Government of Western Australia
Department of Treasury

Review of the Financial Management Act (2006)

December 2017 Report

Contents

Executive Summary

The *Financial Management Act 2006* (FMA) together with the *Auditor General Act 2006* (AG Act) and the enabling legislation of statutory authorities provide a framework for the financial management, accountability and reporting of the public finances of the State. Key elements of the FMA's framework include:

- a requirement for the Treasurer to maintain the central accounts of government – the Treasurer's Accounts;
- centralised banking arrangements through the Public Bank Account (PBA) and, apart from the exception of a few agencies, centralised investment employing the expertise of the Western Australian Treasury Corporation (WATC);
- the ability for government to transfer appropriations and funds to facilitate machinery of government changes; and
- a comprehensive framework of financial and performance reporting.

Section 85 of the FMA requires an assessment of its operation and effectiveness after the first five years of operation and every five years thereafter. The review is to consider:

(1) whether there is a need for the FMA to continue; and

(2) any other matters that appear to be relevant to the operation and effectiveness of the FMA.

The Department of Treasury (Treasury) conducted the 2017 FMA Review on behalf of the Treasurer. This is the second review since the inception of the FMA. In August 2015, Cabinet endorsed the first review (commenced in 2012 and outlined in the March 2014 Report) and approved the drafting of amendments to the FMA and other affected legislation. The March 2014 Report was subsequently tabled in Parliament on 8 September 2015 however, the legislative changes did not progress due to other legislative priorities. Given the subsequent change in government, the previous recommendations have since been revisited, and those identified as priorities are progressed as part of the 2017 FMA Review.

The State Government elected in March 2017 identified the need to achieve greater economies and efficiencies in Western Australia's public sector administration, including opportunities to reduce bureaucracy and red tape within Government. In response to this, three reviews were announced, the Service Priority Review, a review by the Chief Executive Officer (CEO) Working Group on Public Sector Efficiency and the Commission of Inquiry. The recommendations outlined in the 2017 FMA Review are aligned to the broad directions of these reviews.

The review has found that there is a need for the FMA to continue. It also recommends that amendments to the FMA and other relevant legislation, and changes to administrative arrangements will improve the operational efficiency and effectiveness of the financial management framework whilst ensuring appropriate accountabilities are in place. This can be achieved through streamlining agency reporting, providing greater clarity where uncertainty exists, strengthening controls over public expenditure and providing greater flexibility in managing the State's finances. The review's recommendations are as follows.

Should the FMA be retained?

Recommendation 1: The FMA should be retained.

Recommendation 2: Amend section 85 of the FMA and relevant sections of the AG Act so that reviews of the Acts are to occur every 10 years.

Initiatives to Improve the Efficiency and Effectiveness of Agency Reporting

Recommendation 3: Treasury to progress Treasurer's instruction (TI) amendments to:

a) clarify requirements of Chief Finance Officer (CFO) qualifications and consider providing a permanent exemption to certain agencies where appropriate (TI 824);

b) improve the overly prescriptive framework with regard to authorisation of payments and payment records (TIs 304 and 308);

c) provide clarity and improve transparency and accountability with respect to debt write-offs between government agencies (TI 807);

d) revoke the suite of TIs (TIs 501 – 515) to remove red tape with respect to agency management of employment and pay records; and

e) limit the broad scope of risk management to financial risk management (TI 825).

Recommendation 4: Treasury to implement a formal rolling program of review of TIs to ensure financial management policies and practices remain contemporary.

Recommendation 5:

a) Through Treasurer's instructions, implement a tiered financial reporting framework for designating agencies as Tier 1 (full reporting disclosure) or Tier 2 (reduced reporting disclosures) reporting entities;

b) Treasury to undertake a review, in consultation with the State Solicitor's Office, the Office of the Auditor General, the Department of the Premier and Cabinet, and the Public Sector Commission, to consider removing the requirement for the Auditor General to audit agency KPIs, as part of broader improvements to the OBM Framework.

Recommendation 6: Amend regulation 7 of the *Financial Management Regulations 2007* (FMR) by increasing the monetary limits that the accountable authority, the Minister and the Treasurer are authorised to write-off.

Recommendation 7: Amend regulation 8A of the FMR by increasing the monetary limits that the accountable authority of the Insurance Commission of Western Australia (ICWA), the Minister and the Treasurer are authorised to write-off for irrecoverable third party insurance fund debt.

Initiatives to strengthen controls over public expenditure

Recommendation 8: Amend the FMA relating to resource agreements (Part 3 Division 5) with the aim of improving their effectiveness as an accountability tool, providing clarity for agencies and government with regard to timing, and responding to changes occurring throughout the financial year.

Recommendation 9: Amend section 40 of the FMA to improve the effectiveness of annual estimates as an accountability tool, and provide clarity for agencies and government with regard to the timing, application and the approval process of the annual estimates.

Initiatives that provide greater clarity to improve the efficiency and effectiveness of the financial management framework

Recommendation 10: Amend the definition of 'relevant commitment' in section 26(1) of the FMA to enable the Treasurer to determine additional relevant commitments and for Treasury to consider suitable mechanisms to ensure the appropriate level of transparency.

Recommendation 11: Amend section 56 of the FMA so that the Treasurer's approval is sought where the name of a sub-department is to be altered, and the establishment, alteration of designation and abolition of a sub-department is published in the *Government Gazette*.

Recommendation 12: Amend section 10(e) of the FMA so that accounts established under legislation are stated in the legislation to be a Treasurer's special purpose account, but also enabling the Treasurer to make such a determination where there is any legislative ambiguity.

Recommendation 13: Amend section 18(1)(b) of the FMA to include an explicit reference to section 27 of the FMA to make it clear that new and supplementary funding is to be credited to a special purpose account.

Recommendation 14: Amend section 27(4) of the FMA to provide for an automatic appropriation (standing appropriation) of all expenditure authorised under section 27(1) and 27(2) of the FMA in a financial year. The amendment is to include a mechanism for the relevant portfolio ministers to notify Parliament on the expenditure already spent.

Initiatives to provide greater flexibility for managing the State's finances

Recommendation 15: Repeal section 38(4) and amend section 38(9) and (10) of the FMA, and any consequential amendments to the *Road Safety Council Act 2002* to provide the Treasurer with discretion to credit the Road Trauma Trust Account with interest.

Recommendation 16: Amend the Loan Act and future Loan Bills to allow temporary repayment and re-draw of borrowings.

Recommendation 17: Amend or repeal section 39(1) to (4) of the FMA, but retain sub-sections (5) and (6) of the FMA to provide statutory authorities with flexibility to invest in the PBA if their moneys are held in bank accounts outside the PBA.

Recommendation 18: Amend section 24 of the FMA to automatically extend payments before supply is granted to a period of four months in an election year only and the payments do not exceed in total an amount equal to 35% of the total amount appropriated for the previous year by the Appropriation Acts.

Recommendation 19: Amend section 26(3) of the FMA to enable the Treasurer to direct all or part of the balance standing to the credit of the Holding Account or other suspense account to be paid or returned to the Consolidated Account (CA).

Introduction

Terms of Reference

The FMA, which came into force on 1 February 2007, replaced the previous *Financial Administration and Audit Act 1985*.

Section 85 of the FMA, requires the Minister (Treasurer) to undertake a review of all matters relating to the operation and effectiveness of the FMA after the initial five years of operation and every five years thereafter. Section 85(2) requires that in undertaking the review the Minister is to consider and have regard to –

(a) whether there is a need for this Act to continue; and

(b) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.

Section 85(3) states that:

> The Minister is to prepare a report based on a review under subsection (1) and, as soon as is practicable after the report is prepared, is to cause a copy of it –
>
> (a) to be laid before each House of Parliament; and
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> (b) to be given to the Joint Standing Committee on Audit (JSCA).

On 8 August 2017 the Treasurer, the Hon Ben Wyatt MLA, endorsed Treasury to undertake the review on his behalf.

Purpose of the Report

The purpose of this report is to present the findings and recommendations of the 2017 review of the FMA, having regard to the statutory terms of reference.

Rationale for Review

There is a need for governments to achieve greater value for money from scarce taxpayer resources and for agencies to 'deliver more with less' and to account for the efficient and effective delivery of their services. This requires the financial management and accountability framework governing public finances to be continually improved.

In addition, the fiscal challenges continuing to face Western Australia, a change of State Government in 2017, and the recent machinery of government changes create further impetus to review and improve the financial management framework. This includes ensuring that agency effort is not diverted to compliance with overly prescriptive or burdensome processes and that greater flexibility is provided to manage the State's finances.

Further, the Western Australian Public Sector Commissioner has raised concerns over the significant administrative burden of accountability and approval requirements within government.

Within this context, the following has been considered in undertaking the 2017 FMA Review:

- the Government's commitment to increasing efficiency through a reduction in internal red tape and unnecessary prescription;
- whether excessive mandatory requirements have been imposed on agencies;
- strengthening accountable authorities' accountabilities for the efficient and effective delivery of services and the management of resources under their control;
- improving the clarity and effectiveness of existing legislation; and
- the challenges facing the Government to repair the structural imbalances in the State's finances and to maintain a strong and sustainable financial position that enables it to react to changes in economic circumstances. This can only be supported by a robust and sound financial management governance framework.

The Review Process

In March 2017, a project board consisting of senior Treasury officers and a project team, resourced from within Treasury, was established.

The following key stakeholders were consulted during the review:

- Office of the Auditor General;
- Office of the Public Sector Commissioner;
- Director General of the Department of the Premier and Cabinet;
- Joint Standing Committee of Audit;
- State Solicitor's Office (SSO);
- Chief Finance Officer Reform Steering Group (CFORSG) whose membership comprises CFO representatives from a cross section of agencies. The list of CFORSG members is included at **Appendix A**; and
- Director of the Department of Justice; Director General of the Department of Primary Industries and Regional Development and the Chief Executive of the Western Australian Land Information Authority.

The Project Team, under the guidance of the Project Board considered matters raised by stakeholders together with other operational issues previously identified by Treasury. Working papers were developed on specific matters for final consideration by the Budget Management Committee of Treasury.

Meetings were conducted within Treasury and where necessary further consultation was undertaken with stakeholders and agencies. To assist in framing the recommendations, guidance was also obtained from the SSO and Parliamentary Counsel's Office on matters of legislative interpretation and legal principle.

The Need for the FMA to Continue

The overarching objectives of the FMA are to provide for 'the management, administration and reporting of the public finances of the State, and for related purposes'.[1]

The FMA provides the structure for the financial management, accountability and reporting for departments and statutory authorities in the Western Australian Public Sector. It sits within a broader framework that incorporates the functions, powers and financial and accountability provisions contained in the enabling legislation of statutory authorities and in individual statutes administered by departments and statutory authorities. Note that for the purpose of the FMA, the term 'statutory authorities' does not include the corporatised entities such as Landcorp, the Port Authorities, and water and power utilities.

The FMA together with the TIs, Regulations and enabling legislation that create statutory authorities, provide a cohesive framework that among other things:

- establishes the central accounts of government and details requirements for the keeping of accounting records by agencies;
- establishes a framework for the establishment and operation of the PBA and the investment of money;
- prescribes the Treasurer's Advance arrangements;
- facilitates the transfer of agency appropriations and funds (e.g. machinery of government changes);
- imposes responsibilities and obligations on accountable authorities for the efficient and effective management of financial and physical resources under their control. This includes the development of financial management policies, key performance indicators and the preparation of annual reports and audited financial statements;
- mandates requirements for the preparation of financial statements that ensures consistency of presentation; and
- imposes operational requirements that underpin effective and responsible public administration including the receipt, custody and expenditure of public money and property, and the requirement to maintain effective internal audit and risk management processes. This delivery is predicated on a sound financial management framework.

The objective of a Financial Management Framework is to ensure that robust financial management governance, processes and documentation exist to clearly articulate legislation and policies, values and principles, authorities and accountabilities, roles and responsibilities and enablers that will, when adhered to, lead to a number of positive financial and business outcomes. The subsidiary TIs and Regulations allow for flexibility and evolution in an ever changing financial and economic environment.

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[1] *Financial Management Act 2006,* Long title.

All Australian jurisdictions, New Zealand and the United Kingdom have enacted financial management legislation which establishes a framework that underpins the responsible administration and accountability for public finances and the delivery of services. Recent reviews of these legislative frameworks are outlined as follows:

- The Australian Capital Territory undertook a major review in 2015 of the *Financial Management Act 1996* with a range of amendments to improve and modernise the Act, mainly to the appropriation and budget management provisions;
- The Commonwealth (Cth) undertook a complete review 'from the ground up' resulting in new legislation applicable from 1 July 2013 (the *Public Governance, Performance and Accountability Act 2013)*, replacing legislation originally passed in 1997. An independent review of the *Public Governance, Performance and Accountability Act 2013* (PGPA) and Rule commenced in late 2017. The review is required to be undertaken under section 112 of the PGPA. The review report is expected in the first half of 2018;
- New South Wales (NSW) is currently reviewing its main financial management legislation[2] that are at least 30 years old. Amendments will be introduced to Parliament to replace the current Acts with a single modern Act that focuses on financial management;
- Tasmania's *Financial Management Act 2016,* effective from 1 July 2018 replaced the *Public Account 1986* and remaining financial management provisions in the *Financial Management and Audit Act 1990;*
- Victoria's review of the *Financial Management Act 1994* commenced in 2015. The Minister for Finance and Treasurer are jointly responsible for the legislation and have publicly confirmed the process is underway; and
- South Australia has made some minor amendments to the *Public Finance and Audit Act 1987* in 2015 and are currently reviewing the TIs issued under the Act.

No major reviews have been undertaken of Queensland's financial management legislation during the 2013-2017 period. A number of minor updates arising from statute law revisions have amended the legislation since proclamation. Under the *Statutory Instruments Act 1992*, all subordinate legislation in Queensland expires after 10 years, unless it is exempted from expiry. This means that Queensland's *Financial and Performance Management Standard 2009* should be reviewed before 2019.

The Northern Territory has not undertaken a review of its legislation, however, is currently reviewing the framework, with a particular focus on updating the Treasurer's Directions.

New Zealand's *Public Finance Act 1989* was amended in 1995, 2004 and 2013. The current act does not have a timed mandatory review clause, however, it is typical for the Act to be amended once in the term of each government.

[2] Current Acts subject to NSW Treasury review include: *Public Finance and Audit Act 1983; Annual Reports (Departments) Act 1985; Annual Reports (Statutory Bodies) Act 1984; and Public Authorities (Financial Arrangements) Act 1987*.

Recommendation 1: The FMA should be retained.

Section 85(1) of the FMA provides:

(1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after –

(a) the fifth anniversary of its commencement; and

(b) the expiry of each 5 yearly interval after that anniversary.

One of the recommendations in the report (Report 7 – August 2016) of the JSCA review of the AG Act is for the Treasurer to amend section 48 of the AG Act to require a review of the Act to occur every 10 years. According to the JSCA, a legislative review every five years is too frequent and unnecessary, especially once the first review has occurred. A less frequent schedule would not preclude a parliamentary body from examining the AG Act as specific issues arise.

The Government's response to this report did not support the recommendation on the basis that the timeframe for the review of the AG Act should be consistent with the FMA (which currently is at 5 yearly intervals) due to the interaction of both Acts as key elements of the State's financial management framework.

Other jurisdictions' financial management legislation (except for the Cth) do not have a requirement for a review of their Acts.

Upon revisiting the matter, it is recommended that the FMA and the AG Act be amended to align with the JSCA's recommendation to review the AG Act every 10 years. An increase in the mandated timeframe would allow sufficient time to implement and evaluate amendments and outcomes arising from the last review. The expanded timeframe would not preclude changes being made to the FMA and the AG Act between statutory reviews if warranted.

Recommendation 2: Amend section 85 of the FMA and relevant sections of the AG Act so that reviews of the Acts are to occur every 10 years.

Initiatives to Improve the Efficiency and Effectiveness of Agency Reporting

Reducing the Reporting Burden on Agencies

A key component of the 2017 FMA Review has been to develop recommendations to reduce the reporting compliance burden on agencies on the basis that 'one size does not fit all' whilst maintaining adequate controls based on risk and materiality.

The 2017 FMA Review includes a review of a number of TIs (**Appendix B**) in response to concerns raised by the CFORSG. The TIs which form part of the broader financial management framework, were reviewed to ensure they are still relevant and necessary, not overly prescriptive and onerous and are clear and unambiguous.

In addition, it is proposed that a formal rolling program of review of TIs is established to ensure that financial management policies and practices remain contemporary.

Recommendation 3: Treasury to progress TI amendments to:

a) clarify requirements of CFO qualifications and consider providing a permanent exemption to certain agencies where appropriate (TI 824);

b) improve the overly prescriptive framework with regard to authorisation of payments and payment records (TIs 304 and 308);

c) provide clarity, improve transparency and accountability with respect to debt write-offs between government agencies (TI 807);

d) revoke the suite of TIs (TIs 501 – 515) to remove red tape with respect to agency management of employment and pay record; and

e) limit the broad scope of risk management to financial risk management (TI 825).

Recommendation 4: Treasury to implement a formal rolling program of review of TIs to ensure financial management policies and practices remain contemporary.

Tiered Financial Reporting

Agency Annual Reports contain considerable narrative disclosures, based in the main, on requirements imposed in preparing:

- financial statements in accordance with Australian Accounting Standards (section 62 of the FMA, or under enabling legislation);
- key performance indicators (section 61 of the FMA and TI 904 'Key Performance Indicators'); and
- governance disclosures (TI 903 'Agency Annual Reports').

In addition, various disclosures are required by legislation or government policy, for example: expenditure on advertising, market research, polling and direct mail pursuant to section 175ZE of the *Electoral Act 1907*.

The aggregation of these requirements over time has increased the reporting compliance burden. The impact of increased disclosures in annual reports includes the risk of obscuring key information about the results of the entity through information overload, and the additional costs incurred in the preparation and publication of a significant number of annual reports, at a time where austerity and innovation remain key drivers of fiscal repair.

The Accounting Standard AASB 1053 Application of Tiers of Australian Accounting Standards first applied from July 2013, and established a two tier differential financial reporting framework for preparing general purpose financial statements:

(a) Tier 1: Australian Accounting Standards (AAS); and

(b) Tier 2: Australian Accounting Standards – Reduced Disclosure Requirements.

Tier 2 effectively applies the same accounting principles[3] to transactions and balances as applied to Tier 1 reporting entities, but reduces required disclosures in the 'Notes to the Financial Statements' in agency annual reports. In this regard, AASB 1053 permits agencies to reduce disclosures whilst maintaining compliance with AAS and section 62 of the FMA.

However, Western Australia did not support the application of tiered reporting at that time, mandating under Treasurer's instruction (TI) 1101 'Application of Australian Accounting Standards and Other Pronouncements' that agencies are to apply the full reporting requirements under the standards. In this regard, the majority of the State's public sector agencies are small to medium in size with around 100 agencies accounting for approximately 5 per cent of total public sector expenditure. Currently, these agencies are all required to prepare annual reports with considerable narrative disclosures, irrespective of size, materiality and stewardship responsibilities.

The establishment of a tiered financial reporting framework is anticipated to provide considerable benefit for the small to medium sized agencies. The benefits of applying Tier 2 requirements will include reduced preparation, auditing and publication costs for annual reports, and improved clarity, relevance and usefulness of annual reports through reducing the clutter of unnecessary disclosures.

The Standard allows Tier 2 reporting entities to go beyond the stipulated minimum disclosure requirements and encourages adoption of greater disclosure concerning transactions/balances where doing so provides better information for readers of financial statements.

[3] Recognition, measurement and presentation requirements.

It is noted that the March 2014 Report included a recommendation to allow the Treasurer discretion to exempt agencies from reporting Key Performance Indicators (KPIs) in their annual report where appropriate. This recommendation is being progressed as part of this submission to government. Agencies with limited resources are less likely to report meaningful KPIs in an environment where the same KPI framework applies to all agencies regardless of size or capacity. Therefore, as part of implementing a tiered financial reporting framework it is proposed to similarly apply a tiered KPI framework to agencies for KPI reporting on the basis of size, materiality and extent of stewardship responsibilities.

With regard to KPI reporting more broadly, the Final Report of the Service Priority Review (October 2017) contends that as an accountability measure, reporting against KPIs does not provide useful detail or meaningful transparency around program effectiveness or achievement against goals. It is suggested that an overhaul of Outcome Based Management is required, including a future reconsideration of the requirement for the OAG to audit KPIs under section 15 of the AG Act. This will enable the necessary flexibility for agencies to report on their performance (financial and non-financial) in a more efficient and meaningful way. In this regard, Western Australia is the only Australian jurisdiction that requires the Auditor General to audit agency KPIs.

Recommendation 5:

a) Through Treasurer's instructions, implement a tiered financial reporting framework for designating agencies as Tier 1 (full reporting disclosure) or Tier 2 (reduced reporting disclosures) reporting entities through Treasurer's instructions; and

b) Treasury to undertake a review, in consultation with the State Solicitor's Office, the Office of the Auditor General, the Department of the Premier and Cabinet, and the Public Sector Commission, to consider removing the requirement for the Auditor General to audit agency KPIs as part of broader improvements to the OBM Framework.

Monetary Limits for write-offs of revenue, other debts and public property

The FMA has a three-tiered approach to the write-off of revenue, other debts and public property to ensure appropriate probity, transparency and accountability in the management of public finances.

Currently, under section 48 of the FMA and regulation 7 of the FMR, amounts up to $100,000 may be written off by the accountable authority, amounts between $100,000 and $250,000 may be written off by the Minister and amounts over $250,000 may be written off by the Minister with the prior approval of the Governor.

It is noted that the March 2014 Report included a recommendation that addresses the current impracticality of having to resubmit the write-off to the Minister once a Ministerially endorsed request for a write-off has been approved by the Governor. The Government is currently addressing this recommendation with a proposal to amend section 48(4) of the FMA so that the Treasurer approves, with the prior approval of the Minister, write-off amounts greater than the prescribed monetary limits in respect of public property, and revenue and other debts due to the agency.

It is acknowledged that the prescribed amounts were established in February 2007, and with the passage of time, there is a need to update and increase the write-off thresholds, whilst still maintaining the appropriate accountability and proper stewardship of public resources. In this regard, the new proposed limits are set out below:

	Accountable Authority ($)	**Minister ($)**	**($)**
Current	100,000	250,000	250,000+ Governor
CPI[4]	125,000	312,500	312,500+
Recommended	200,000	1,000,000	1,000,000+ Treasurer

Adoption of these limits would require amending the FMR and would reduce administrative costs without compromising transparency and accountability as write-offs are required to be disclosed in the notes to the audited financial statements of the relevant agency.

The levels of authority for write-offs are currently provided in the Background to TI 807 'Write Offs'. Any amendments to the FMRs in this regard will result in TI 807 being updated accordingly.

Recommendation 6: Amend regulation 7 of the FMR by increasing the monetary limits that the accountable authority, the Minister and the Treasurer are authorised to write-off as stated below:
Up to $200,000…….Accountable Authority
$200,001 to $1,000,000……..Minister
Over $1,000,000……..…….Treasurer

[4] Based on the CPI movement between the March quarter of 2007 and the September quarter of 2017, which is approximately 25%.

Monetary limits for write-offs of irrecoverable third party insurance fund debt

The Insurance Commission of Western Australia (ICWA) has requested that write-off threshold limits be raised on the basis that they require updating with the passage of time. The current limits were established in 2010.

The new proposed limits are set out below:

	Accountable Authority ($)	**Minister ($)**	**($)**
Current	1,500,000	3,000,000	3,000,000+ Governor
CPI[5]	1,875,000	3,750,000	3,750,000
Recommended	3,000,000	6,000,000	6,000,000+ Treasurer

ICWA has confirmed that over the last three financial years there has been one submission to the Governor for approval in 2016-17 (amount over $3,000,000), one submission to the Treasurer as Minister in 2015-16 (amount between $1,500,000 and $3,000,000) and none in 2014-15. The applications relate to irrecoverable third party insurance fund debt.

Recommendation 7: Amend regulation 8A of the FMR by increasing the monetary limits that the accountable authority of the ICWA, the Minister and the Treasurer are authorised to write-off for irrecoverable third party insurance fund debt as stated below:
Up to $3,000,000……Accountable Authority
$3,000,001 to $6,000,000…….Minister
Over $6,000,000……..Treasurer

[5] Based on the CPI movement between the March quarter of 2007 and the September quarter of 2017, which is approximately 25%.

Initiatives to Strengthen Controls over Public Expenditure

The 2017 FMA Review has identified changes to resource agreements and annual estimates to improve their effectiveness as an accountability tool and thus strengthen controls over public expenditure. The process for resource agreements and annual estimates will be aligned with the timing of the budget process so that they are seen as complementary and not disparate elements in the accountability framework.

Resource Agreements

The legislative framework for resource agreements is prescribed in sections 41-46 of the FMA. A resource agreement is an extract of the Agency Information in Support of the Estimates (Budget Paper No. 2), and is prepared as part of the budget process. A resource agreement is a record of the obligations of the accountable authority, Minister and Treasurer for the budget including operating within the approved expense limit and meeting budget targets such as net worth, net operating balance and working cash limit. Material breaches of the approved expense limit are to be reported to Cabinet's Expenditure Review Committee. Adherence to these targets is also crucial to the achievement of the Government's financial targets, published each year as part of its budget strategy in accordance with the *Government Financial Responsibility Act 2000*.

It is noted that the 2012 FMA review (March 2014 Report) made recommendations to strengthen the compliance with an agency's approved expense limit which is considered critical in constraining public expenditure, a key factor in correcting the structural fiscal imbalance and returning to surpluses. The recommendations included amending the FMA to require accountable authorities to operate within their approved expense limit and that any breaches may invoke the disciplinary provisions of the *Public Sector Management Act 1994* (PSMA). The Government is currently progressing FMA amendments to give effect to these recommendations.

Further amendments to sections 41-46 of the FMA have been identified as follows:

- To include the general requirement that <u>all</u> agencies that are directly budget funded will be subject to a resource agreement. Currently, not all agencies are required to prepare resource agreements for various policy and legislative reasons. The aim of the amendments is to articulate a clear overarching policy statement and deal with exceptions on a case by case basis.
- The accountable authority, Minister and Treasurer (accountable authority and Treasurer in the case of certain departments) will reach agreement of their budget obligations, including operating within the approved expense limit and meeting budget targets, by one month from the date the accountable authority is required to submit the draft resource agreement to the Treasurer. Currently, there is no time-frame specified.

- The Treasurer will have the power to direct that a draft resource agreement for an agency becomes the agency's resource agreement where concurrence is unable to be reached within the specified timeframe. In this scenario, the resource agreement so modified in accordance with the Treasurer's direction is deemed to be agreed by all parties.
- Acknowledging that resource agreements are not a static document, and to be consistent with the current practice of being amended twice per year at Mid-year Review and at Estimated Actual (as part of the annual budget process) to account for changes to approved expense limits and financial targets resulting from government decisions and other adjustments relating to changes in timing or costs of a non-discretionary nature.
- As a resource agreement purports to govern the entire financial year, whenever there is a late budget, the resource agreement for that year will be deemed to operate retrospectively.

These amendments will improve the effectiveness of resource agreements as an accountability tool and align with the proposed changes for section 40 annual estimates (recommendation 9 below).

Recommendation 8: Amend the FMA relating to resource agreements (Part 3 Division 5) with the aim to improving their effectiveness as an accountability tool, providing clarity for agencies and government with regard to timing, and responding to changes occurring throughout the financial year.

Annual Estimates

Budgeting is a crucial component of the accountability cycle demonstrating the government's accountability to taxpayers. Therefore, all FMA agencies are expected to prepare annual estimates of their financial operations for financial management and reporting purposes for the budget year (annual estimates).

Generally, annual estimates for budget funded agencies are available in the Budget Papers. All other agencies are required to prepare estimates in accordance with section 40 of the FMA.

However, with the current portfolio approach to funding, individual agencies' estimates within the portfolio cannot be easily ascertained (particularly following the recent machinery of government changes). For example, the Budget Papers for Communities represent the combination of the Department of Communities, Housing Authority and the Disability Services Commission, and do not split out the individual agency annual estimates. In this regard, it is proposed to amend section 40 to address this current lack of transparency by requiring individual agencies within a portfolio to prepare annual estimates.

The availability of estimates is particularly relevant to users of annual reports in assessing how an agency actually performed against its annual estimates for a financial year thereby closing the accountability loop. This is also reinforced in Australian Accounting Standard (AASB) 1055 *Budgetary Reporting* that requires agencies to disclose for the financial year explanations on major variances between actual amounts presented in the financial statements to the corresponding annual estimates. Furthermore, the preparation of annual estimates is intended to tie in with the resource agreements process as part of the annual budget process in setting key financial targets such as expense limits and recognises the importance of the accountable authority being responsible for the financial and economic resources of the relevant agency.

Proposed amendments to section 40 of the FMA are as follows.

- All agencies (including those within a portfolio) will be subject to the preparation of annual estimates except if directed by the Treasurer. Currently, only accountable authorities of statutory authorities are required to prepare annual estimates under section 40.
- The accountable authority and the Minister will be expected to reach agreement of the annual estimates within one month from the date the accountable authority is required to submit the estimates to the Minister for approval (as determined by the Treasurer).
- The Minister will have the power to direct that the draft estimates for an agency becomes the agency's estimates where agreement is unable to be reached within the specified timeframe. In this scenario, the estimates so modified in accordance with the Minister's direction are deemed to be agreed by both parties.
- Where there is a late budget and the budget year has already commenced, the approved annual estimates will deem to take effect for the full financial year (i.e. from 1 July).

These amendments will improve the effectiveness of annual estimates as an accountability tool and align with the proposed changes for resource agreements (recommendation 8 above).

Recommendation 9: Amend section 40 of the FMA to improve the effectiveness of annual estimates as an accountability tool, and provide clarity for agencies and government with regard to the timing, application and the approval process of the annual estimates.

Initiatives to Improve the Efficiency and Effectiveness of the Financial Management Framework

Transfer of Appropriations to Suspense Accounts

Section 26(2) of the FMA enables the Treasurer to direct an appropriation by an Appropriation Act for a financial year to be transferred to a suspense account to the extent necessary to meet a 'relevant commitment'. A relevant commitment is defined in section 26(1) of the FMA as a commitment that relates to salaries, wages, superannuation, leave or depreciation.

Section 26 of the FMA provides the legal basis for accrual appropriations. The accrual appropriations regime involves utilising a holding account which has been established as a suspense account under section 26 to receive credits for the non-cash component of agency appropriations (i.e. depreciation expense and increase in leave liability). It is the mechanism by which the non-cash component of appropriations approved by Parliament are recorded and reported, enabling the amount due to each agency to be transparent. When drawdowns from the holding account are required, the cash is sourced through a reduction in other funding sources, such as capital appropriations in the case of asset replacement.

In its current form, the definition of relevant commitment under section 26(1) of the FMA is considered too restrictive and unable to accommodate anticipated future and new commitments such as 'expected credit losses' which arise from the new accounting standard on financial instruments. Accordingly, it is recommended that the definition of relevant commitment be amended to create the appropriate flexibility for government to meet other relevant commitments that may arise.

Recommendation 10: Amend the definition of 'relevant commitment' in section 26(1) of the FMA to enable the Treasurer to determine additional relevant commitments and for Treasury to consider suitable mechanisms to ensure the appropriate level of transparency.

Sub-departments

The Government may consider it appropriate to establish a sub-department under the FMA where there is a particular need to achieve separate transparency and accountability in respect of the delivery of certain services or achieving a particular desired outcome separate from the operation of the host department created under section 35(1)(a) of the PSMA. Sub-departments pertain to the FMA only and are established under section 56 of the FMA. A sub-department is an agency for the purposes of the FMA. There is no equivalent of a sub-department under the PSMA. This acknowledges the different purposes of the legislation namely the accountability and transparency around the management of the State's finances, as opposed to the administration, management and employment matters of the public sector.

Section 56(1) of the FMA provides the 'prescribed conditions' for a sub-department. Subject to satisfying the criteria in section 56(1), the Treasurer may under section 56(2) of the FMA declare an entity to be a sub-department and the holder of an office in the department as the accountable authority of the sub-department. There are currently three sub-departments – Commissioner for Equal Opportunity, Office of Emergency Management and Office of the Government Chief Information Officer.

If after the declaration is made, a sub-department ceases to satisfy any of the prescribed conditions, the declaration is revoked by operation of section 56(3) of the FMA. Further, the CEO of the department is required to notify the Treasurer immediately if their delegation to a holder of an office declared to be the accountable authority of the sub-department is revoked or amended. The Treasurer may at any time revoke the declaration of a sub-department (section 56(5) of the FMA). Upon cessation or revocation, a sub-department is considered abolished under the FMA.

Section 56 of the FMA is silent where a sub-department's name is altered (e.g. the State Emergency Management Committee Secretariat was recently retitled Office of Emergency Management under a machinery of government change).

The legislative framework for the creation and abolition of sub-departments is limited to the involvement of the Treasurer and the CEO of the department. This has resulted in some uncertainty with regard to the status of sub-departments in the public sector. It is proposed that this will be remedied by mirroring the framework applying to departments under section 35(1) of the PSMA, in that when the Treasurer establishes and designates, alters the designation or abolishes sub-departments that this be made public by giving notice in the *Government Gazette*.

Recommendation 11: Amend Section 56 of the FMA so that the Treasurer's approval is sought where the name of a sub-department is to be altered, and establishment, alteration of designation and abolition of a sub-department is published in the *Government Gazette*.

Special Purpose Accounts established under legislation

Section 10(e) of the FMA provides that the Treasurer's special purpose account (TSPA) comprises any account established under legislation and determined by the Treasurer to be a TSPA.

In practice, the Treasurer's determination is not separately sought where a TSPA is established under section 10(e). It is therefore recommended that section 10(e) be amended where appropriate to reflect current practice.

However, any amendment to the FMA should provide the Treasurer with enough flexibility to determine that an account is a TSPA in case of any defect or ambiguity in legislative provisions establishing such accounts.

Recommendation 12: Amend section 10(e) of the FMA so that accounts established under legislation are stated in the legislation to be a Treasurer's special purpose account, but also enabling the Treasurer to make such a determination where there is any legislative ambiguity.

Payments to Special Purpose Accounts

Section 18(1) of the FMA specifies the moneys to be credited to a special purpose account:

(a) any money required or authorised by this Act or another written law to be credited to the account;

(b) any money appropriated by an Act for the purposes for which the account is established, or paid or advanced for those purposes under section 24 or 28 of the FMA or a Treasurer's Advance Authorisation Act;

(c) any money that may be retained by the agency that operates the account because of a determination under section 23 of the FMA; and

(d) any money, not mentioned in another paragraph of this subsection, lawfully received for the purposes for which the account is established.

Section 18 of the FMA is regarded as a default provision in determining the moneys that may be credited or charged to a special purpose account. This is of particular relevance to special purpose accounts established under legislation so that from a legal perspective there is no need to include such provisions in each Act, unless there are exceptional circumstances relating to that special purpose account which are not covered by the general provision of section 18. This also has significance for agency operating accounts established under section 16(1)(a) of the FMA given that they do not require an accompanying special purpose statement.

It has been identified that the exclusion of new and supplementary funding (section 27 of the FMA) in section 18(1) of the FMA is a legislative anomaly given that the provision clearly intends to include such moneys. While this is likely to be captured under either section 18(1)(a) or (d), for certainty and consistency, it is considered that section 18(1)(b) include a reference to section 27 of the FMA.

Recommendation 13: Amend section 18(1) (b) of the FMA to include an explicit reference to section 27 of the FMA to make it clear that new and supplementary funding is to be credited to a special purpose account.

Appropriation Bills 3 and 4 – Supplementary Appropriation Bills

Section 27 of the FMA provides the mechanism for the Governor and the Treasurer to approve, respectively, an expenditure for which there is no existing appropriation (new item) or additional funding where an appropriation is insufficient (supplementary funding).

Section 27(4) of the FMA requires that any new or supplementary payments authorised under section 27(1) or (2) of the FMA must be charged to the CA and provided for in an Appropriation Act in the next or a later financial year (referred to as Supplementary Appropriation Acts).

The 2012 FMA Review considered whether the requirement of section 27(4) of the FMA to inform Parliament of expenditures under section 27(1) or 27(2) could be done outside an Appropriation Act. The review recommended (Recommendation 14) that the existing Treasurer's Advance arrangements are to remain in place, because section 72 of the *Constitution Act 1889* requires all charges to the CA to be appropriated by statute and therefore, it was considered that there is no scope to amend section 27(4) without breaching this Act. The JSCA did not support the recommendation by noting that the Supplementary Appropriation Bills from 2010-11 to 2015-16 had not been approved by Parliament at the time of being reviewed by the JSCA.

The JSCA made a recommendation (Report 7 – August 2016 : Recommendation 6) that the Treasurer amend the FMA to require the Treasurer to introduce, within three months of the actual amount of spending in the previous financial year being known, the Bills to appropriate funds. At the time, the Government response to the JSCA report did not support the recommendation as the introduction of supplementary appropriation bills can often be stymied by emerging or competing urgent issues.

This issue was then re-considered as part of the 2017 Review, and it is recommended that section 27(4) of the FMA be amended to provide for an automatic appropriation (standing appropriation) of all expenditure authorised under section 27(1) and 27(2) of the FMA in a financial year. This amendment would include a requirement that the Treasurer report all such expenditure to Parliament within a specified time frame. In this regard, the recommendation will ensure the constitutional requirements are met whilst establishing appropriate accountability and transparency to Parliament.

Recommendation 14: Amend section 27(4) of the FMA to provide for an automatic appropriation (standing appropriation) of all expenditure authorised under section 27(1) and 27(2) of the FMA in a financial year. The amendment is to include a mechanism for the relevant portfolio ministers to notify Parliament on the expenditure already spent.

Initiatives to Provide Greater Flexibility for Managing the State's Finances

A number of amendments to the legislative framework have been identified that will provide increased flexibility for managing the State's finances particularly in the current environment of fiscal constraints.

Payment of interest to the Road Trauma Trust Account

The general principle in the FMA is that all interest earned from the PBA is to be paid into the PBA and credited to the CA.

However, the Treasurer has discretion to make interest payments to special purpose accounts at the rate determined by the Treasurer under section 38(5). In this regard, there are currently a number of special purpose accounts that are credited with interest. The Treasurer's broad discretion to pay or not to pay interest does not extend to the Road Trauma Trust Account (the Account), as specified in section 38(10) of the FMA. The current wording of the FMA and the *Road Safety Council Act 2002* (RSCA) removes the Treasurer's discretion, and the Treasurer in effect, must make interest payments to the Account.

Prior to 1 July 2011, the Account was credited with one-third of vehicle infringement penalties, and then under legislative amendment increased to two-thirds to 30 June 2012 and subsequently to 100 per cent thereafter. Given the increase in revenues hypothecated to the Account over time, it is timely to review the underlying policy intent to ensure that it is consistent with contemporary financial management practices in the current fiscal environment.

Therefore, to provide sufficient flexibility and to enable better management of the State's public finances in the current fiscal context, it is proposed to repeal section 38(4) of the FMA which will give the Treasurer the discretion as to whether interest is to be paid into the Account. It is noted that the proposed amendment will not change the current practice of crediting the Account with interest. However, it will provide the Treasurer with the discretion whether to make interest payments or not, consistent with the general intent of the FMA.

Recommendation 15: Repeal section 38(4) and amend section 38(9) and (10) of the FMA, and any consequential amendments to the *Road Safety Council Act 2002* to provide the Treasurer with discretion to credit the Road Trauma Trust Account with interest.

Loan Act and future Loan Bills

The Treasurer borrows from WATC on behalf of the State for general public purposes. Borrowings for general public purposes are authorised by Loan Acts. The proceeds of all loans raised by the Loan Acts are paid into the CA.

CA borrowing requirements have increased substantially over recent years, driven by the State's asset investment program and the volatility and decline in general government revenues since 2013-14. Interest expenses have increased commensurately with the growing debt portfolio, and are forecast to continue to rise.

Each Loan Act authorises borrowing up to an 'aggregate amount'. This has been interpreted to mean that once the specified amount has been raised, no further borrowings may be made under the authority of that particular Act, irrespective of any temporary repayments. In other words, any amount repaid cannot be re-borrowed without it being treated as additional new debt, thereby reaching the authorised limit sooner.

The Loan Act restricts the use of short-term cash surpluses that accumulate within the PBA to temporarily repay debt for later re-borrowing. These surpluses frequently occur through timing mismatches between revenues and expenses over the year. As surplus cash is invested in the PBA rather than applied towards the repayment of debt, the State incurs a 'cost of carry' arising from the interest earned on investments being less than the interest paid on borrowings. (Effectively, the State borrows long-term and invests short-term, and this results in a cost of carry under most interest rate scenarios.)

Amending the Loan Act to allow temporary repayments will also encourage better planning with regard to the mix of debt securities and the ability to match borrowings to draw-downs. If borrowings could be drawn and repaid in the short-term until the debt was needed longer-term, more efficient liquidity management outcomes could be achieved by delaying the allocation of debt to the long-term borrowing portfolio until it is necessary.

Recommendation 16: Amend the Loan Act and future Loan Bills to allow temporary debt repayment and re-draw of borrowings.

Investment by agencies

Section 39 of the FMA provides for agencies to invest money that is not public money, or invest statutory authority money in the 'same manner' as money in the PBA is invested under section 37 of the FMA.

This section is problematic for two reasons.

Firstly, under section 37 of the FMA, the PBA portfolio is invested by the Treasurer in a manner prescribed by the *Financial Management Regulations 2007*. Investment and credit policies approved by the Treasurer prescribe an investment strategy comprising a diverse and wide range of investments suitable to the considerable size and risk minimisation nature of the PBA portfolio. However, this investment strategy would not be suitable for individual agencies given the material difference in scale and risk profile.

Secondly, and more importantly, the general intent of the FMA is for agencies to operate within the PBA (section 13(2) of the FMA) as far as practicable, even though it has become apparent that there are agencies that are legislatively authorised to invest funds outside the PBA. Potentially, section 39(1) to (4) of the FMA could lead to greater fragmentation and a sub-optimisation of Government's investment returns. Section 39(1) to (4) is therefore inconsistent with the FMA's general intent and further consideration is warranted to determine if these provisions should be amended or repealed.

On the other hand, section 39(5) and (6) of the FMA should be retained as this will enable statutory authorities with bank accounts that do not form part of the PBA to transfer money into the PBA for investment under section 37 of the FMA. These provisions facilitate alignment with the intent of the FMA.

Recommendation 17: Amend or repeal section 39(1) to (4), but retain sub-sections (5) and (6) of the FMA to provide statutory authorities with flexibility to invest in the PBA if their moneys are held in bank accounts outside the PBA.

Payments before supply granted

Section 24 of the FMA states that if no supply is granted in time to meet the requirements of the next financial year (that is prior to 30 June) via the annual Appropriation Acts, then the Treasurer may charge the CA for payments and advances to be incurred at the start of the next financial year (current year) equal to 20 per cent of the total amount appropriated in the previous year by the Appropriation Acts. This is subject to payments and advances being for purposes specified in the previous Appropriation Act, or for which expenditure was authorised under section 27 (new items). Additionally, the Treasurer's authority ceases at the end of the first two months of the current year, or on the commencement of the Supply Act, whichever occurs first (section 24[3]).

The purpose of the Supply Act is to fund the core activities of government agencies until the commencement of the annual Appropriation Acts.

Automatic supply is considered necessary because, as a matter of course, the Appropriation Bills are introduced in May and have consistently completed passage through Parliament after 30 June. The two month limit is intended to provide government with sufficient flexibility to meet its requirements for the first two months of the current year and factors in parliamentary debate and estimates hearings in respect of current year Appropriation Bills.

However, a Supply Act will be necessary if the current year Appropriation Bills are not enacted prior to 31 August. This is usually the case in an election year and in particular where there is a change of Government as occurred in March 2017 to which an Act to grant supply was required as it was clear there was not going to be a current year Appropriation Acts enacted by 31 August 2017.

It is considered that extending automatic supply to four months should only occur when there is a State election occurring every four years on the second Saturday of March under section 71 of the *Electoral Act 1907.* This would give Ministers time to critically examine the State's finances and at the same time remove the necessity for a separate Supply Act thereby imposing a more realistic timeframe. It is therefore recommended that in an election year that automatic supply be extended to cease at the end of the first four months of the current year and that any payments and advances to meet the requirements of the current year do not exceed in total an amount equal to 35% of the total amount appropriated for the previous year by the Appropriation Acts.

Recommendation 18: Amend section 24 of the FMA to automatically extend payments before supply is granted to a period of four months in an election year only and the payments do not exceed in total an amount equal to 35% of the total amount appropriated for the previous year by the Appropriation Acts.

Holding Account

Accrual appropriations were introduced in the 2001-02 Budget as part of a suite of financial reforms. The holding account was established as a mechanism to facilitate the operation of the accrual appropriation regime.

Under the accrual appropriation regime, agencies' appropriations reflect the full accrual cost of their services. However, to obviate agencies holding large cash balances that might not be immediately required for their intended purposes, the holding account is credited with certain non-cash components as part of service appropriations – i.e. depreciation expense and increase in leave liability (for annual and long service leave entitlements only). Under section 26 of the FMA, these non-cash components of an agency's appropriation are charged to the CA and credited to the holding account (a suspense account that is a TSPA).

It was anticipated that as agencies' holding account balances increased they would progressively fund the relevant commitments from drawing down from the account rather than being funded through appropriation.

Funding is only released by Treasury to an agency when a drawdown from the holding account has been duly approved under the accrual appropriation policy regime. Where commitments are funded from the holding account, there is a corresponding reduction in appropriations and consequently, there is no net financial impact on State Finances. Therefore, the existence of the holding account balance of itself does not impose any additional requirements on government to raise revenue or to borrow in terms of timing or amount.

However, the holding account balance has kept increasing over the years and stood at $10.8 billion at 30 June 2017 (while the Asset Investment Program for the total public sector was $5.9 billion in the 2016-17 Budget). A number of causes have been identified:

- insufficient drawdowns from the holding account, including funding asset replacement through new capital appropriations rather than via holding account drawdowns;
- overestimation of depreciation expense by some agencies;

- non-replacement of assets; and
- timing of asset replacement beyond the forward estimates period.

In response, it has been proposed that the Treasurer be provided with the discretion to return all or part of holding account balances (or other suspense account balances) to the CA through an amendment to section 26(3) of the FMA.

Recommendation 19: Amend section 26(3) of the FMA to enable the Treasurer to direct all or part of the balance standing to the credit of the holding account (or other suspense account) to be paid or returned to the CA.

Conclusion

The overarching objectives of the FMA are to provide for 'the management, administration and reporting of the public finances of the State, and for related purposes'.[6] Responsible governance and effective delivery of government services is predicated on a sound financial management framework. The FMA complemented by the AG Act and statutory authorities' enabling legislation provides the regulatory framework to promote the responsible administration of public funds.

The TIs and Regulations provide direction and guidance for the collection, custody and expenditure of public finances, preparation of annual reports and to ensure consistency in financial statement presentation.

The review of the FMA required by section 85 has confirmed that there is a clear need for the FMA to continue. However given that this is the second review in 10 years it is considered that less frequent reviews are now appropriate. The prompt implementation of the 2012 and 2017 Review recommendations will enhance control and accountability over the management of the State's public finances and will ensure a sound financial framework for agencies to deliver efficient and effective services. Overall, the 2017 Review has addressed a number of key areas in relation to financial management in Western Australia, it modernises financial management policies and practices, governance, budget management and financial reporting.

[6] *Financial Management Act 2006,* Long title.

Appendix A

Chief Finance Officer Reform Steering Group (CFORSG) Members (as at October 2017)

Name	Department	Title
Liam Carren	Department of Communities	Chief Financial Officer
Kaylene Gulich	Department of Treasury	Executive Director, Infrastructure & Finance
Mandy Taylor	Department of Primary Industries and Regional Development	Chief Financial Officer
Santa Cardenia	Western Australia Police	Acting Director, Business Strategy & Finance
David Goodwin	Department of Mines, Industry Regulation and Safety	Chief Financial Officer
Graeme Jones	East Metropolitan Health Service	Chief Financial Officer
Damon DeNooyer	Insurance Commission of Western Australia	Chief Financial Officer

Appendix B

Treasurer's Instructions Review

Issue	Recommendation
CFO Qualifications TI 824 'Qualifications of CFO, is responsible for the functions described in section 57 of the FMA. Since its introduction, it has been found that in some circumstances, agencies are sometimes unable to attract an applicant that is 'suitably qualified' necessitating the granting of exemptions. The current process for exemption is time consuming, requiring approval by the Treasurer, often in circumstances where there is no other option available to the agency.	Retain the current TI arrangements, but consider giving permanent exemptions to certain agencies for the position.
Furthermore, TI 824 applies to occupants acting beyond a limited time (i.e. 3 months). It has been questioned whether an acting CFO for more than 3 months should be subject to TI 824.	Given the inherent risk in longer term acting CFOs not being able to discharge their obligations under section 57 of the FMA, it is considered appropriate for occupants acting as CFO beyond a limited time be subject to TI 824.
Authorisation of Payments and Payment Records The authorisation of payments (TI 304) and payment records (TI 308) form an important part of an internal control framework and governance of agencies. It has been found that the current framework is outdated, over prescriptive and does not cater sufficiently for modern procurement and payment systems.	Streamline the TIs into a coherent and less prescriptive framework that can be applied by agencies to suit their own individual business and organisational circumstances, but maintain appropriate internal controls.
Debt Write-off Limited ability to write-off debt between government agencies – TI 807	Develop guidelines for agencies through a TI, to apply the requirements under section 48 of the FMA and TI 807.

Issue	Recommendation
Employment and Pay Records The suite of TIs relating to employment and pay records (TIs 501-515) have not been reviewed for more than 10 years and based on general feedback from agencies, it was considered timely for these TIs to be reviewed. It has been found that the TIs are outdated, overly prescriptive and do not necessarily cater sufficiently for modern payroll systems.	TIs 501 to 515 to be revoked by the Treasurer, with amendments to TI 701 'Financial Management Manual' and TI 825 'Risk Management and Security' (where appropriate), to link to relevant industrial relations legislation and to ensure agencies have appropriate risk management policies in place.
Risk Management and Security TI 825 'Risk Management and Security' concerns the need for managers to focus on material risks at all levels of the organisation and take necessary action to manage those risks. Feedback from agencies is the TI is considered to be too detailed and that risk management is not necessarily a sole financial management issue. The TI currently covers a much broader scope than financial risk management.	TI to be revised to only focus on financial risk management, consistent with the objects of the FMA and in particular section 57(2)(c) of the FMA.

Appendix C

Recommendations from the March 2014 Report

Recommendation	Proposed Legislative Amendment	Status of Proposed Amendment
1	The FMAshould be retained.	N/A
	Expense Limits	
2	Amend existing provisions relating to Resource Agreements (sections 41-46) and functions of accountable authorities (section 53) within the FMA to reflect the intent that accountable authorities must comply with their approved expense limit. Accountability for compliance should rest with the accountable authority.	Progressed as part of the 2017 FMA Review.
3	That any breach of Recommendation 2 by an accountable authority may invoke the disciplinary provisions of the *Public Sector Management Act 1994*.	Progressed as part of the 2017 FMA Review.
	Control and Authorisation of Major Expenditure	
4	Amend the FMA to include a provision that requires prior approval of funding before an officer (on behalf of their agency) enters into a significant financial commitment.	Progressed as part of the 2017 FMA Review.
5	That any breach of Recommendation 4 by an officer may invoke the disciplinary provisions of the *Public Sector Management Act 1994*.	Progressed as part of the 2017 FMA Review.

Recommendation	Proposed Legislative Amendment	Status of Proposed Amendment
6	Amend the FMA and Treasurer's instructions to place an obligation on the accountable authority to establish and maintain a comprehensive framework of delegations and authorisations and a requirement to maintain proper records and documentation of the same.	Progressed as part of the 2017 FMA Review.
7	Amend the FMA to require all budget dependent agencies to formally notify their Minister and the Treasurer in the event of financial difficulty.	Progressed as part of the 2017 FMA Review.
8	1. Remove the public universities in Western Australia from the purview of the FMA. 2. That the requirements for universities to present their annual reports to Parliament and be subject to audit remain with these requirements included in each university's enabling legislation.	Not progressed. Not a contentious issue and whilst considered worthwhile pursuing is not a high priority because the impact is not sector-wide.
9	Abolish the WA Building Management Authority (WABMA) and repeal the relevant provisions of the *Public Works Act 1902*.	Not progressed. The Department of Finance expressed concerns around abolishing WABMA as contracts are still in place.
10	Amend section 61(1)(b) of the FMA to allow the Treasurer discretion to exempt agencies from reporting key performance indicators in their annual report where appropriate.	Progressed as part of the 2017 FMA Review.
	Public Sector Bank Accounts	
11	Amend the FMA to enable the Treasurer to approve that an agency can establish and operate a bank account jointly with a third party.	Not progressed. No longer considered to be an issue.

Recommendation	Proposed Legislative Amendment	Status of Proposed Amendment
12	Amend the *Western Australian Treasury Corporation Act 1986* to remove any doubt that the WATC can accept money from the Treasurer for the purposes of investing the Public Bank Account.	Progressed as part of the 2017 FMA Review.
	Funds Management	
13	Amend sections 27 and 29 of the FMA by deleting the reference to 'extraordinary or unforeseen matters'.	Progressed as part of the 2017 FMA Review.
14	The existing Treasurer's Advance arrangements are to remain in place.	N/A
15	Amend section 29 of the FMA so that the three per cent limit for Treasurer's Advances applies to the actual amounts expended rather than the total amount authorised.	Not progressed. No longer considered to be an issue.
16	Amend section 48 of the FMA so that write-offs in excess of the prescribed amount can be written off by the Governor with the prior approval of the Minister.	Progressed as part of the 2017 FMA Review.
17	Amend section 38(7) of the FMA to allow the Treasurer to authorise the payment of interest on public money direct from the Public Bank Account Interest Earned Account.	Not progressed. No further action as the policy decision is that Government should not be paying interest. The existing provision is in keeping with current policy.
	Functions and Responsibilities of Accountable Authorities	
18	Amend section 57(1)(a) of the FMA to allow for the chief finance officer function of an agency to be outsourced to another agency.	Progressed as part of the 2017 FMA Review.
	Financial and Performance Reporting	

Recommendation	Proposed Legislative Amendment	Status of Proposed Amendment
19	Amend section 61 of the FMA to provide that when agencies that are under the FMA and their enabling legislation are to prepare an annual report or special report, that the dual obligation can be discharged through the annual report requirement under section 61 of the FMA.	Progressed as part of the 2017 FMA Review.
20	Treasury to review the reporting requirements for all statutory authorities and departments and simplify requirements where possible.	Progressed as part of the 2017 FMA Review.
21	The inclusion of a specific requirement in the FMA for mandatory reporting of instances of non-compliance with policies and standards by accountable authorities is not recommended as there are adequate alternative mechanisms for disclosure.	N/A
22	Ensure that the definition of 'subsidiary body' in the FMA is consistent with recent amendments to Australian Accounting Standard AASB 10 *Consolidated Financial Statements*.	Progressed as part of the 2017 FMA Review.
23	Amend section 60(1)(a)(i) of the FMA by deleting the words 'by an instrument' to provide clarity to the definition of 'affiliated body'.	Progressed as part of the 2017 FMA Review.
24	That the proposal to allow consolidation of agencies' annual reports not proceed.	N/A
	General Issues	

Recommendation	Proposed Legislative Amendment	Status of Proposed Amendment
25	Amend section 82 of the FMA to limit its application to situations where the Minister declines to provide information on the basis of commercial confidentiality.	Not progressed. Limiting the application of section 82 to commercial confidentiality is likely to result in many other Parliamentary questions being out of the scope of the provision even if the Minister declines to provide the information requested.
26	Amend section 82 of the FMA to extend its scope to include subsidiary, related and affiliated bodies.	Not progressed. A subsidiary, related or affiliated body would be subject to section 82 if the activities of that body closely linked to, and have such an impact upon, the conduct or operation of an agency.
27	Amend section 80 of the FMA so that Act of Grace payments, in excess of the prescribed amount, can be approved by the Governor, with the prior approval of the Treasurer.	Progressed as part of the 2017 FMA Review.
28	Amend Treasurer's instruction 319(2) to reflect the change to section 80 (Recommendation 27).	Progressed as part of the 2017 FMA Review.
29	1. Approval for minor Act of Grace payments to remain though the Treasurer and the Governor. 2. Treasury to examine whether the current Act of Grace administrative arrangements can be streamlined through the Treasurer's instructions.	1. Requires no further action. 2. Progressed as part of the 2017 FMA Review.
30	Amend section 83 of the FMA and similarly affected statutory authorities' legislation to address the tabling of agencies' annual reports and special purpose reports when the House of Parliament is not sitting towards the end of the prescribed tabling period.	Progressed as part of the 2017 FMA Review.

Recommendation	Proposed Legislative Amendment	Status of Proposed Amendment
31	Review the definitions of 'department', 'sub-department' and 'deemed department' in the FMA and the *Public Sector Management Act 1994* (PSM Act) to ensure there is consistency between the two statutes.	Not progressed To be undertaken concurrently with the proposed review of the PSM Act. Large body of work in itself, subject to available resources.
32	That the inclusion of a provision in the FMA requiring the Minister to approve out of court settlements not be adopted.	N/A
33	Amend section 52(1) of the *Legal Aid Commission Act 1976* to remove the reference to the Legal Aid Fund of Western Australia being a special purpose account and to reinstate it to the same standing that it had prior to the enactment of the *Financial Legislation Amendment and Repeal Act 2006*.	Progressed as part of the 2017 FMA Review.
34	Amend section 152 of the *Biosecurity and Agriculture Management Act 2007* to ensure the Treasurer's approval is sought prior to research bodies entering into company arrangements.	Progressed as part of the 2017 FMA Review.
35	Amend the *Biosecurity and Agriculture Management Act 2007* to specify that the general powers and functions are to be performed by the Minister or the chief executive officer, rather than the Western Australian Agriculture Authority, in line with the approach adopted in the *Fire and Emergency Services Act 1998*.	Not progressed. The former Department of Agriculture and Food WA has agreed to take responsibility for amendments to their legislation.

Recommendation	Proposed Legislative Amendment	Status of Proposed Amendment
36	Amend section 126 of the *Transfer of Land Act 1893* to remove the Treasurer's role when a mortgagor cannot be located, ensure the moneys are managed by the department administering the Transfer of Land Act 1893. In addition, any unclaimed moneys to be managed under the *Unclaimed Money Act 1990*.	Progressed as part of the 2017 FMA Review.