use, driver responsibilities, home garaging, private use and fleet management requirements for the Directorate/Territory Authority.
<i>Public Sector Management Standards 2016</i>	Division 5.5	Specifies core requirements in relation to executive vehicles.
<i>The ACTPS Non-Executive Passenger and Light Commercial Vehicles Management Guidelines</i>	All	Provides further guidance in relation to non-executive ACT Government motor vehicles.
<i>ACTPS Guidelines for the Management and Use of Executive Vehicles</i>	All	Provides further guidance in relation to executive vehicles.

4.3 GIFTS

4.3.1 Background

The ACT Government's Gifts, Benefits and Hospitality Policy contains a set of whole of government Instructions issued by the Head of Service under the *Public Sector Management Act 1994* which binds all employees and officers engaged under that Act.

The policy states that:

Public sector employees should generally not accept or provide gifts, benefits or offers of hospitality if in doing so they give the appearance of a conflict of interest.

The ACTPS Integrity Policy states that:

The basic rule is that gifts or benefits cannot be accepted without the specific approval of the Chief Executive, although some discretion may apply to gifts of little financial value and where there is no reasonable possibility that it could cause a real or apparent conflict of interest.

Authority to approve the acceptance of gifts or benefits is usually Delegated by the Chief Executive.

4.3.2 Gifts

A gift may be given where a person (other than an ACT Government officer) has performed a service for which they have not received remuneration and a gesture of appreciation is appropriate. Token gifts may be considered appropriate for situations. The use of official funds for the purchase of gifts for ACT officers is not permitted.

Gifts Received by ACT Government Officers

ACT Government Officers cannot accept any remuneration, gift, gratuity, hospitality or benefit from any person above the value determined by each Directorate/Territory Authority as this could be perceived as influencing the discharge of the officer's official duties. All gifts must be disclosed the Directorate's/Territory Authorities Gift Register.

Direction

The Executive responsible for corporate governance must:

- ✓ provide guidance to staff in relation to any Directorate specific arrangements in relation to accepting or providing gifts, including any specific value thresholds for declaring gifts; and
- ✓ ensure that a Gifts and Hospitality Register is maintained and make staff aware of procedures for making an entry.

Officers with delegation to approve the acceptance of gifts must record their decisions on the Territory Authority's Gifts and Hospitality Register and document the reasons for decision if it might be considered unusual or contentious.

The Senior Executive Responsible for Business Integrity Risk (SERBIR) should periodically review (at least once annually) the Gifts and Hospitality Register and provide the Director-General/Chief Executive with a report on compliance.

All officers:

- ✓ should generally not accept or provide gifts as doing so could create the appearance of a conflict of interest;
- ✓ must declare any gifts they accept or provide on the Territory Authority's Gifts and Hospitality Register within 14 days of accepting or providing the gift;
- ✓ must discuss the matter with their corporate governance area if they have any doubt about whether they should accept or provide a gift;
- ✓ must comply with any Directorate/Territory Authority specific guidance in relation to accepting or providing gifts; and
- ✓ must comply with any authorised direction in relation to the acceptance of gifts.

4.3.3 Useful References

Delegations Register

Territory Authority Gifts, Benefits and Hospitality Procedure

Territory Authority Delegations Register

4.3.4 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>ACT Government Gifts, Benefits and Hospitality Policy</i>	Most content has relevance to gifts; however, some content only relates to Official Hospitality.	Provides detailed guidance on gifts and articulates the requirements imposed on ACT Government employees.

Legislation/Policy	Relevant Content	Relevance
<i>ACTPS Integrity Policy</i>	Section 5.2	Establishes broad whole-of-government policy on the promotion of integrity and the control of fraud and corruption in the ACT Public Sector. There is a specific section on Gifts.

5. MANAGING REVENUE AND RECEIVABLES

5.1 ACCOUNTS RECEIVABLE AND DEBT MANAGEMENT

5.1.1 Background

The *Financial Management Act 1996* (FMA) requires the Director-General/Chief Executive/Governing Board to manage the Directorate/Territory Authority in a way that promotes their financial sustainability. This overarching responsibility requires appropriate arrangements to be put in place to invoice external parties for goods and services provided by the Directorate/Territory Authority. It also requires appropriate arrangements to be put in place to recover amounts owing in relation to the Directorate/Territory Authority's operations and programs.

The FMA also provides the Treasurer with the authority to waive, postpone or defer payment of amounts owing to the Territory or to allow amounts owing to be paid in instalments.

The Directorate/Territory Authority may also manage programs where debt management provisions (e.g. with respect to waiver) are contained in program-specific legislation. In these cases, any submissions regarding debt management should be prepared for the nominated Delegate.

The ACT Government's *Debtor Management Policy* provides principles for the management of debts owed to ACT Government entities. The policy outlines options for centralised debt management by Shared Services and provides guidance on the debt collection process. Importantly, this guidance covers the use of external debt collection services.

It is important to understand the distinction between waiver and write-off. Only the Treasurer has legal authority to waive amounts owing to the Territory. When a debt is waived the Territory's legal right to payment is extinguished.

Write-off is an acknowledgement in financial statements that it is not practical to recover a debt. However, the Territory still has a legal right to recover amounts that have been written off.

Direction

The **Chief Finance Officer** must:

- ✓ ensure that arrangements are in place to prepare invoices in a timely manner for goods and services provided by the Directorate/Territory Authority or in relation to programs managed by the Directorate/Territory Authority;
- ✓ ensure that appropriate arrangements are in place to recover amounts owing to the Territory in relation to the Directorate/Territory Authority's operations and programs;

- ✓ ensure that appropriate delegations/arrangements are in place to utilise the whole of government mercantile arrangement for external debt recovery and legal services, if required and appropriate to do so;
- ✓ consider any submissions relating to debt write-offs, write-downs, and instalment plans and authorise action (in line with delegations);
- ✓ ensure that appropriate delegations/arrangements are established within Shared Services for the effective recovery of Directorate/Territory Authority debts managed by Shared Services, including the establishment of sub-delegations to allow Shared Services to enter into payment-by-instalment (PBI) arrangements with debtors, where it is appropriate to do so;
- ✓ must, if they consider that it would be appropriate to waive an amount owing to the Territory, prepare and clear a submission to the Delegate; and
- ✓ report any write-offs, write-downs or waivers of amounts owing to the Territory consistently with Australian Accounting Standards and in line with direction provided by Chief Minister, Treasury and Economic Development Directorate.

All officers must:

- ✓ prepare invoices in a timely manner;
- ✓ pursue recovery of all amounts owing to the Territory unless it is uneconomical to do so;
- ✓ if they consider that it is uneconomical to recover an amount owing to the Territory, prepare a submission to the Chief Finance Officer which explains why the amount cannot be recovered;
- ✓ if they consider that it would be appropriate to postpone, defer, waive or allow an amount owing to be paid by instalment, prepare a submission to the Chief Finance Officer which explains why that action is appropriate; and
- ✓ avoid implying that any amount owing to the Territory will be waived, postponed, deferred or allowed to be paid by instalment.

5.1.2 Useful References

Delegations Register

Directorate/Territory Authority Debt Management Procedures and Guidelines

5.1.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Section 31	Assigns overall responsibility for promoting financial sustainability of Directorates and Territory Authorities.
<i>Financial Management Act 1996</i>	Section 131	Provides the Treasurer with authority to waive, postpone or defer a debt to the Territory or to allow a debt to be paid in instalments.

Legislation/Policy	Relevant Content	Relevance
<i>ACT Government Debtor Management Policy</i>	All	Provides principles for the management of debts owed to ACT Government entities. The policy outlines options for centralised debt management by Shared Services and provides guidance on the debt collection process.

6. TAXATION

6.1 COMPLIANCE WITH TAXATION LEGISLATION

6.1.1 Background

The Director-General/Chief Executive/Governing Board is responsible for the efficient and effective financial management of the public resources for which the Directorate/Territory Authority is responsible. Efficient and effective compliance with taxation obligations is part of this overarching responsibility.

The Directorate/Territory Authority has a range of taxation obligations. The most significant of these relate to Goods and Services Tax (GST), Fringe Benefits Tax (FBT) and Pay as You Go (PAYG) withholdings for employees and vendors who do not provide an Australian Business Number (ABN).

The Directorate/Territory Authority must also comply with Superannuation Guarantee requirements to contribute a minimum percentage of each eligible employee's earnings to a complying super fund or retirement savings account.

NB: This DGI addresses core requirements that must be in place to manage the Territory's taxation obligations. It is not taxation advice or policy for the imposition of ACT Government taxes. The ACT Government's Taxation Management Framework provides detailed guidance in relation to compliance with GST, FBT, PAYG and Superannuation Guarantee requirements.

Direction

The **Chief Finance Officer** must:

- ✓ ensure that the agency has appropriate arrangements in place to comply with its taxation obligations. These requirements are specified in detail in the *ACT Taxation Management Framework*;
- ✓ ensure that Shared Services are provided with sufficient information to accurately complete Business Activity Statements and FBT returns;
- ✓ undertake an annual internal review of its taxation management and certify that the Directorate/Territory Authority is compliant with the *ACT Taxation Management Framework*, ATO Rulings, taxation legislation and regulatory requirements; and
- ✓ ensure that an external Taxation Audit Compliance Review is conducted every three years.

All officers:

- ✓ must obtain an invoice for all purchasing transactions; and

- ✓ should seek advice on the GST and FBT implications of any transactions for which they require clarification.

6.1.2 Useful References

ACT Government Taxation Management Framework

6.1.3 Related Legislation and Policy

Legislation/Policy	Relevant Content	Relevance
<i>Financial Management Act 1996</i>	Sections 31, 55 and 56	Assigns overall responsibility for efficient and effective financial management of public resources.
<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>	All	Specifies requirements in relation to Goods and Services Tax.
<i>Fringe Benefits Tax Assessment Act 1986 (Cth)</i>	All	Specifies requirements in relation to Fringe Benefits Tax.
<i>Taxation Administration Act 1953 (Cth)</i>	Schedule 1	Specifies PAYG withholding requirements.
<i>Superannuation Guarantee (Administration) Act 1992 (Cth)</i>	All	Specifies Superannuation Guarantee requirements.
<i>City Renewal Authority and Suburban Land Agency Act 2017</i>	Sections 27 and 55	Provides that the City Renewal Authority and Suburban Land Agency are not exempt from Territory taxes.

7. AMENDMENT HISTORY

Version	Issue Date	Amendment Details	Author
Version 3	April 2022	Reformatting and minor consistency corrections Addition of covering sign off page Addition of Territory Authorities to which these Instructions apply	Financial Reporting and Framework
Version 2	December 2021	Final Draft – Cleared across government by Director-Generals/Chief Executive Officers	DGFI Working Group
Version 1	November 2021	Final Draft – cleared by DGFI Working Group	DGFI Working Group: JACS EDU CMTEDD TCCS EPSDD Shared Services SLA CSD ACTHD CHS



Chief Minister, Treasury and Economic
Development Directorate

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