

The Auditor-General
Audit Report No.33 2009–10
Performance Audit

Building the Education Revolution—Primary Schools for the 21st Century

Australian National Audit Office

© Commonwealth
of Australia 2010

ISSN 1036-7632

ISBN 0 642 81124 5

COPYRIGHT INFORMATION

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth.

Requests and inquiries concerning reproduction and rights should be addressed to:

Commonwealth Copyright
Administration
Attorney-General's Department
3-5 National Circuit
Barton ACT 2600

<http://www.ag.gov.au/cca>



Canberra ACT
5 May 2010

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit in the Department of Education, Employment and Workplace Relations in accordance with the authority contained in the *Auditor-General Act 1997*.

Pursuant to *Senate Standing Order 166* relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *Building the Education Revolution—Primary Schools for the 21st Century*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian McPhee', is positioned above the printed name.

Ian McPhee
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

For further information contact:
The Publications Manager
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Telephone: (02) 6203 7505
Fax: (02) 6203 7519
Email: webmaster@anao.gov.au

ANAO audit reports and information about the ANAO are available at our internet address:

<http://www.anao.gov.au>

Audit Team

David Rowlands
Mark Simpson
David Slattery
Kate Cummins
Tom Clarke

Contents

Abbreviations.....	7
Glossary	8
Summary	9
Summary	11
Introduction	11
Audit objective.....	13
Overall conclusion.....	14
Key findings by chapter.....	18
Summary of agency response	26
Audit Findings and Conclusions	29
1. Introduction	31
Background	31
Building the Education Revolution	39
Improving economic conditions.....	44
Scrutiny of the stimulus measures	44
The audit	46
2. Institutional Arrangements	49
Overview	49
New federal financial relations framework	49
Establishing governance arrangements.....	58
3. Developing Program Rules	66
The importance of program rules.....	66
Authority for BER P21	66
Development and approval of program rules.....	67
Disseminating the program rules to Education Authorities	84
4. Assessing and Approving Funding Allocations.....	86
Overview	86
Assessing eligibility for funding	87
Assessing and approving the allocation of funding to Education Authorities and schools.....	95
5. Funding the Program	109
Development of the proposal	109
Costing of the proposal	111
DEEWR's approach to implementation.....	117
The request for more funds for BER P21.....	119
6. Performance Monitoring and Reporting.....	124
Overview	124
Developing performance monitoring arrangements for BER P21	125

Monitoring BER P21 performance	127
Reporting program performance to stakeholders	146
7. Indicators of Program Progress	152
Overview	152
Stimulus effects—progress to date	152
Value-for-money considerations	160
Program effects on teaching and learning outcomes	167
Appendices	169
Appendix 1: Comments on the proposed report.....	171
Appendix 2: ANAO survey of primary school principals	182
Survey method	182
Survey results	184
Appendix 3: Coordination arrangements for the Nation Building and Jobs Plan.....	194
Series Titles.....	197
Current Better Practice Guides	200

Abbreviations

ANAO	Australian National Audit Office
BER	Building the Education Revolution
BGA	Block Grant Authority
COAG	Council of Australian Governments
DEEWR	Department of Education, Employment and Workplace Relations
ERC	Expenditure Review Committee
FAQ	Frequently Asked Questions
Finance	Department of Finance and Deregulation
FMA Act	<i>Financial Management and Accountability Act 2007</i>
GDP	Gross Domestic Product
IGA	Intergovernmental Agreement
MYEFO	Mid-Year Economic and Fiscal Outlook
NPA	National Partnership Agreement
NSP	National School Pride
OCG	Office of the Coordinator-General (in PM&C)
OECD	Organisation for Economic Cooperation and Development
P21	Primary Schools for the 21st Century
PM&C	Department of the Prime Minister and Cabinet
SLC	Science and Language Centres
SPBC	Strategic Priorities and Budget Committee of Cabinet

Glossary

Block Grant Authority	Bodies that represent non-government schools in the states and territories for capital funding purposes. There are 14 Block Grant Authorities (BGAs), one for each of the two territories that represents both the Catholic and independent sectors, and two in each state (one for independent schools and another for Catholic schools).
Education Authorities	Comprise the eight state and territory education departments representing the government education sector and the 14 Block Grant Authorities representing the non-government education sector.
Building the Education Revolution program	The \$16.2 billion BER program is the largest spending component of the Australian Government's Nation Building and Jobs Plan. The program, which was announced on 3 February 2009 (with funding at that time of \$14.7 billion), consists of the following three elements: Primary Schools for the 21st Century (P21) element, which is providing iconic new facilities in Australian primary schools, the National School Pride (NSP) element that is providing minor capital works and refurbishment projects in all eligible Australian schools; and the Science and Language Centres for 21st Century Secondary Schools (SLC) element, which is providing for the construction of new, or the refurbishment of existing, science laboratories or language learning centres in secondary schools.

Summary

Summary

Introduction

1. The onset of the global financial crisis in 2008 caused a severe loss of confidence, not only in the financial sector, but also in households and businesses around the world. The crisis has been attributed to a range of factors including: the sudden end of the United States housing boom; novel debt financing arrangements; and weaknesses in regulatory oversight. The result was a period of worldwide economic downturn and a prospect of rising unemployment in many countries.
2. In response, many governments around the world have adopted fiscal measures to support employment and economic recovery. There has also been coordinated international action through the Group of Twenty (G-20) countries, of which Australia is a member, to provide liquidity, address regulatory deficiencies, unfreeze credit markets and ensure that international financial institutions are able to provide support for the global economy.¹
3. Domestically, the Australian Government announced a series of stimulus measures in late 2008 and early 2009. The largest was the \$42.1 billion Nation Building and Jobs Plan, announced on 3 February 2009. To oversee the implementation of the Plan, the Government established a network of jurisdictional and sectoral coordinators headed by a Coordinator-General within the Department of the Prime Minister and Cabinet.²
4. The largest component of the Nation Building and Jobs Plan is the delivery of school infrastructure under the Building the Education Revolution (BER) program. The Government decided on school-based infrastructure spending because it has a number of elements that supported stimulus objectives, including:

¹ On 15 November 2008, the leaders of G-20 countries attended the *Summit on Financial Markets and the World Economy* to determine appropriate, coordinated action to restore global growth and achieve necessary reforms in the world's financial systems. Subsequent G-20 Leaders' Summits on the global financial crisis were held in London, in early April 2009, and Pittsburgh, in late September 2009.

² The Coordinator-General is responsible for working with administering agencies at the Australian Government and State/Territory level to support and monitor the implementation of key infrastructure and stimulus measures.

- it has the advantage of providing stimulus to almost every population area of the country, as the economic slowdown was expected to be geographically widespread;
- school land is available immediately without the need for planning approval, hence no planning delays were envisaged; and
- school infrastructure projects have low import content, which raises the domestic stimulatory impact.³

5. The objectives of the BER program are first, to provide economic stimulus through the rapid construction and refurbishment of school infrastructure and, second, to build learning environments to help children, families and communities participate in activities that will support achievement, develop learning potential and bring communities together.⁴

6. The program comprises three elements:

- Primary Schools for the 21st Century (P21), which initially provided \$12.4 billion (later, \$14.1 billion) for Australian primary schools to build iconic new facilities, such as libraries and multipurpose halls, or to upgrade existing facilities, by 31 March 2011⁵;
- National School Pride, which provided \$1.3 billion for minor capital works and refurbishment projects in all eligible Australian schools, to be completed by February 2010; and
- Science and Language Centres, which initially provided \$1 billion (later, \$821.8 million) for construction of new, or refurbishment of existing, science laboratories or language learning centres in secondary schools by 30 June 2010.

7. The Department of Education, Employment and Workplace Relations (DEEWR) was given responsibility for implementing the program, working

³ Gruen, D., 8 December 2009, *The Return of Fiscal Policy*: speech to the Australian Business Economists Annual Forecasting Conference, Canberra, p. 4.

⁴ Council of Australian Governments, 2009, *National Partnership Agreement on the Nation Building and Jobs Plan*, Canberra.

⁵ In October 2009, the Government agreed to rephase \$500 million of BER program funding from 2010–11 to 2011–12, with the Minister for Education, Employment and Workplace Relations provided with flexibility to allow construction completion deadlines to be varied where this would assist with the achievement of value-for-money outcomes. The rephasing means that some BER P21 projects will be completed after 31 March 2011.

through state and territory education departments and Block Grant Authorities (collectively referred to as ‘Education Authorities’) to facilitate the achievement of program outputs and outcomes.⁶ These Education Authorities are responsible for implementing the program in government and non-government schools respectively, including responsibility for ensuring that individual projects achieve value-for-money.

8. The BER program is being delivered under the new federal financial relations framework through the *National Partnership Agreement (NPA) on the Nation Building and Jobs Plan: Building Prosperity and Supporting Jobs Now*.⁷ The NPA sets out high level governance arrangements for delivery of the BER program in partnership with the states and territories, including: outputs and outcomes; roles and responsibilities; and performance benchmarks. The devolved delivery of the program by Education Authorities has been governed by the establishment of bilateral agreements with state and territory governments and funding agreements with non-government Education Authorities. These documents were drafted by DEEWR and are supported by BER Program Guidelines, with implementation plans submitted by Education Authorities to outline their delivery approaches.

Audit objective

9. The audit objective was to examine the effectiveness of the department’s establishment of the P21 element of the BER program. The focus of the audit was on: the establishment of administrative arrangements for BER P21 in accordance with government policy; the assessment and approval of funding allocations; and the arrangements to monitor and report BER P21 progress and achievement of broader program outcomes. An examination of individual BER P21 projects was outside the scope of the audit.

⁶ Block Grant Authorities (BGAs) are bodies that represent non-government schools in the states and territories for capital funding purposes. There are 14 BGAs, one for each of the two territories that represents both the Catholic and independent sectors, and two in each state (one for independent schools and another for Catholic schools).

⁷ The new framework for federal financial relations, which commenced on 1 January 2009, aims to provide clearer specification of the roles and responsibilities of each level of government so that the appropriate government is accountable to the community. It also aims to provide more transparent reporting of outputs and outcomes to drive better service delivery and reform.

Overall conclusion

10. The Building the Education Revolution (BER) program formed a major part of the Australian Government's response to the global financial crisis. At \$12.4 billion (later, \$14.1 billion), the P21 element of the BER program represented a doubling of recent levels of capital investment in schools and the single largest component of the Government's economic stimulus package.

11. BER P21 is a large, high profile program that required rapid establishment to maximise its stimulatory effect. In order for fiscal stimulus measures to have the desired stimulus effect on the economy, they need to be implemented expeditiously to ensure that the additional stimulus flows quickly into aggregate demand. Where infrastructure and public capital works projects can be implemented quickly, Treasury has advised that they are likely to boost aggregate demand in the short term and add to productive capacity over the longer term.⁸ The focus on quick implementation needed to be balanced with the objective of delivering quality, sustainable and value-for-money primary school infrastructure.

12. Establishment of the BER program involved what the Prime Minister described as a: 'feat of national organisation and planning [*that*] we haven't seen since the '40's.' The task facing DEEWR and Education Authorities was considerable, with infrastructure projects to be delivered in almost every school across the country within very compressed timeframes—as little as a third of the time usually set aside for school infrastructure projects. The program was also established within a new framework for intergovernmental program delivery that was untested for a program of this kind, and a coordination structure that added to the monitoring and reporting obligations on administering agencies.

13. There are some positive early indicators that the program is making progress toward achieving its intended outcomes. Lead economic indicators, including construction approvals, show that the introduction of BER P21 contributed to a reversal in the decline in non-residential construction activity that resulted from the global financial crisis. Education industry stakeholders, including peak bodies, Education Authorities and a substantial majority of school principals have also been positive about the improvement in primary school facilities that will result from the program.

⁸ Treasury advice, 9 April 2010.

14. To meet the challenging timeframe for the establishment of BER P21, DEEWR moved to ensure that governance and delivery arrangements were in place promptly. The department established a BER Taskforce to develop governance and delivery arrangements. This work comprised: drafting the BER Guidelines (publicly released in late February 2009) and negotiating bilateral/funding agreements with all Education Authorities (executed by mid-April 2009). Within six months from the program's announcement, DEEWR completed three funding rounds, approving 10 700 BER P21 projects in around 8000 schools. This represented a substantial body of work undertaken in a compressed timeframe.

15. The BER Guidelines, which were released in February 2009 and subsequently amended in August and September 2009, established targets applying to Education Authorities in relation to the commencement of BER P21 project activity.⁹ On the basis of these targets, which were developed following consultation with Education Authorities, DEEWR has advised that around 78 per cent of BER P21 projects met commencement targets.¹⁰ Construction on BER P21 projects has, however, progressed more slowly than originally intended by governments. Under the NPA, construction commencement milestones were established for each funding round, with all BER P21 projects to have commenced construction by 1 December 2009. Of the 10 700 approved BER P21 projects, 1995 projects (18.6 per cent) met the construction commencement milestones originally agreed by governments for each funding round.¹¹

16. The original government decision, and subsequent BER Guidelines, also established completion milestones for BER P21 projects, according to school size. Up to 18 months was allowed for the completion of projects in schools larger than 150 students, with seven months allowed for the completion of projects in smaller schools with 150 students or less. Eligibility for BER P21 funding was conditional on schools meeting agreed

⁹ Project commencement was defined as: *the undertaking of any action, post any design phase that incurs an expense covered by BER funding for that project.*

¹⁰ DEEWR has further advised that, as at 28 February 2010, 97 per cent of BER P21 projects have commenced.

¹¹ The delay in commencement of construction activity, in part, reflects the ambitious targets established for the program and the fact that implementing the number and range of construction projects for BER P21, from initial conception to completion and use, is complex, and entails time-consuming design, procurement and coordination among a large number of stakeholders. Delays also resulted from some of the approaches adopted for the establishment of the program.

commencement and completion milestones for building works. While the majority of milestones for project completion are yet to be reached, smaller schools in Rounds 1 and 2 of BER P21 were required to have completed their projects by 20 January 2010 (452 projects) and 28 February 2010 (1630 projects) respectively. DEEWR has advised that only 15 per cent of Round 1 projects (68 projects) and 8 per cent of Round 2 projects (131 projects) in smaller schools have been completed by the respective milestones set by the Government. Education Authorities have been able to seek extensions to the completion dates for BER P21 projects on a case-by-case basis. DEEWR has advised that 250 Round 1 projects (55 per cent) and 260 Round 2 projects (16 per cent) have had an extension to their completion milestones approved. This means that 34 per cent of Round 1 projects and 9.6 per cent of Round 2 projects have been completed in accordance with revised milestones.

17. In establishing the program, the Government decided on funding maxima per school depending on school size, and allocated \$12.4 billion to BER P21. However, within six months of announcing BER P21, the Government found it necessary to allocate a further \$1.7 billion to the program. Essentially, the original BER P21 budget was based on an underlying assumption that BER P21 as a whole would be completed for 90 per cent of the cost of providing the maximum funding for each school. In establishing the program, the approach adopted made maximum per school funding available to all schools. As was evident to DEEWR at the outset, this approach would require greater overall funding than had been formally approved by government. In the normal course of events, particularly when the increase in funding is likely to be substantial, administering agencies would be expected to return promptly to government to outline the case for additional funding and seek formal approval. However, in the case of BER P21, Ministers comprising the Strategic Priorities and Budget Committee of Cabinet (SPBC) advised that they understood schools would be able to undertake a project or a number of projects to fully utilise the amount of funds allocated to the school based on school size; they were aware from the outset that the BER P21 funding envelope represented only 90 per cent of possible expenditure; and it was therefore evident and transparent to SPBC ministers that, depending on the response of schools, a budget estimates variation may be required. Ultimately, additional funds for the program were reallocated by the Government in August 2009 through an estimates variation from the budgets of other economic stimulus measures, including by reducing the Science and Language Centres element of the BER program, and from an existing DEEWR

appropriation. In addition, the Government decided to reduce the funding for the social housing program and to close the Low Emission Assistance Plan for Renters (both programs under the National Building and Jobs Plan), and collectively these decisions provided \$1.4 billion in offsetting savings to the additional funding for BER P21.

18. The establishment of the BER program, in the context of the financial crisis and need for a prompt government response, meant that implementation issues were more likely to arise due to the limited time available for policy development and program planning. This was acknowledged by the Government at the time delivery arrangements were announced. It was, therefore, important for DEEWR to develop effective arrangements for collaboration both with other Commonwealth agencies and with the Education Authorities responsible for delivering the program.

19. Consequently, in implementing a program of this kind there is a premium on sound governance which balances control and flexibility, and maintains clear lines of responsibility and accountability. DEEWR's governance arrangements have ensured that BER P21 is delivering improved education facilities to almost all primary schools in Australia, in line with government policy objectives. Nevertheless, administrative decisions taken by the department in establishing BER P21, while designed to drive delivery of the program by Education Authorities, have unduly constrained the flexibility of authorities to determine how the program will be delivered within their jurisdictions to achieve the intended objectives and increased the administrative effort necessary to deliver the program.¹²

20. A concern to treat all participants in a comparable manner, given the policy focus on individual Australian primary schools, led the department to adopt a largely uniform approach to govern its relationships with government and non-government Education Authorities. These authorities are responsible for large school systems (such as government schools), small school systems (such as Catholic schools), and independent schools. The department used contracts, program guidelines and administrative decisions to establish a range of program-specific rules and requirements to influence the delivery activities of Education Authorities.

¹² The Australian Government provides Education Authorities with an administration payment of 1.5 per cent of total jurisdictional funding to cover the discharge of their responsibilities under the NPA.

21. The adoption of this approach for states and territories expanded DEEWR's role in service delivery and, as such, was not in step with the thrust of recent reforms to the delivery of intergovernmental programs—that is to reduce prescriptive rules on how services are delivered through a focus on mutually agreed outputs and outcomes. While designed to give effect to the objective of the stimulus package, the approach adopted by the department has reduced the capacity of school systems to take account of system priorities and the differing needs of schools in their systems, within the Australian Government's policy parameters for the program. Additionally, some of the administrative arrangements put in place by the department were unduly complicated and time-consuming for Education Authorities. It was open to the department to have adopted a more streamlined approach to program delivery in consultation with Education Authorities, while still meeting the policy objectives of the program.

22. As BER P21 has been established, the ANAO has not made any recommendations to DEEWR concerning the implementation of the program. Nevertheless, the findings from this audit underline the need for departments to keep in view the balance between control and devolution in implementing an NPA under the new federal financial relations framework, compared to previous requirements. The audit also recognises that many of the issues arising were a function of the compressed timetable for the establishment of the program, given the prevailing economic downturn.

Key findings by chapter

Institutional arrangements (Chapter 2)

23. Delivery of programs that span Commonwealth, state and territory jurisdictions has been the subject of recent Council of Australian Government (COAG) reforms. The reforms aimed to enhance public accountability for service delivery by clarifying roles and responsibilities between levels of government and improving collaboration. Rather than dictating how things should be done, the new framework focuses on the achievement of mutually agreed outputs and outcomes, providing the states and territories with increased flexibility in the way they deliver services to the Australian people. These aims were articulated in an Intergovernmental Agreement endorsed by COAG, with further high level guidance on BER program roles, responsibilities and monitoring arrangements provided under the *National Partnership Agreement on the Nation Building and Jobs Plan*. The NPA, which was

prepared by the Department of the Prime Minister and Cabinet, incorporated more elaborate oversight and monitoring arrangements than adopted for other national partnerships due to the need to ensure timely implementation in support of stimulus objectives.

24. In developing the governance arrangements for the BER program, it was important for DEEWR to strike an appropriate balance between: the use of controls to ensure widespread economic stimulus activity across all regions through the construction of quality school infrastructure; and the flexibility needed by Education Authorities to determine the most appropriate delivery approaches to achieve outputs and outcomes at the local level within the overall objectives set for the program. Flexibility was important given the compressed timeframes established for the completion of BER P21 projects. It was also important for DEEWR's governance arrangements and program rules to take account of the differences between government and non-government Education Authorities, specifically the way in which school systems and independent schools are managed. This was necessary to ensure that arrangements and rules were tailored to support the delivery of infrastructure at each school, in accordance with the Government's policy parameters for BER P21, taking into account the range of delivery models that exist for education. A further consideration was the need to quickly adopt arrangements that catered for the intended stimulatory effect of the program and that were, as far as practicable, aligned with the standardised monitoring and reporting arrangements established for infrastructure programs under the Nation Building and Jobs Plan by the Coordinator-General.

25. There has been some inconsistency between arrangements generally outlined and agreed between governments, and the detailed arrangements established by DEEWR to deliver BER P21. While the department has indicated that it has employed a partnership model focusing on BER P21 outputs and outcomes in accordance with government reforms, it has increasingly used prescription to direct how Education Authorities deliver the program through the incorporation of detailed rules in the bilateral/funding agreements and guidelines, and additional monitoring and enforcement of compliance with those rules.¹³ While generally there is a natural tension between funding bodies and funding recipients regarding the balance of control and flexibility in administrative arrangements, concerns about the level

¹³ For example, see paragraphs 28, 32–3 and 41–2.

of prescription imposed by DEEWR in its management of the program have been highlighted by all government Education Authorities.

Developing program rules (Chapter 3)

26. Working within the parameters established by government and the NPA, DEEWR quickly established a framework for implementing the program in the form of bilateral/funding agreements and program guidelines. Education Authorities expressed varying degrees of satisfaction with the consultation undertaken at the outset by DEEWR to inform the development of the initial program guidelines.

27. Education Authorities recognised that the tight timeframes for implementing BER P21 precluded the opportunity for the type of consultation usually associated with designing an initiative of its size and complexity. They advised the ANAO that, overall, the guidelines provided a workable framework for delivery of the program. However, there were features of the guidelines, and subsequent revisions to them, that have created difficulties for Education Authorities. These included ambiguous definitions, operational rules not clearly stated, and detailed levels of prescription and control over funding allocation decisions.¹⁴ Some of these features have imposed an additional administrative burden on Education Authorities.

28. Generally, Education Authorities representing school systems (both government and non-government) informed the ANAO that they would have appreciated greater flexibility in the guidelines. A common criticism among non-government Education Authorities was that many difficulties could have been avoided if DEEWR had more effectively capitalised on the practices and knowledge within the department in the delivery of capital grants programs used to improve capital infrastructure. In addition the department had not established clear controls over the endorsement of changes to operational rules. As a result, there have been several occasions where the department introduced rules or rule changes that resulted in significant difficulties for Education Authorities, which required subsequent amendment or removal.¹⁵

¹⁴ DEEWR was making decisions on a case-by-case basis on matters such as what could be included in fit-out for BER-funded projects, including types of seating and facilities such as air-conditioning and grey-water irrigation systems.

¹⁵ An example was the inclusion in the program guidelines of a deadline for the commencement of on-site continuous construction.

29. Reflecting the time-constrained nature of the program DEEWR relied upon face-to-face meetings, regular teleconferences, phone and email to respond to queries and disseminate decisions quickly. Almost universally, Education Authorities considered departmental officers to be approachable, professional and responsive in dealing with these issues as they arose. With minimal additional effort, the department could have improved its documentation and dissemination of decisions made through these channels. DEEWR advised the ANAO that it has worked to improve its methods for communicating administrative decisions, including through the release of guidance memoranda to Education Authorities.

Assessing and approving funding allocations (Chapter 4)

30. The broad parameters of BER P21 were set by the original government decision, and the subsequent NPA, which was established within a framework for reform of Australia's federal financial relations system. These specified the indicative funding allocations attracted by schools of various sizes, and provided guidance about how funding allocations to Education Authorities and schools should be determined, including the level of flexibility that would be provided to Education Authorities to prioritise the use of available funding.

31. Within that framework, DEEWR was required to develop administrative rules to govern the allocation of funding to Education Authorities and their schools. To work effectively, it was necessary for those rules to provide a basis for accountability to the agreed parameters and objectives of the program while at the same time providing sufficient flexibility for Education Authorities to exercise their judgement about how these could best be achieved.

32. The delivery framework agreed by governments and existing government policies allowed scope for DEEWR to provide a degree of flexibility to Education Authorities to prioritise the use of available funding.¹⁶

¹⁶ The Government articulated its intentions about how allocations to schools would be determined in three key ways. The Government's stated objectives for reform of federal financial relations (discussed in Chapter 2) is that states and territories should be provided maximum flexibility to set their own funding priorities. The NPA between the Commonwealth and state and territory governments implies that flexibility would be provided, stating only that funding amounts would be 'based' on school size according to 'indicative caps' or 'indicative funding allocations.' However, the Government decision (made before the NPA) provides less flexibility, requiring that allocations to schools be based on their size, and could be varied, but only in exceptional circumstances.

This would have allowed the department to take account of demographic trends, age and quality of existing infrastructure and other factors within their planning frameworks while still meeting the Government's priorities for types of project and distribution and timing of stimulus. The approach adopted, and reflected in the BER Guidelines, has, however, unduly constrained Education Authorities' ability to exercise their judgement about funding priorities across school systems within overall objectives set for the program. This flowed from the strong emphasis on point-in-time student numbers as a basis for determining funding allocations and constraining the ability of education systems to allocate funding according to need; for example, to account for schools with growing or diminishing enrolments or with above or below average education facilities. This increased the likelihood of disparities between funding outcomes for schools with similar enrolments, but which fell into different enrolment bands or which fell into the same band but had different funding needs.

33. Requiring Education Authorities to obtain agreement from school principals to allocate funding less than the funding amounts indicated by their enrolments, or to reallocate unneeded funding to other schools, reduced the ability of school systems (such as government schools) to establish appropriate priorities for the investment across their systems within the policy parameters set by the Australian Government. The decision to delegate to employees (school principals) the authority to veto decisions made by their employers (school systems), introduced a model of accountability that runs contrary to existing arrangements for the delegation of decision-making authority within school systems. On some occasions this has resulted in conflict between principals and their system managers about funding entitlements and priorities, which has created some controversy and attracted negative publicity to the program.

Funding the program (Chapter 5)

34. When the Government announced BER P21 in February 2009, the program was expected to cost \$12.4 billion. However, in August 2009, the Government found it necessary to allocate a further \$1.7 billion to the program.

35. There was an inherent tension between the Government's policy intention of making maximum payments available to all schools and the total funding provided in its original decision. If all or nearly all schools applied for the maximum available funding amount per school announced in February 2009, then the cost of the program would have exceeded the funding originally

allocated. However, the ANAO has been advised that, at the time of the decision on the BER program, SPBC ministers were aware that the BER P21 funding envelope represented only 90 per cent of possible expenditure. Further, ministers advised that they had never intended to hold expenditure to an average 90 per cent of maximum amounts available to each school and that they had envisaged that a budget estimates variation may be required to provide more funding, depending on the response of schools.

36. During the development of the policy proposal, different views on the likely funding requirements flowed from different assumptions about how the program would operate. DEEWR, Finance and the Department of the Prime Minister and Cabinet (which was closely involved in finalising advice to ministers) did not clarify and agree policy parameters for the proposal before the costing was finalised. Consequential misunderstanding of the costing basis ensued.

37. DEEWR set about implementing the program with a view to allowing all schools access to maximum funding and it was aware, at the outset, of the demands for additional funding which would inevitably arise. In the normal course of events, administering agencies would be expected to return promptly to government to outline the case for additional funding and seek formal approval. However, in the case of BER P21, as indicated above, SPBC ministers have provided advice indicating that they were aware from the time of their original decision of the likelihood that an estimates variation may be required to provide more funding.

38. Ultimately, the need for the additional funding provided by the Government in August 2009 arose from most schools having sought the maximum payments available. It did not flow from any deficiencies identified in the procurement processes or other activities of Education Authorities in delivering the program, nor was it the result of more schools seeking to participate than had originally been forecast.

Performance monitoring and reporting (Chapter 6)

39. The responsibility for monitoring and reporting performance under the Nation Building and Jobs Plan is shared at the Commonwealth level by the Treasury, the Coordinator-General and DEEWR. The Treasury has responsibility for modelling and reporting on the economic effect of the plan, as well as other stimulus measures. The Coordinator-General is responsible for overall monitoring of the plan and performance reporting, with the monitoring

of each element under the plan assigned to administering agencies—DEEWR in the case of the BER program.

40. The Coordinator-General established an economic stimulus plan reporting framework by early April 2009, following consultation with jurisdictional coordinators-general and sectoral coordinators. The framework required administering agencies, including DEEWR, to report against a range of measures. This, in turn, required DEEWR to obtain regular progress reports from Education Authorities.

41. To inform its monitoring and compliance activities and meet its reporting obligations to the Coordinator-General, DEEWR developed a *Building the Education Revolution Monitoring and Performance Information Plan* and associated framework. The department commenced development of the plan in July 2009, with the plan finalised in late 2009. The reporting arrangements established by DEEWR under its plan were broadly consistent with the requirements of the Coordinator-General. However, the department has sought, through monthly reports, some project delivery information from Education Authorities that would be more appropriately obtained through implementation plans, consultation with authorities, and risk-based compliance work. This approach would ensure that DEEWR gained appropriate assurances over project delivery strategies employed by Education Authorities, while focusing routine reporting on the measurement of program progress. Further, the plan and framework were not in place sufficiently early to inform the department's initial consultations with the Coordinator-General on the appropriateness of monitoring arrangements, or to guide departmental monitoring activity over the establishment and early implementation phases of BER P21.

42. The design of the monitoring arrangements agreed between the Coordinator-General and DEEWR for BER P21 did not adequately reflect the devolved nature of the program implementation or acknowledge that detailed monitoring at the project level is most suited to arrangements between Education Authorities and schools. Under current arrangements, Education Authorities have provided DEEWR with a broad range of data, some of which the authorities were not well placed to collect or interpret, which the department and the Coordinator-General have been unable to use effectively to inform an assessment of program progress. A substantial majority of Education Authorities questioned the usefulness of some of the monitoring arrangements they were expected to undertake for the BER program. In particular, arrangements established to monitor the effect of the BER program

on employment have relied on data collected at the project level. This data cannot be aggregated in any meaningful way to inform an assessment of progress against BER program employment outcomes that would complement the macroeconomic modelling for the broader Nation Building and Jobs Plan undertaken by the Treasury. In instances such as this, where it has not been possible to obtain valid data to effectively assess progress against measures and outcomes established for the BER program in Schedule D of the NPA, it would have been prudent for DEEWR, in consultation with the Coordinator General, to advise government accordingly.

43. While there have been a number of reports produced on the BER program to date, including those prepared by the Coordinator-General and DEEWR, in addition to information reported directly to parliamentary hearings, these reports have not specifically assessed performance against measures established under the NPA. As a consequence, the reported performance does not provide stakeholders with insights into key stimulus indicators, such as the amount and timing of BER P21 funds that have been injected into the economy or the number of jobs created in local communities under BER P21. Furthermore, some of the indicators of program performance used by DEEWR and program stakeholders, such as the small number of concerns or complaints received by the department about the program, presented a limited measure of program performance.

Indicators of program progress (Chapter 7)

44. The size of the BER program coupled with the need to balance economic stimulus objectives with value-for-money considerations has led to public debate about the performance of the program. In balancing these objectives, tensions have arisen during the establishment phase of the program. These tensions have contributed to difficulties (in some cases) in obtaining rapid agreement about the amount of funding that should be allocated to different schools, and about the optimal use of funding by Education Authorities. Furthermore, the use of template building designs (as a means of meeting challenging construction deadlines and mitigating the risks of delays arising from design and procurement at the school level) have been less popular and have ultimately affected stakeholder views regarding value-for-money achieved under the program. The responsibility for achieving value-for-money for building works under BER P21 is, however, the responsibility of the Education Authorities having regard to the program guidelines.

45. In spite of the slower than expected implementation of the construction phase of the program and delays in the completion of projects in smaller schools, lead economic indicators show improvements in non-residential construction activity. Further, DEEWR has advised that 97 per cent of BER P21 projects had commenced by 28 February 2010.

46. Education industry stakeholders, including peak bodies, Education Authorities and a substantial majority of school principals, have been positive about the improvement in primary school facilities that will result from the program. Over 95 per cent of principals responding to the ANAO's survey indicated that they were confident that BER P21 funding would provide an improvement to their school, which would be of ongoing value to their school and school community.

Summary of agency response

47. The proposed report was circulated to relevant departments and stakeholders with a special interest in the report (as defined in the *Auditor-General Act 1997*) on 22 March 2010. A subsequent version of the proposed report, which incorporated amendments resulting from early feedback from recipients, was circulated on 13 April 2010.

48. Section 19(5) of the Auditor-General Act requires that the Auditor-General must, in the final report, include all written comments received from recipients of the proposed report, or an extract of the proposed report. Written comments for inclusion in the report were provided by DEEWR, the Department of the Prime Minister and Cabinet, and the former Commonwealth Coordinator-General. These comments are included in full at Appendix 1 to the report.

49. Where considered appropriate, the report has been amended in the light of comments received. In addition, where relevant information was provided by those people interviewed by the ANAO, this has been taken into account in the preparation of the final report. DEEWR also provided a summary of its formal comments, which is reproduced below.

Department of Education, Employment and Workplace Relations

The ANAO recognises the significant achievement by the Department to establish the Primary Schools for the 21st Century (P21) element of the Building the Education Revolution (BER) Program. Within seven months of the Government's decision to establish the Program, three funding rounds had been undertaken and around 10 500 projects were approved for 7900 schools.

This represents the largest and fastest school modernisation program in Australia's history.

Building the Education Revolution was a central plank in the Australian Government's response to the recent global recession. The ANAO identifies that the lead economic indicators show that the Building the Education Revolution has contributed significantly to the reversal in the decline in non-residential construction activity that resulted from the global financial crisis. The BER Program has so far contributed \$12.3 billion to the original and seasonally adjusted value of ABS Building Approvals over the eight months to February 2010. This is 76 per cent of the total allocation of \$16.2 billion to the program. The Building the Education Revolution program represents 31.3 per cent of the total value of non-residential building approvals (in seasonally adjusted terms) over the year to February 2010. BER represents a significant proportion of infrastructure stimulus projects and will achieve stimulus activity in every community in Australia. Projects are, on average, required to be delivered within half the time usually allowed for school infrastructure projects.

In its report the ANAO notes that the P21 element has doubled recent levels of capital investment in Australian primary schools. The ANAO indicates that there are signs that the Program is achieving its intended outcomes of supporting jobs and improving school infrastructure [paragraph 13]. Indeed, the ANAO's survey of school principals highlights that over 95 per cent of respondents were confident BER P21 would deliver ongoing value to their school and community [paragraph 7.33].

The Department specifically notes that the ANAO has not made any recommendations in this audit.

The Department has a different perspective from the ANAO on some issues.

The reporting regime including the collection of jobs information was developed by the Commonwealth Coordinator-General in consultation with the state coordinators-general and was considered the most appropriate approach. Once the reporting framework had been agreed between coordinators-general, it was the responsibility of education authorities and the Department to implement it according to their requirements. This included leaving estimates of overall numbers of jobs created by the Economic Stimulus Plan to Treasury.

The Department notes that the ANAO seeks, in part, to assess DEEWR's and education authorities' performance against a superseded performance measure when looking at the progress of projects. The correct measure of progress is that which is contained in the BER Guidelines. The Program guidelines, approved by the Minister for Education, required that all projects

should commence by 1 December 2009. As at 28 February 2010, 97 per cent of P21 projects had commenced.

While the Department welcomes the ANAO's survey of school principals, it has reservations about the methodology adopted in relation to "concerns and complaints" and notes that it and the state and territory education authorities have received a relatively small volume of complaints considering the size of the P21. As at 15 April 2010, there were 59 complaints made to DEEWR relating to P21. Information collected from state and territory education authorities in December 2009 indicated that there were approximately 30 complaints across all jurisdictions. All together this represents less than one per cent of P21 projects. In addition, the capacity to respond to complaints is being enhanced through the creation of a BER Implementation Task Force which was announced on 12 April 2010.

The ANAO has quoted selectively from Education Authorities in regard to the application of the inter-governmental agreement on federal financial relations. The Department is of the view that it has implemented the program in accordance with Government's policy and the NPA, which required unprecedented speed of construction in every community in Australia.

Audit Findings and Conclusions

1. Introduction

This chapter provides an overview of the financial conditions in 2008–09 that led to the Australian Government's deployment of stimulus measures, including the Building the Education Revolution—Primary Schools for the 21st Century program. The chapter also provides an outline of the audit.

Background

Deteriorating global financial conditions¹⁷

1.1 The onset of the global financial crisis in 2008 caused a severe loss of confidence, not only in the financial sector, but also in households and businesses around the world. The crisis has been attributed to a range of factors including: the sudden end of the United States housing boom; novel debt financing arrangements; and weaknesses in regulatory oversight. The result was a period of worldwide economic downturn and a prospect of rising unemployment in many countries.

1.2 The climate of uncertainty led to a large fall in household demand for manufactured goods and a resulting sharp fall in global industrial production in late 2008 and, ultimately, substantial contractions in Gross Domestic Product (GDP) in most of the major economies. At the time, the International Monetary Fund summarised the situation as follows:

The world economy is entering a major downturn in the face of the most dangerous financial shock in mature financial markets since the 1930s.¹⁸

1.3 In response, many governments around the world have used fiscal measures to support employment and economic recovery. There has also been coordinated international action through the Group of Twenty (G-20) countries, of which Australia is a member, to provide liquidity, address regulatory deficiencies, unfreeze credit markets and ensure that international

¹⁷ Information in this section was sourced in part from the Reserve Bank of Australia, Address by Malcolm Edey, Assistant Governor (Economic), to the Foundation for Aged Care Business Breakfast, 19 March 2009, *The Financial Crisis and its Effects*, available from <www.rba.gov.au> [accessed 30 November 2009].

¹⁸ Treasury advice, 9 April 2010.

financial institutions were able to provide critical support for the global economy.¹⁹

Effect on the Australian economy

1.4 As is well known, the Australian economy was not immune from the effects of the global financial crisis, with growth slowing and unemployment rising. Sharp falls on Australian equity markets led to household financial wealth falling markedly. A significant fall in consumer confidence in Australia led to a contraction in household consumption and flattening of dwelling investment, as households were less confident about their capacity to finance spending. The Australian economy was widely expected to fall into recession.

1.5 The crisis also affected the Australian corporate sector. Businesses faced tighter credit conditions and higher funding costs, and falling asset prices also raised the cost of capital funding from the share market. Business conditions generally, and investment intentions specifically, were subdued.

1.6 The Government's budget position has also been affected, with a decrease in taxation revenues and an increase in expenses. The Government reported that the consolidated fiscal balance for the year ended 30 June 2009 was a deficit of \$30 billion, which can be contrasted with a surplus of \$22.3 billion in the preceding year. The Government also reported that the change in its financial performance and position since 2007–08 primarily reflects the adoption of fiscal stimulus packages aimed at cushioning Australia's economy from the effects of the global recession.²⁰

1.7 Despite the wide ranging and substantial effect of deteriorating financial conditions on the economy at the time, the Government expected that Australia would withstand global pressures better than most other countries. This view was based on perceptions of the strength of the Australian financial system, coupled with timely and substantial fiscal stimulus and considerable easing of monetary policy settings.

¹⁹ On 15 November 2008, the leaders of G-20 countries attended the *Summit on Financial Markets and the World Economy* to determine appropriate, coordinated action to restore global growth and achieve necessary reforms in the world's financial systems. Subsequent G-20 Leaders' Summits on the global financial crisis were held in London, in early April 2009, and Pittsburgh, in late September 2009.

²⁰ Commonwealth of Australia, 2009, *Consolidated Financial Statements for the Year Ended 30 June 2009*, Canberra, p. 1.

Australia's policy response

1.8 The Treasury has noted that:

Policy makers were faced with a looming, once-in-a-generation, economic crisis that required a swift and decisive response. The Reserve Bank cut interest rates aggressively, the Government and its regulators undertook measures to support financial system stability, including the Financial Claims Scheme and Guarantee Scheme for Large Deposits and Wholesale Funding, and the Government introduced a multi-stage fiscal stimulus aimed at supporting aggregate demand.²¹

1.9 The Government's fiscal stimulus measures were prepared and announced in late 2008 and early 2009. They included the:

- Economic Security Strategy (announced on 14 October 2008);
- Council of Australian Governments (COAG) Funding Package (announced on 29 November 2008);
- Nation Building Package (announced 12 December 2008);
- Nation Building and Jobs Plan (announced 3 February 2009);
- Jobs, Training and Youth Transitions Package (announced 30 April 2009); and
- Nation Building Infrastructure Measures (announced May 2009).

1.10 These packages were aimed at delivering a broad range of short, medium and long-term stimulatory measures including the first home owners boost, increased investment in schools, housing, community infrastructure and roads, and assistance for young people to access education and training places.

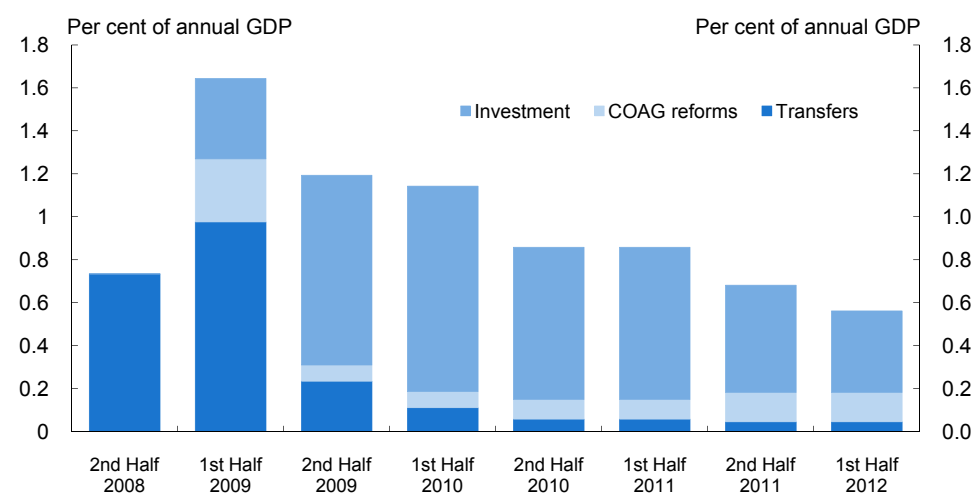
1.11 The Treasury has stated that the roll-out of the Government's fiscal stimulus measures was informed by the well-accepted tenets of good discretionary fiscal policy: that it be timely, temporary and targeted. The first phase of fiscal measures was designed to provide immediate support to growth—largely through transfer payments to cash constrained households. Subsequent measures were largely investment-related, most notably infra-

²¹ Treasury advice, 9 April 2010.

structure investment under the National Building and Jobs Plan (see Figure 1.1).²²

Figure 1.1

Allocation of fiscal stimulus

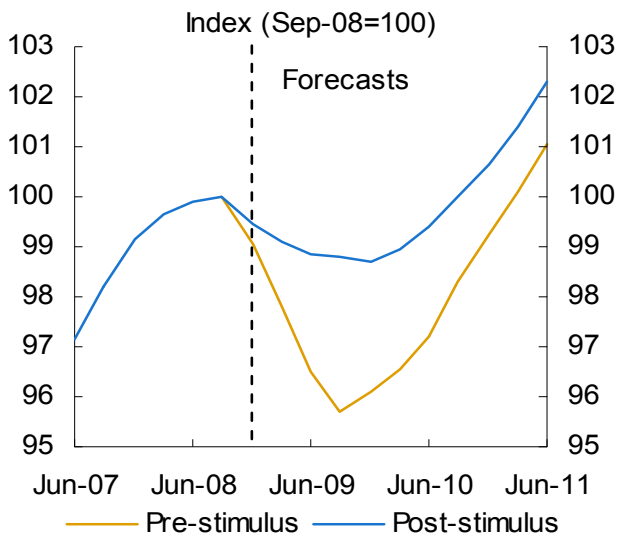


Source: Commonwealth Budget 2009–10: Overview

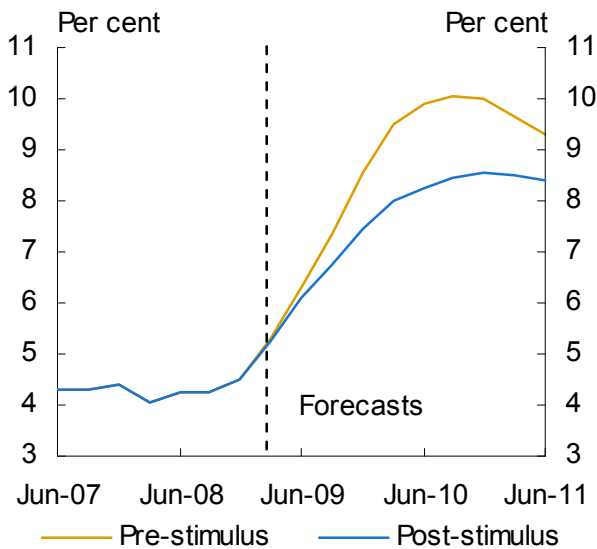
1.12 The Government’s cumulative fiscal stimulus measures were designed to ameliorate the adverse effects on the Australian economy from the global financial crisis, particularly on unemployment. In total, the Government’s stimulus packages announced before and as part of the 2009–10 Budget were forecast to raise the level of GDP by 2¾ per cent in 2009–10 and 1½ per cent in 2010–11, compared to taking no action (see Figure 1.2). This increase in GDP was forecast to translate into support for up to 210 000 jobs, with a peak unemployment rate of around 1½ percentage points lower than if no Government action was taken (see Figure 1.3).²³

²² Henry, K., *The Global Financial Crisis and the Road to Recovery*, Speech to the Australian Institute of Company Directors on 23 September 2009, available from <treasury.gov.au> [accessed 17 November 2009].

²³ Commonwealth of Australia, 2009, *Commonwealth Coordinator-General’s Progress Report: 3 February 2009–30 June 2009*, Canberra, p. 24, available from <economicstimulusplan.gov.au> [accessed 17 November 2009].

Figure 1.2**Forecast stimulus effect on real GDP**

Source: Commonwealth Budget 2009–10: Overview

Figure 1.3**Forecast effects of the stimulus on unemployment**

Source: Commonwealth Budget 2009–10: Overview

Nation Building and Jobs Plan

1.13 On 3 February 2009, the Government announced the \$42 billion *Nation Building and Jobs Plan* (the Plan) which represented the Government's single largest package of fiscal stimulus measures aimed at ameliorating the effect of the global financial crisis on the Australian economy. COAG agreed to the rapid delivery of the Plan at its meeting on 5 February 2009. On that day, the Prime Minister, State Premiers and Territory Chief Ministers signed a National Partnership Agreement for this purpose.²⁴

1.14 In announcing COAG's agreement to the Plan, the Prime Minister outlined the importance of a rapid response to what he described as an unfolding international and national economic emergency:

For nation building to work, it's got to be translated into real projects on the ground and translated onto the ground quick smart. Therefore what we've done today is agree on a timetable for implementation for what will be the single biggest school modernisation program of the Commonwealth in the nation's history... In my original discussion with the Premiers and Chief Ministers at the beginning of the meeting today, I said that we were in uncharted, unprecedented times ... It won't be just business as usual for our bureaucracies. We are in a national economic emergency and we're going to have to all roll our sleeves up and take a direct, personal, and rolling interest in the implementation of this ... I want to see our schools right across the country become new centres of economic activity as we all deal with the challenge which the global economy has presented our nation with.²⁵

1.15 The Plan aimed to:

- stimulate the economy by supporting employment and growth; and
- foster a more resilient Australia.²⁶

²⁴ The Department of the Prime Minister and Cabinet provided support for the process of drafting the NPA, including the material specific to the BER program, with only limited input from DEEWR.

²⁵ Rudd, K., Prime Minister, 5 February 2009, *Joint Press Conference of COAG Meeting*, Parliament House, Canberra, pp.1–3.

²⁶ Council of Australian Governments, *Communiqué*, 5 February 2009, available from <www.coag.gov.au>.

1.16 The Plan incorporated elements of both the December 2008 Nation Building Package²⁷ and additional stimulus measures announced in February 2009. It included the following key elements:

- one-off cash payments to eligible families, single workers, students, drought-affected farmers and others;
- a temporary business investment tax break for small and general businesses buying eligible assets;
- increasing the stock of social and defence housing;
- substantially increasing funding for local community infrastructure and local road and rail projects;
- an energy efficient homes package for Australian homes; and
- funding to build or upgrade buildings in schools (see Figure 1.4 and Figure 1.5).

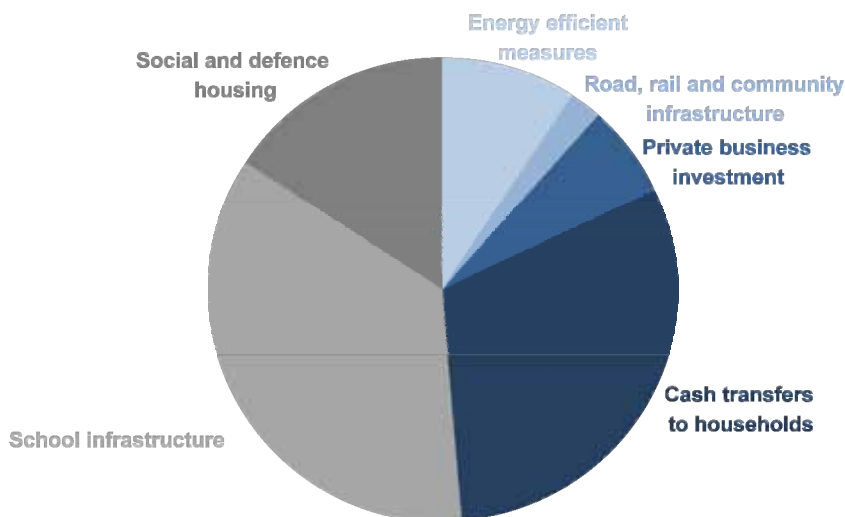
²⁷ Nation Building: Road, Rail, Education and Research and Business, December 2009.

Figure 1.4

Nation Building and Jobs Plan

EDUCATION	SOCIAL/DEFENCE HOUSING	TRANSPORT/ INFRASTRUCTURE	ENERGY EFFICIENT HOMES
\$12.4 billion to build or renew large scale infrastructure, including libraries and halls in primary schools under the Primary Schools for the 21st Century program	\$6 billion for the construction of 20 000 social housing dwellings across Australia	\$1.2 billion to improve freight and passenger transport on Australia's railways through the Australian Rail Transport Corporation	\$613 million for the installation of ceiling insulation in private rental properties under the Low Emission Assistance Plan for Renters
\$1.3 billion for minor infrastructure and refurbishment projects for Australian schools under the National School Pride program	\$400 million for 2500 repairs and maintenance to existing social housing dwellings	\$711 million to accelerate 14 road projects under the Nation Building Program	\$507 million for the replacement of electric hot water systems with solar systems under the Solar Hot Water Rebate
\$1 billion to build 500 science laboratories and language learning centres in secondary schools under the Science and Language Centres for 21st Century Secondary Schools program	\$252 million for the construction of 802 Defence houses	\$300 million to further improve road safety under the Black Spot Program and Repairing Regional Roads scheme	\$2.7 billion for the installation of ceiling insulation under the Homeowner Insulation Program
\$1.6 billion to support infrastructure investment and strengthen facilities in the training and higher education sectors under the Education Investment Fund and the Teaching and Learning Capital Funds		\$150 million for safety measures at high-risk rail crossings under the Boom Gates for Rail Crossings program	
The bringing forward of an additional \$110 million to build and upgrade trade training facilities in secondary schools through Round 2 of the Trade Training Centres program		\$250 million for all local councils to construct local community infrastructure under the Regional and Local Community Infrastructure Program	
		\$550 million for larger strategic infrastructure projects in local communities under the Regional and Local Community Infrastructure Program—Strategic Projects component	
		\$195 million for social and economic development in the East Kimberley under the East Kimberley Development Package	

Source: Australian Government Coordinator-General's Progress Report: 3 February 2009 – 30 June 2009

Figure 1.5**Nation Building and Jobs Plan: expenditure by category**

Source: The Treasury

Building the Education Revolution

1.17 The largest spending component of the Nation Building and Jobs Plan is the Building the Education Revolution (BER) program. The Government decided on school-based infrastructure spending because it had a number of elements that supported stimulus objectives, including:

- it has the advantage of providing stimulus to almost every population area of the country, as the economic slowdown was expected to be geographically widespread;
- school land is available immediately without the need for planning approval, hence no planning delays were envisaged; and
- school infrastructure projects have low import content, which raises the domestic stimulatory effect.²⁸

²⁸ Gruen, D., 8 December 2009, *The Return of Fiscal Policy*: speech to the Australian Business Economists Annual Forecasting Conference, Canberra, p. 4.

1.18 The objectives of the BER program are to:

- provide economic stimulus through the rapid construction and refurbishment of school infrastructure; and
- build learning environments to help children, families and communities participate in activities that will support achievement, develop learning potential and bring communities together.

1.19 The BER program consists of three elements:

- **Primary Schools for the 21st Century (P21)**—initially \$12.4 billion (later, \$14.1 billion²⁹) for Australian primary schools to build new iconic facilities, such as libraries and multipurpose halls or to upgrade existing facilities by 31 March 2011.³⁰
- **National School Pride (NSP)**—\$1.3 billion for minor capital works and refurbishment projects in all eligible Australian schools to be completed by February 2010.
- **Science and Language Centres for 21st Century Secondary Schools (SLC)**—initially \$1 billion (later, \$821.8 million³¹) for the construction of new, or the refurbishment of existing, science laboratories or language learning centres in secondary schools by 30 June 2010.

1.20 Funding delivered under the BER program is intended to complement the existing and planned investments by the states, territories and non-government education systems.

1.21 The program was expected to be delivered through cooperation among federal, state and territory governments and the non-government education sector. The Department of Education, Employment and Workplace Relations (DEEWR) is responsible for Australian Government implementation of the BER program. The responsibility for working with schools and school communities to develop and submit BER project proposals to DEEWR, and to manage and report on funded construction and refurbishment projects rests

²⁹ The Government increased this funding allocation from \$12.4 billion to \$14.1 billion in August 2009.

³⁰ In October 2009, the Government agreed to rephase \$500 million of BER program funding from 2010–11 to 2011–12, with the Minister for Education, Employment and Workplace Relations provided with flexibility to allow construction completion deadlines to be varied where this would assist with the achievement of value-for-money outcomes. The rephasing means that some BER P21 projects will be completed after 31 March 2011.

³¹ The Government decreased this funding allocation from \$1 billion to \$821.8 million in August 2009.

with the eight state and territory education departments and 14 Block Grant Authorities (collectively referred to as ‘Education Authorities’).³² The role of the Treasury under the BER program primarily relates to its federal financial relations framework responsibilities for program payments and monitoring the effect of the Nation Building and Jobs Plan, and other stimulus measures, on the economy.

Primary Schools for the 21st Century

1.22 The largest of the three BER program elements is the Primary Schools for the 21st Century (P21). Spending on the BER P21 was timed to provide support for the economy as the effects of the earlier cash transfers unwound. Under BER P21, ultimately \$14.1 billion was made available to Australian primary schools for, in priority order:

- construction of new libraries;
- construction of new multipurpose halls (for example, gymnasias, indoor sporting centres, assembly areas or performing arts centres) or, in the case of smaller schools, covered outdoor learning areas;
- construction of classrooms, replacement of demountables or other buildings as approved by the Australian Government; or
- refurbishment of existing facilities.³³

³² Block Grant Authorities (BGAs) are bodies that represent non-government schools in the states and territories for capital funding purposes. There are 14 BGAs, one for each of the two territories that represents both the Catholic and Independent sectors, and two in each State (one for independent schools and another for Catholic schools).

³³ Where a school and its community determined that a school had no need for construction of any of the above, and had identified a need for an early learning centre, it could apply for funding under BER P21. An early learning centre is a place where students are in the process of transitioning from pre-school to kindergarten and where the curriculum is integrated with the primary school curriculum. The early learning centre had to be an integrated part of the primary school campus and childcare activities could not be the main function of the centre. If any component of childcare was envisaged at the early learning centre, the school had to provide evidence for the demand for childcare in that location.

1.23 It was the Australian Government’s intention that all eligible Australian primary schools would receive a funding allocation under BER P21.³⁴ The total amount of notional funding available to a primary school was calculated based on the number of enrolments of full-time equivalent (FTE) students at that school (see Figure 1.6).

Figure 1.6

Indicative BER P21 funding allocations for schools

Primary School Size (student enrolments)	Indicative Funding Allocations (\$)
0 to 50	250 000
51 to 150	850 000
151 to 300	2 000 000
301 to 400	2 500 000
400 +	3 000 000

Source: BER Guidelines

1.24 BER P21 funding was to be allocated by DEEWR to each Education Authority across three funding rounds, with 20 per cent of eligible schools to apply for funding in Round 1, 40 per cent of eligible schools to apply for funding in Round 2, and 40 per cent of eligible schools to apply for funding in Round 3. Education Authorities were responsible for working with their schools to determine which schools would submit applications under which funding round. There were established timeframes for the commencement and completion of BER P21 projects, with projects in smaller schools to be completed within seven months and projects undertaken by larger schools (150+ students) to be completed within 18 months (see Figure 1.7).

³⁴ Any government or non-government school delivering primary education was eligible to apply for BER P21 funding, including special schools and the primary school component of K-12 schools.

Figure 1.7**Timelines for BER P21 funding rounds****Round 1: 20 per cent of eligible schools**

Month/Year	Action
<i>February–March 2009</i>	Education Authorities assess proposals
<i>By 10 April 2009</i>	Education Authorities submit project lists to the Australian Government for approval
<i>May–June 2009</i>	Commencement of projects
<i>20 January 2010</i>	Projects Completed—up to 7 months for smaller schools with 150 or less students
<i>20 December 2010</i>	Projects completed—up to 18 months for schools larger than 150 students

Round 2: 40 per cent of eligible schools

Month/Year	Action
<i>April 2009</i>	Education Authorities assess proposals
<i>By 15 May 2009</i>	Education Authorities submit project lists to the Australian Government for approval
<i>June–July 2009</i>	Commencement of projects
<i>28 February 2010</i>	Projects completed—up to 7 months for smaller schools with 150 or less students
<i>31 January 2011</i>	Projects completed—up to 18 months for schools larger than 150 students

Round 3: 40 per cent of eligible schools

Month/Year	Action
<i>June 2009</i>	Education Authorities assess proposals
<i>By 10 July 2009</i>	Education Authorities submit project lists to the Australian Government for approval
<i>September–October 2009</i>	Commencement of projects or construction must be by 1 December 2009
<i>31 May 2010</i>	Projects completed—up to 7 months for smaller schools with 150 or less students
<i>31 March 2011</i>	Projects completed—up to 18 months for schools larger than 150 students

Source: ANAO from BER Guidelines

Improving economic conditions

1.25 In its 2009–10 *Mid-Year Economic and Fiscal Outlook*, issued on 2 November 2009, the Government reported that the Australian economy had performed better than expected since the Budget in May 2009, with the economic outlook also improving. These outcomes—supported by the fiscal stimulus and low interest rates—have bolstered confidence by more than the Government had expected and set a solid platform for recovery. Australia has continued to grow despite the global recession and is the only advanced economy to have recorded positive growth—of 0.6 per cent—through the year to June 2009.³⁵

1.26 The Government also reported that, after the severe contraction recorded during the December and March quarters, the world economy appears to have stabilised. World output is now expected to have declined by 1 per cent in 2009 (previously 1½ per cent), reflecting the contraction that had already taken place during the first half of the year. Global growth in 2010 has been revised up from 2¼ to 3¼ per cent, with slightly stronger growth expected among Australia’s major trading partners.³⁶

1.27 The Organisation for Economic Development and Cooperation (OECD) has reported that Australia’s fiscal stimulus package seems to have had a strong effect in cushioning the decline in employment caused by the global economic downturn. Estimates in the OECD *Employment Outlook 2009* suggest that employment in Australia is likely to decline by between 1.4 per cent and 1.9 per cent, or around 150 000 – 200 000 jobs, less by the end of 2010 than if no fiscal measures had been taken.³⁷

Scrutiny of the stimulus measures

1.28 On 12 April 2010, the Australian Government announced the formation of a Commonwealth BER Implementation Taskforce. The role of the taskforce is to investigate complaints and conduct proactive investigations in cooperation with state governments and Catholic and independent school Block Grant Authorities. The taskforce has also been assigned responsibility for advising the Australian Government on when to exercise powers under the

³⁵ Commonwealth of Australia, 2009, *Mid-Year Economic and Fiscal Outlook: Overview*, Canberra, p. 2.

³⁶ *ibid.* p. 2.

³⁷ Organisation for Economic Development and Cooperation, 2009, *Employment Handbook 2009*, France.

BER agreements in order to deal with breaches of obligations, including the power to: suspend or withhold funds; to terminate the agreement; or to require repayment of funds. An initial report is to be produced by the taskforce within three months of establishment, with public reports to be produced every six months.³⁸

1.29 Earlier, on 27 October 2009, the Senate Economics References Committee released a report on its inquiry into the Government's overall economic stimulus activities.³⁹ The matter was originally referred to the Committee by the Senate following calls to scale back the economic stimulus initiatives announced by the Government, due to improved economic conditions. The Committee's terms of reference were wide ranging, and included the efficacy of spending measures to date and the anticipated costs and benefits of continuing spending measures. The Committee concluded that:

the economy has strengthened and that the rationale for maintaining the proposed spending levels by the Rudd Government are no longer valid and... that the levels of spending need to be reduced, postponed or offset to prevent the economy from overheating.

1.30 The Government Senators' minority report did not support this conclusion, recommending that the Government's stimulus package continue to be implemented to provide appropriate support to the economy and employment.

1.31 On 9 September 2009, the Senate also referred consideration of the P21 element of the Government's BER program to the Senate Education, Employment and Workplace Relations Committee for inquiry and report. The terms of reference for the Committee's inquiry include: the conditions and criteria for project funding; the use of local and non-local contractors; the role of state governments; timing and budget issues, including duplication; requirements for school signs and plaques; and the management of the program. Submissions to the inquiry closed on 30 October 2009. A release date for the report has not been set.

³⁸ Gillard, J., Deputy Prime Minister, *Media Release: Commonwealth to establish Building Education Revolution Taskforce*, 12 April 2010.

³⁹ Commonwealth of Australia, 2009, *Senate Economics References Committee: Government's Economic Stimulus Initiatives*, Canberra.

The audit

Representations to the Auditor-General

1.32 Since the commencement of the BER program in February 2009, the Auditor-General has received representations from various stakeholders raising concerns regarding aspects of program delivery.

1.33 On 12 June 2009, the Shadow Minister for Education, Apprenticeships and Training, the Hon Christopher Pyne MP, wrote to the Auditor-General outlining his concerns with the Government's implementation of the BER program and requesting the Auditor-General's scrutiny of whether the delivery of the program represented appropriate use of taxpayers' money.

1.34 On 25 June 2009, the Senate agreed to a resolution requesting that the Auditor-General undertake an urgent investigation of 'waste and mismanagement of the BER program'. The resolution also included a request that the Auditor-General respond in a timely manner in order for the public to be fully informed of the program in advance of further parliamentary scrutiny of the issue. The resolution was communicated to the Auditor-General by the President of Senate in a letter dated 7 July 2009.

1.35 Since the performance audit commenced, the Auditor-General has received further representations from BER program stakeholders, including Members of Parliament, Senators, and a small number of school principals and school community representatives.

Audit objective, scope and methodology

1.36 The audit objective was to examine the effectiveness of the department's establishment of the P21 element of the BER program. The focus of the audit was on: the establishment of administrative arrangements for BER P21 in accordance with government policy; the assessment and approval of funding allocations; and the arrangements to monitor and report BER P21 progress and achievement of broader program outcomes. An examination of individual BER P21 projects was outside the scope of the audit.

1.37 The audit methodology comprised:

- examining policy documents, funding agreements, guidelines, procedures and operational documents;
- interviewing relevant DEEWR staff;
- interviewing relevant central agency staff;

- meeting with education and construction industry stakeholders;
- meeting with representatives from 30 primary schools across five jurisdictions, including metropolitan and rural schools, and schools within education systems and independent schools;⁴⁰
- reviewing files, records and publications held by DEEWR;
- analysing data held by DEEWR relating to the application and assessment processes (SEMIS data);
- interviewing representatives from 14 Education Authorities and, based on these interviews, seeking written responses from all 22 Education Authorities on DEEWR's establishment of BER P21 (17 submissions were lodged); and
- conducting a statistical on-line survey of all primary schools participating in BER P21 to gain an understanding of school principals' perspectives on the effectiveness of program establishment.

Survey method

As part of the audit, the ANAO undertook a survey of primary school principals to gauge their views on the administration of BER P21. The survey was sent to all 7951 primary school principals in Australia. This provided an opportunity for every principal to give their views.

To minimise non-response bias and ensure adequate coverage of schools from all 22 Education Authorities, the ANAO also selected a stratified random sample of 985 schools, which it actively followed up to ensure an adequate response rate and representative results. The survey results from that sample were used to produce the all-school and sectoral estimates of school principal opinions cited in the report.

The ANAO engaged a professional market research organisation to conduct the survey. Details of the method and results from the survey are set out in full at Appendix 2.

1.38 The audit was conducted in accordance with ANAO Auditing Standards at a cost of \$725 000.

⁴⁰ The majority of these meetings took place on site at the respective school.

Report structure

1.39 The audit findings are reported in the following chapters:

Chapter	Chapter overview
2. Institutional Arrangements	<i>Examines the implications of the new federal financial relations framework for the delivery of BER P21 under an NPA and assesses the governance arrangements established by DEEWR to support the achievement of program outputs and outcomes.</i>
3. Developing Program Rules	<i>Examines the development of rules to support the establishment of BER P21, in particular, the changes to program rules since inception, and how these changes were disseminated.</i>
4. Assessing and Approving Funding Allocations	<i>Considers the effectiveness of DEEWR's assessment of eligibility for funding, and approval of funding allocations by Education Authorities to schools in their jurisdictions.</i>
5. Funding the Program	<i>Considers the funding of BER P21 and explores the reasons for a substantial increase to that funding within six months of the original decision.</i>
6. Performance Monitoring and Reporting	<i>Examines the effectiveness of DEEWR's performance monitoring of BER P21 progress towards program objectives and assesses arrangements for reporting to stakeholders.</i>
7. Indicators of Program Progress	<i>Examines some of the early evidence about BER P21 progress against its intended outputs and outcomes and discusses some of the factors that have affected progress to date.</i>

2. Institutional Arrangements

This chapter examines the implications of the new federal financial relations framework for the delivery of BER P21 under an NPA and assesses the governance arrangements established by DEEWR to support the achievement of program outputs and outcomes.

Overview

2.1 The successful delivery of the Primary Schools for the 21st Century element (P21) of the Building the Education Revolution (BER) program will, in part, be determined by strong collaboration between stakeholders tasked with establishing and implementing the program, supported by clear roles and responsibilities. In the case of BER P21, DEEWR is working with eight government and 14 non-government Education Authorities to deliver the program.

2.2 The recent introduction of reforms to Australia's federal financial relations framework has established revised arrangements for the delivery of intergovernmental programs, such as BER P21. These arrangements, which recognise the constitutional responsibilities of the states and territories in sectors such as education, are intended to clarify roles and responsibilities between levels of government and enhance public accountability for service delivery. The reforms have also influenced the manner in which non-government entities access Australian Government funding.

2.3 The ANAO's examination of institutional arrangements for BER P21 focused on:

- the implications of the new federal financial relations framework for the roles and responsibilities established for delivery of the program; and
- the extent to which DEEWR took account of the reforms when establishing its governance arrangements for the BER program.

New federal financial relations framework

Objectives of the reforms to federal financial relations

2.4 On 29 November 2008, the Council of Australian Governments (COAG) agreed, through endorsement of an *Intergovernmental Agreement (IGA) on Federal Financial Relations*, to substantial reforms to Australia's federal financial

relations framework. The BER program is one of the first major government policy initiatives to be delivered under the new framework.

2.5 The framework established under the IGA, which commenced on 1 January 2009, involves a major rationalisation of payments to the states and territories to support clearer specification of the roles and responsibilities of each level of government. A further feature of the new framework is the separation of policy responsibilities, which are retained by the relevant portfolio minister, from funding arrangements, with the Treasurer responsible for appropriations, estimates and efficient payments to the states and territories.⁴¹

2.6 The Australian Government considered that, in the past, 'blurred' roles and responsibilities between levels of government, as well as duplication and overlap, had been costly aspects of Australia's federal system, particularly where they have undermined accountability through cost shifting. In endorsing the IGA, the Australian Government has committed to move away from prescription on service delivery in the form of financial or other 'input controls' which inhibit state and territory service delivery and priority setting. Rather than dictating 'how' things should be done, the new framework focuses on the achievement of mutually-agreed 'outputs and outcomes', providing the states and territories with increased flexibility in the way they deliver services to the Australian people.⁴²

2.7 The Australian Government has outlined the importance of these COAG reforms as the centrepiece of the Government's microeconomic reform agenda. In a paper on modern federalism, the Treasurer has stated that changes in the financial relationship between the Commonwealth and the

⁴¹ Previously, Australian Government portfolio agencies provided payments directly to state and territory delivery agencies, with each payment attracting its own administration arrangements. The payment arrangements introduced under the new framework are designed to simplify payments to the states and territories, aid transparency and improve the states' and territories' budget processes. Under the arrangements, all payments are processed centrally by the Australian Government Treasury and paid directly to each state and territory treasury for distribution within their jurisdictions. Australian Government payments to states and territories are now governed by the *Federal Financial Relations Act 2009* and the *COAG Reform Fund Act 2008*.

⁴² Commonwealth of Australia, 2009, *Budget 2009–10 (Budget Paper No.3-Part 1: Australia's Federal Relations)*, Canberra, p. 11. The outcomes and outputs focus of national partnership agreements was confirmed in a recent Federal Finances Circular which stated that: *The Intergovernmental Agreement provides explicit direction that **National Partnerships must focus on outcomes and outputs rather than inputs**. To the fullest extent possible, **payments should be aligned with the achievement of outcomes and outputs**, as measured through clearly specified performance indicators in National Partnerships, and **avoid the use of financial and other input controls** [emphasis in original]* (Federal Finances Circular No. 2010/01, p. 3).

states represent a major revamp of Australian federalism and that the: ‘old ways of doing things have obviously not worked.’ The Treasurer stated that:

For decades, the Commonwealth imposed input controls on Commonwealth funding to the states—tough conditions to dictate the way funding was to be used. These conditions constrained flexibility and innovation in service delivery. This made it difficult for the states to set their own priorities. It also created inefficiencies, as the Commonwealth devoted unnecessary time to administering them. Most importantly, Commonwealth intervention in areas of state responsibility blurred the lines of accountability. The conditions imposed on Commonwealth funding confused the public because it was no longer clear whether the states or the Commonwealth was accountable for poor service delivery, or indeed good service delivery.⁴³

Agreement on the Nation Building and Jobs Plan

2.8 Under the new federal financial relations framework, funding for the Nation Building and Jobs Plan is delivered through a project ‘National Partnership payment’ under a National Partnership Agreement (NPA).⁴⁴ The *Nation Building and Jobs Plan: Building Prosperity and Supporting Jobs Now* NPA was endorsed by the Prime Minister, State Premiers and Territory Chief Ministers on 5 February 2009 at a special meeting of COAG.⁴⁵

2.9 The NPA was created subject to the provisions of the IGA and was aimed at maximising the timely and effective delivery of the Australian Government’s stimulus measures. The NPA sets out high level governance arrangements for the delivery of stimulus measures and broad arrangements covering delivery of the BER program in partnership with the states and territories, including: outputs and outcomes; broad roles and responsibilities;

⁴³ Swan, W., 11 September 2008, *Federalism and the Engine Room of Prosperity*: speech to the Australia and New Zealand School of Government Annual Conference, Melbourne, p. 1. available from <www.treasurer.gov.au>, [accessed 23 February 2010].

⁴⁴ National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity and Supporting Jobs Now, available from <www.coag.gov.au> [accessed 23 November 2009]. National Partnership payments are one of three forms of financial assistance to the states and territories, which are designed to support the delivery of specified outputs or projects, to facilitate reforms or to reward jurisdictions that deliver on nationally significant reforms. Each National Partnership payment is supported by a National Partnership Agreement (NPA) that defines mutually-agreed objectives, outputs and performance benchmarks. The other types of financial assistance are:

- general revenue assistance, including Goods and Services Tax payments to be used by states and territories for any purpose; and
- National Specific Purpose Payments to be spent in key service delivery sectors.

⁴⁵ The Australian Government announced the Nation Building and Jobs Plan on 3 February 2009.

reporting requirements; financial arrangements; and a coordination framework.

2.10 In recognition of the program parameters established by the original government decision⁴⁶ and the stimulus nature of the program, the NPA specifies more elaborate oversight and monitoring arrangements than most other partnership agreements in the education sector, such as the *National Partnership Agreement on Improving Teacher Quality*.⁴⁷ The Department of the Prime Minister and Cabinet informed the ANAO that the NPA was not a ‘business as usual’ agreement.⁴⁸

2.11 In particular, the Nation Building and Jobs Plan NPA establishes progress measures against which the Australian Government monitors progress toward the achievement of program outcomes through regular reporting from funding recipients. It also links funding to compliance with a range of conditions, including a requirement for states to accept and adhere to reporting requirements as determined by the Australian Government.⁴⁹ The Treasury informed the ANAO that the arrangements established for the economic stimulus plan, which mirrored similar arrangements in the states, were designed to facilitate quick interventions to address delays, and were supported by implementation reporting requirements. The arrangements enable timely, regular advice to governments on whether projects are meeting delivery timetables and objectives, and on strategies and objectives to prevent

⁴⁶ The Government decision established a number of conditions on the use of funding by schools, including commencement and completion dates for building; community access to infrastructure funded under BER P21; acceptance and adherence to branding and recognition requirements; acceptance and adherence to reporting requirements. The decision also included a requirement that bilateral agreements would be made with each state, territory and Block Grant Authority specifying the conditions, commitments, timeframes, penalties for non-compliance, and reporting arrangements.

⁴⁷ The Treasury advised that: *Because of the extraordinary nature of the stimulus and the need to ensure timely implementation, governments used the flexibility of the new federal financial relations framework to design national partnerships that incorporated more frequent and detailed reporting requirements than in other national partnerships. This experience demonstrated one of the strengths of the new framework, its capacity to adapt to differing circumstances.*

⁴⁸ Department of the Prime Minister and Cabinet advice, 22 April 2010.

⁴⁹ The Nation Building and Jobs Plan NPA highlights the need for stimulus and that the NPA is aimed at maximising the timely and effective delivery of the plan. The agreement involves new coordination arrangements between governments to facilitate the achievement of stimulus objectives. Schedule A of the NPA outlines how the Australian Government and the states will work together, including the reporting requirements that are set by the Commonwealth. The NPA also sets out implementation arrangements under Schedule D. These arrangements, agreed by governments, include the roles and responsibilities of parties, the need for fast-tracked processes, the use of design templates, and indicative funding allocations for primary schools.

delays.⁵⁰ (Chapter 6 examines the performance monitoring and reporting arrangements established for the BER program).

2.12 Within established parameters agreed by governments through endorsement of the NPA, and the underpinning government decision, DEEWR was required to develop administrative rules to support delivery of the program by Education Authorities. To work effectively, it was necessary for those rules to provide a basis for accountability to the agreed parameters and objectives of the program while at the same time providing sufficient flexibility for Education Authorities to exercise their judgement about how these could best be achieved. This flexibility was important as BER P21 projects were required to be delivered in heavily compressed timeframes. Education Authorities had, from the date of approval, 18 months to design, undertake procurement, construct and complete BER P21 projects in large schools (enrolments exceeding 150 students), and seven months to complete projects in small schools (150 or fewer enrolments). This contrasts with the timeframes that applied to the department's existing school capital programs, where it can take up to 12 months before a construction contract is entered into by the school. For projects completed in 2008 with a value of over \$850 000, the average timeframe from the date of approval through to completion was 44.8 months. In the case of projects under \$850 000, the average timeframe from approval to completion was 38.2 months.⁵¹

Agreement on roles and responsibilities for the BER program

2.13 While COAG retains overall accountability for delivery of the Nation Building and Jobs Plan, it has, through the NPA, assigned responsibility for the coordination of discrete elements of the agreement to:

- the Ministerial Council for Federal Financial Relations⁵²; and
- a network of jurisdictional and sectoral coordinators headed by a Commonwealth Coordinator-General. In the case of the BER program, there is a BER National Coordinator located within DEEWR and an

⁵⁰ Treasury advice, 9 April 2010.

⁵¹ DEEWR advice, 22 April 2010.

⁵² Under the NPA, the states and territories are responsible for reporting on expenditure and output benchmarks under the Nation Building and Jobs Plan. The Heads of Treasuries, comprising the Secretaries and Under Treasurers of each of the Commonwealth, state and territory treasury departments, are responsible for monitoring the maintenance of effort by state and territory governments, with this work reported to COAG through the Ministerial Council for Federal Financial Relations.

education coordinator located within the relevant education department in each state and territory (see Appendix 3 for further details on these coordination arrangements).

2.14 The creation of the role of Coordinator-General and the establishment of a network of jurisdictional and sectoral coordinators was a key element introduced by the Government to support rapid delivery of the Nation Building and Jobs Plan. The Communiqué from the COAG meeting of 5 February 2009 noted that governments had:

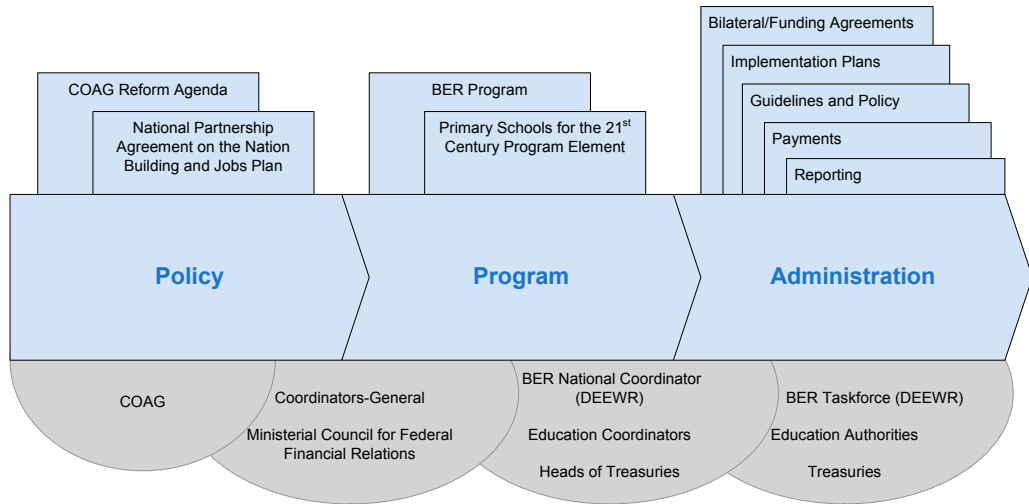
resolved to introduce new implementation and monitoring arrangements to maximise the timely and effective delivery of economic stimulus to reduce the impact on Australia of the global economic recession. These arrangements mean that an early start can be made in implementing key Commonwealth stimulus measures in social housing, building better schools and transport to be delivered by the States and Territories.⁵³

2.15 The Coordinator-General holds responsibility for supporting and monitoring the implementation of key infrastructure and stimulus measures, with a common monitoring framework established for all infrastructure elements under the Plan.⁵⁴ The National Coordinator for the BER program is responsible for ensuring that milestones are achieved and any implementation issues are addressed as a matter of priority.

2.16 In addition to these coordination arrangements for the Nation Building and Jobs Plan, COAG agreed on establishment and implementation responsibilities for each element of the Plan. Responsibility for the BER program is shared across the Australian Government, state and territory governments, and the non-government school sector (see Figure 2.1).

⁵³ Special Council of Australian Governments' Meeting Communiqué, Nation Building and Jobs Plan, 5 February 2009.

⁵⁴ The Coordinator-General has required from Australian Government administering agencies monthly information on project details, project dates (actual commencements, completions and achievement of milestones), project expenditure (actual and committed), as well as estimates of jobs supported at the start of each project.

Figure 2.1**Responsibilities under the Nation Building and Jobs Plan—BER Program**

Source: ANAO

2.17 DEEWR, as the Australian Government’s administering agency for the BER program, has responsibilities which are defined under the NPA for overseeing implementation of the program, including monitoring outputs and outcomes, and managing funding (payments are, however, made by the Treasury).⁵⁵ These responsibilities have been extended and clarified in the program guidelines, with additional responsibilities including the issuance of guidance to Education Authorities in relation to ongoing administration, the development of a performance evaluation framework and the consideration of requests for project variations.

2.18 State and territory education departments, along with the non-government school sector represented by Block Grant Authorities (collectively referred to as ‘Education Authorities’), are responsible for working with schools and school communities to develop and submit proposals for BER projects to DEEWR, to manage the construction and refurbishment projects that are funded, and monitor and report project progress to DEEWR. The Australian Government provides Education Authorities with an

⁵⁵ The role of the Treasury under the BER program primarily flows from its federal financial relations framework responsibilities for payments to Education Authorities in accordance with payment milestones established under agreements negotiated by DEEWR. In addition, the Treasury supports the Heads of Treasuries to discharge their responsibilities under the NPA relating to the monitoring of ongoing capital investment by the states and territories.

administration payment of 1.5 per cent of total jurisdictional funding to cover the discharge of their responsibilities under the NPA.⁵⁶

2.19 The Department of the Prime Minister and Cabinet, which drafted the Nation Building and Jobs Plan NPA, has informed the ANAO that:

Delivery of agreed projects to agreed milestones is clearly the responsibility of states and territories and the Australian Government is responsible for supporting implementation through coordination at the national level ... The NPA is clear that there is significant scope for states to determine the mechanisms for delivering agreed projects, for example, procurement arrangements, including how projects would be grouped and divided amongst contractors and processes for managing this. In fact this remained their responsibility.⁵⁷

DEEWR's engagement with Education Authorities

2.20 The NPA, as an agreement among governments, establishes the arrangements for the delivery of BER P21 by the government education sector. The non-government education sector, represented by Block Grant Authorities (BGAs), is not party to the agreement and is, therefore, not bound by its provisions.

2.21 The NPA does not clearly articulate the way in which the non-government sector's involvement in the BER program will be managed, although it does allow scope for DEEWR to provide a degree of flexibility to Education Authorities to prioritise the use of funding.⁵⁸ The agreement assigns states and territories responsibility to: 'work with non-government schools, systems and BGAs to enable the full participation of the non-government sector in all elements of BER'.⁵⁹ However, the NPA envisages the establishment of bilateral agreements directly between the Commonwealth and BGAs. Furthermore, DEEWR manages the appropriation of BER program funding for the non-government education sector.

2.22 DEEWR informed the ANAO that the Government's decision and the NPA were open to interpretation as to how the department would work with

⁵⁶ This amounts to around \$207 million over three years.

⁵⁷ Department of the Prime Minister and Cabinet advice, 12 April 2010.

⁵⁸ This matter is discussed further in Chapter 4.

⁵⁹ National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity and Supporting Jobs Now, p. 23, available from <www.coag.gov.au> [accessed on 23 November 2009].

the non-government education sector to deliver the BER program. As DEEWR had well-established relationships with non-government Education Authorities through the existing Capital Grants Program, the department decided that, in the context of rapid establishment, existing structures would be used rather than devising new arrangements, which it foresaw as introducing a higher risk and were potentially more time consuming to establish.

2.23 DEEWR outlined its approach to the engagement of non-government schools in the BER program as follows:

Through the National Partnership, the states and territories are responsible for both government and non-government school participation in BER. However, it was agreed early in the implementation of BER that DEEWR would work directly with the Block Grant Authorities (BGAs) to manage the involvement of non-government schools in BER. This reflects existing funding arrangements for schools capital works programs.⁶⁰

2.24 The department informed the ANAO that the model adopted was strongly supported by both the government and non-government education sectors. This support is evidenced by the Independent Schools Council of Australia's submission to a Senate inquiry into BER P21, in which the Council stated:

The decision by the Commonwealth to provide a separate allocation for independent schools and utilise independent sector BGAs for administration has been instrumental in the successful implementation of the program for the sector.⁶¹

2.25 As eight Education Authorities were bound by the NPA and the provisions of the new federal financial relations framework and 14 Education Authorities were not, it was important that DEEWR's governance arrangements were responsive to the different delivery models.

⁶⁰ DEEWR, 2009, *Building the Education Revolution: National Coordinator's Implementation Report, February–September 2009*, Canberra, p. 5, available from <www.deewr.gov.au> [accessed 20 October 2009].

⁶¹ The Independent Schools Council of Australia, 2009, *Senate Education, Employment and Workplace Relations Committee Inquiry into Primary Schools for the 21st Century: Submission by the Independent Schools Council of Australia*, Canberra.

Establishing governance arrangements

2.26 While the NPA established the broad objectives and parameters of the stimulus measures under the Nation Building and Jobs Plan, including the BER program, it was necessary for supplementary governance arrangements to be established by administering agencies to guide delivery of the main elements of the plan. In the case of the BER program, COAG assigned DEEWR responsibility for the development of bilateral agreements and program guidelines to govern program delivery.⁶² In addition to agreements and guidelines, DEEWR also required (through the guidelines) Education Authorities to develop plans outlining their approaches to program implementation.⁶³ Together, bilateral agreements, program guidelines and, to a limited extent, implementation plans provide the basis for the relationship between DEEWR and Education Authorities.

2.27 In developing the governance arrangements for the BER Program, it was important for DEEWR to establish arrangements that provided a balance between the use of controls to ensure widespread economic stimulus activity across all regions through the construction of quality school infrastructure and the flexibility required by Education Authorities to determine the most appropriate delivery approaches to achieve outputs and outcomes at the local level. Further, the arrangements adopted by the department needed to cater for: both government and non-government education delivery models; reforms to intergovernmental program delivery on DEEWR's engagement with the states and territories; and, as far as practicable, the standardised monitoring and reporting arrangements established by the Coordinator-General for infrastructure and stimulus measures under the Nation Building and Jobs Plan.

⁶² Funding agreements were established with non-government Education Authorities.

⁶³ Under the federal financial relations reforms, implementation plans have been used as a primary means to establish agreed delivery approaches and financial arrangements, such as milestones and payment schedules. However, in the case of the BER program, agreements and guidelines have provided the primary basis for governing program delivery. The implementation plans submitted by Education Authorities outlined, in a broad sense, the approaches to be employed by authorities to deliver the program. In general, the content of the plans reflected the speed with which they were developed, that is they provided only limited detail to inform an assessment of the appropriateness of proposed strategies.

Adoption of uniform delivery arrangements

2.28 DEEWR informed the ANAO that its approach to the engagement of Education Authorities was premised on a ‘guiding philosophy’ from government to ‘treat all schools, government and non-government and across the systems, the same.’ The application of this philosophy to the delivery arrangements for the BER program was challenging, particularly as the program was being delivered by government and non-government entities with responsibilities ranging from the management of large school systems through to the provision of access to funding by schools managed at the local level.⁶⁴ Nevertheless, it was important to recognise the different approaches adopted by Education Authorities to deliver capital infrastructure at each school while still delivering the program in accordance with the Government’s policy parameters for BER P21. The program was also being delivered under an NPA, with only eight out of the 22 Education Authorities bound by the agreement.

2.29 In practice, DEEWR decided to establish governance arrangements that were comparable for all delivery models whether they were managed as a school system, such as government education systems, or managed at the school level, such as independent schools. This approach was not, however, required in order to meet the Government’s policy objectives for the program of providing economic stimulus and building better learning environments. As a consequence of this decision, DEEWR’s governance arrangements for the states and territories were more detailed than would have been expected under the recent reforms to intergovernmental program delivery, due in part to the inclusion of arrangements required by the department to directly manage the involvement of the non-government education sector.

Delivery of the BER program under the federal financial relations framework

2.30 It was important for the design of the program to accommodate, as far practicable within the delivery framework set by governments, the key objectives of the reforms to intergovernmental program delivery—a

⁶⁴ Education Authorities responsible for school systems are ‘owners’ of the schools within their jurisdictions, making decisions on a system-wide basis, whereas Education Authorities representing independent schools simply facilitate access to funding—ownership and decision-making remains at the school level. Education Authorities with responsibility for systems, therefore, require flexibility to manage the needs of multiple schools, whereas Education Authorities representing independent schools require a clear set of program rules to inform school-level decision-making.

partnership approach to delivering the program, a focus on reducing prescription on how states and territories deliver services, and a focus on the achievement of mutually agreed outputs and outcomes.

2.31 The Government has reported in the Budget papers that the new federal financial relations framework is: ‘facilitating the delivery of economic stimulus through a short term expansion in state government service delivery programs—particularly in the areas of school and community infrastructure and housing’.⁶⁵ It has also said that the new framework has been: ‘critical in enabling all Australian governments to work together to tackle the global recession and respond to these economic challenges with immediate and concerted action’.⁶⁶

2.32 DEEWR’s position on the applicability of the federal financial relations framework reforms to its delivery of the BER program has been outlined publicly, including during the course of its attendance at parliamentary hearings, where the department has stated that:

The national partnership is being implemented under the Intergovernmental Agreement on Federal Financial Relations, and the Building the Education Revolution Program is being delivered by all governments in partnership with the non-government schools sector. The program is leveraging off existing delivery systems as both government and non-government education authorities have well established processes for planning, assessing and implementing schools infrastructure projects. Where necessary these processes have been strengthened or modified to address particular monitoring and reporting requirements of the Building the Education Revolution Program.⁶⁷

2.33 The department’s administrative decisions have also been influenced by the requirements and exemptions provided for under the new framework, such as the exemption from obtaining Expenditure Review Committee consideration of BER Guidelines due to program being delivered under a national partnership (see Chapter 3 for further discussion on this matter).

⁶⁵ Commonwealth of Australia 2009, *Budget 2009–10 (Budget Paper No.3—Part 1: Australia’s Federal Relations)*, Canberra, p. 3.

⁶⁶ *ibid.*, p. 3.

⁶⁷ Commonwealth of Australia, 2009, *Senate Education, Employment and Workplace Relations References Committee—Primary Schools for the 21st Century program*, 30/11/2009, Canberra, p. 3, available from <www.aph.gov.au> [accessed 25 February 2010].

2.34 In examining the extent to which the department's approach to the engagement of government Education Authorities was consistent with the key objectives of the new federal financial relations framework as articulated in the NPA, the ANAO considered whether:

- a partnership approach was adopted; and
- an outputs and outcomes focus was adopted, with a reduced focus on how government Education Authorities deliver services.

Delivering the program through partnership

2.35 The premise on which the reforms to federal financial relations are founded is that the delivery of intergovernmental programs should be on the basis of partnership, as opposed to the more traditional 'purchaser-provider' arrangements. This premise recognises that government Education Authorities are accountable to their governments and parliaments for their service delivery performance, including in respect to the delivery of programs for which the Australian Government provides a financial contribution.

2.36 DEEWR informed the ANAO that, in the case of the BER program, the relationship between the department and Education Authorities was based on a partnership arrangement not a purchaser-provider model. The ANAO examined the governance documentation developed by DEEWR and the department's approach to the program's establishment to determine the extent to which they accommodated a partnership approach.

2.37 In recognition of the partnership model underpinning the reforms to intergovernmental program delivery, the NPA specified that the BER Guidelines would be developed in consultation with the states and territories. However, the bilateral and funding agreements developed by DEEWR do not fully reflect the characteristics of a partnership model; in particular they replace the NPA requirement for consultation with a lesser requirement providing Education Authorities with an opportunity to make representations about proposed amendments to program guidelines. The change alters the role of Education Authorities envisaged by COAG and was a particular concern for government Education Authorities. One Education Authority informed DEEWR that:

it is a concern to the [jurisdiction] Government that this bilateral agreement is modelled on a purchaser-provider relationship, rather than a partnership relationship ... we are disappointed that the Commonwealth has not agreed to amend the clause which creates the most risk for the states and territories. Clause 2.3 essentially allows the Commonwealth to unilaterally amend much

of the substance of the bilateral agreement by amending the Guidelines. While there is a requirement to provide the states and territories with the ‘opportunity to make representations’, we are concerned that this does not provide sufficient certainty to jurisdictions about the essential workings of this important initiative. We note that the relevant National Partnership states that the Commonwealth will ‘develop BER program guidelines, in consultation with the states.’

2.38 The ANAO also observed that, often, the actions of the department in managing its relationship with Education Authorities have been inconsistent with a partnership approach. In one case, the department obtained legal advice on whether it was able to: ‘require [*State Government*] to accept P21 funding instalment payments at times and in amounts different to those set out in the original contract where, although the total funding payable is not changed, [*State Government*] has not agreed to the proposal for different instalments.’ The government Education Authority had advised DEEWR that it had been: ‘directed not to execute the variation on the basis that the variation did not provide sufficient coverage for anticipated applications they were bringing forward in Round 3.’ The department’s legal advice stated that:

An agreement which allows one party to unilaterally change the terms of the agreement without the consent of the other does not constitute a legally enforceable contract because such arrangement does not show an intent to create legal relations between the parties i.e. if one party can change the terms as they see fit there is no true bargain.

2.39 On this basis, the department did not ultimately seek to ‘require’ acceptance of the amended payment schedule, with the state government endorsing an amended payment schedule variation several months later.

Extent of prescription over service delivery

2.40 In an effort to drive the delivery of the program by Education Authorities, the department has assumed greater authority for service delivery than was envisaged under the NPA. This approach has, however, resulted in some tensions between DEEWR and government Education Authorities. Under the NPA, the states and territories are ultimately accountable for the way in which they have delivered the BER program. However, in practice, their delivery decisions were unduly constrained by DEEWR.⁶⁸

⁶⁸ Chapter 3 examines the department’s development of program rules to guide the service delivery activities of Education Authorities.

2.41 As discussed earlier, ongoing government reforms to Australia's federal financial relations emphasise a focus on achievement of outcomes through a small number of high-level outputs, supplemented by progress measures to inform regular monitoring. DEEWR has stated that its design of the BER program is consistent with this focus. The department outlined its role in the delivery of the program under the auspices of the framework as:

The policy framework [*for the BER program*] is consistent with an approach where the Commonwealth does not impose 'input controls' prescribing the way states must give effect to the outcomes agreed with the Commonwealth. In the NPA–National Building and Jobs Plan there is a shared responsibility between the Commonwealth and the states.

2.42 DEEWR informed the ANAO that there are a range of delivery models being used across jurisdictions for BER P21, some are centralised, some have engaged regional coordinators and others have allowed schools to determine local priorities. Education Authorities are also responsible for determining procurement processes that deliver value-for-money outcomes.

2.43 The ANAO observed, however, that DEEWR's bilateral and funding agreements, BER Guidelines and supplementary guidance materials, nevertheless, have introduced a number of detailed program rules and implementation approaches which amount to prescription, or input controls, on the service delivery activities of Education Authorities. Furthermore, all seven government Education Authorities that provided feedback to the ANAO highlighted concerns about the level of prescription imposed by DEEWR in its management of the program. While the specific nature of concerns in this area varied, the following is representative:

The program design and funding variation process, which is focussed at project/school and ties funding to individual projects within schools, has not allowed the states to manage BER at a program level. The complex and constantly amended funding variation process has not enabled states to readily transfer funds between schools in order to achieve the agreed outcomes. The variation process and adherence to a narrow definition of approved project is considered increased input control, which is at odds with the principles of the IGA to focus on outcomes.

2.44 DEEWR's setting of detailed program rules to provide the department with greater control over how the program would be delivered by Education Authorities unduly constrained the flexibility afforded to government Education Authorities. In addition, the establishment of detailed program rules has increased the administrative effort necessary to deliver the program

(Chapter 4 examines the effects of the department's program rules on the assessment and approval of funding allocations to Education Authorities and schools).

2.45 Further, the reporting regime established by DEEWR to meet the Coordinator-General's monitoring framework established for the program introduced additional reporting requirements to those that had been agreed by governments under the NPA, with a majority of government Education Authorities expressing concerns regarding the appropriateness of the reporting arrangements. One Education Authority that communicated its concerns to DEEWR commented on the inconsistency between the reporting requirements in the NPA, and additional requirements imposed by DEEWR through the program guidelines as follows:

[Reporting] requirements as currently drafted may otherwise affect timely delivery of projects (especially given the tight timelines), and will place a large administrative burden on schools which will distract them from core business.

2.46 In response to these concerns, DEEWR outlined its position as follows:

The reporting is a necessity from the PM [*Prime Minister*] and the AG [*Australian Government*] perspective—our approach does run contrary to the IGA and spirit of other national partnerships that were finalised at the end of last year in which we ask for no input information or reporting and very high outcomes ones. This is different. And the states and territories should realise that. They are not reconcilable but we need them to be resolved. Our agreements have been drafted in record time without the luxury of having time to go through them clause by clause to ensure they don't duplicate the National Partnership ... The agreements have to go down to another level—particularly because we have agreements with third parties as well as states and territories and we need to have the conditions comparable if not exact.

2.47 The NPA, which was created subject to the provisions of the IGA,⁶⁹ foreshadowed closer scrutiny of state and territory government's progress toward the achievement of program outputs and outcomes through regular monitoring against agreed progress measures. The imperative for rapid implementation and early identification of problems that may have impeded progress was further reinforced through the establishment of a Coordinator-General with responsibility for monitoring progress across the Nation Building and Jobs Plan. These approaches, which are more elaborate

⁶⁹ National Partnership Agreement on the Nation Building and Jobs Plan, Clause 1.

than those employed for some other national partnerships in the education sector, are nevertheless in keeping with a focus on the achievement of program outputs and outcomes within a stimulus context (Chapter 6 examines the monitoring and reporting of program performance).

2.48 Generally, there is a natural tension between funding bodies seeking greater control over the way in which funding is used to achieve objectives and funding recipients seeking greater flexibility to determine the most appropriate approach to produce funded deliverables. In the case of intergovernmental program delivery, recent reforms have aimed to resolve these tensions through better delineation of the service delivery role of the states and territories from the Australian Government's role in achieving national objectives. Overall, in seeking to balance the use of controls to ensure widespread economic stimulus activity across all regions through the construction of quality school infrastructure, and providing flexibility to Education Authorities to determine the most appropriate delivery approaches to achieve outcomes at the local level, the department has opted for greater control over how services are delivered. The effects of DEEWR's approach on the delivery of the program are examined in the following chapters.

3. Developing Program Rules

This chapter examines the development of rules to support the establishment of BER P21, in particular, the changes to program rules since inception, and how these changes were disseminated.

The importance of program rules

3.1 Most government programs require a framework of rules and procedures to support sound management and delivery. Some programs are governed through formal guidelines, reflecting a government decision: others through legislation, with supporting interpretive operational guidelines to support delivery. For a program providing a benefit, the rules generally determine eligibility requirements and the scale of benefits, in accordance with the appropriate legal or policy authority.

3.2 Program rules need careful consideration to ensure that they are lawful, reflect government intentions, give effect to the program within the resources provided, avoid unnecessary ambiguity and support transparent and defensible decision-making. Adherence to them will be facilitated if they are made known promptly to the people that must work with them and are understood by them. They must be settled in a timely way and be capable of prompt amendment should unforeseen circumstances require it.

3.3 The ANAO examined:

- the authority for the BER program, as this has implications for how the program rules are set and the risks associated with that process;
- the development and approval of the program rules within the policy framework established by government; and
- the dissemination of those rules to decision-makers.

Authority for BER P21

3.4 The BER is established under executive authority: it is not specifically legislated. That is, there is no law or regulation setting out which schools are to benefit, by how much and under what conditions. Rather, the fundamental program rules are set by government decisions with greater elaboration prepared by the administering agency, DEEWR, in the form of program guidelines and other supporting material.

3.5 The Commonwealth Ombudsman recently set out the advantages of this approach to managing a program:

The main advantage of executive schemes is their flexibility. Because there is no need to wait until legislation is drafted, considered and passed by Parliament, such schemes can be quickly established when the need arises, adjusted easily as circumstances change and closed down when the need for them no longer exists.⁷⁰

3.6 The Ombudsman also explored the risks of developing program guidelines for a program under executive authority:

The standard of drafting of program rules, including eligibility criteria, is sometimes not as high as in legislative schemes, which are subject to a range of external scrutiny processes before they come into operation. Foreseeable issues may not be addressed, and guidelines sometimes have not aligned with the program's policy aims, as stated by the government or minister.⁷¹

3.7 This suggests a need for particular care by those who prepare program rules to ensure that they accurately reflect policy aims. Flexibility is likely to be of particular value where rapid implementation in diverse local conditions and locations is required, that is, where it is not practicable to anticipate centrally all the circumstances that must be addressed in delivery.

3.8 Preparation of program rules will generally benefit from consultation with program stakeholders. Use of available expertise and experience in developing operational rules helps to ensure they are appropriate to the requirements of service providers. This includes using available expertise within policy agencies, as well as consulting appropriately with service providers responsible for implementation. To ensure that current program rules are transparent and understood by all stakeholders, implementing agencies need to routinely update and promulgate these decisions.

Development and approval of program rules

National Partnership requirements for the guidelines

3.9 The Council of Australian Governments (COAG), through the *National Partnership Agreement on the Nation Building and Jobs Plan* (NPA), assigned

⁷⁰ Commonwealth Ombudsman, 2009, *Executive Schemes*, Canberra, p. 3, available from: <http://www.ombudsman.gov.au/files/investigation_2009_12.pdf> [accessed 1 December 2009].

⁷¹ *ibid.*, p. 27.

DEEWR the responsibility for translating the Government's policy objectives into bilateral or funding agreements and program guidelines to govern delivery. In developing these rules, the department was required to consult the states.

3.10 The NPA requires the states to 'adhere to the Commonwealth's BER program guidelines' and goes on to stipulate that 'Funding is conditional on the states agreeing to ... adhere to the Commonwealth's BER program guidelines.' Thus the Agreement identifies the Commonwealth as the owner of the BER program guidelines. However, it requires the Commonwealth to develop them 'in consultation with the states'. It requires states to adhere to the Commonwealth's guidelines with a penalty, should they not do so, of funding not being provided.

3.11 In accordance with the NPA, DEEWR developed guidelines. That took place between early February and their announcement on 24 February 2009.

Consultation in developing the guidelines

Parties consulted

3.12 DEWR provided a copy of the then draft program guidelines for the BER program to the states, territories, BGAs and a representative of a teachers' association on 17 February 2009. Simultaneously it provided a copy to the Commonwealth Coordinator-General at the Department of the Prime Minister and Cabinet (PM&C). However, DEEWR did not consult Finance or the Treasury on the content of the guidelines.

Commonwealth grant guidelines not applicable

3.13 Since December 2007, the Government has required all guidelines for new grant programs to be considered by the Expenditure Review Committee (ERC) of Cabinet.⁷² Among other things, this allows Finance and the Treasury to scrutinise such guidelines and provide advice to ministers. Commonwealth Grant Guidelines specify a number of other requirements of agencies in relation to grant program guidelines, such as a requirement to make them publicly available.

3.14 However, National Partnership payments (such as payments under BER P21), as payments to a state or territory made for the purposes of the

⁷² Finance Minister's Instruction, 15 December 2007. See also Department of Finance and Deregulation, July 2009, *Commonwealth Grant Guidelines*, paragraph 3.22.

Federal Financial Relations Act 2009, are taken not to be grants for the purposes of the *Financial Management and Accountability Act 1997* (FMA Act).⁷³ Therefore the Commonwealth Grant Guidelines and the requirement to provide the program guidelines to ERC do not apply to the BER program.

3.15 It would have been prudent, nevertheless, for DEEWR to have consulted Finance and the Treasury on the BER guidelines. This was especially so, given that DEEWR had concerns about the adequacy of program funding from early in the program's inception (this matter is discussed further in Chapter 5).

The process of consultation

3.16 To meet the timeframes for the establishment of BER P21, DEEWR needed to develop and release the program guidelines quickly, which precluded the opportunity for the type of consultation usually associated with designing an initiative of its size and complexity.

3.17 Reflecting this constraint, Education Authorities indicated various levels of satisfaction with the level of consultation undertaken by DEEWR in the development of the program guidelines.⁷⁴ In submissions received by the ANAO from 17 Education Authorities, eight reported that they were satisfied with the level of consultation, while the remainder observed that opportunities to provide input into the design of the program were limited. Representative of views put to the ANAO on this matter are the following:

The [Education Authority] ... was able to participate in the design of the BER P21 program in conjunction with other education authorities and DEEWR. This participation included video conferences, teleconferences, and meetings as early as February 2009, shortly after the announcement of the BER program. The [Education Authority] contributed certain suggestions to the composition of the program and these were considered in the final design of the program guidelines and operating principles ... Accordingly, given the nature of this stimulus funding, [the Education Authority] is satisfied with the level of consultation undertaken by DEEWR.

* * *

⁷³ FMA Regulation 3A(2).

⁷⁴ These views were stated direct to the ANAO in submissions provided by Education Authorities. It should be noted that some of these comments address policy matters, which DEEWR did not control.

The [Education Authority] is satisfied with the opportunity provided to contribute to the design of the BER program ... The goals of the BER program as a stimulus package were clearly communicated, as were the time imperatives for the program. [The Education Authority] had communicated its preference for allowing flexibility in allocating funds to schools to ensure funding could be weighted towards those schools with the need. DEEWR recognised the merit in this, to the extent possible, in developing its guidelines.

* * *

The [Education Authority] was not consulted on the design of the BER P21 program prior to its announcement by the Prime Minister and the opportunities to contribute to the design of the original program guidelines were limited. However the [Education Authority] is conscious that the initiative had to be implemented quickly in response to the national economic downturn and that more lengthy consultation would have delayed the program's implementation ... Overall, the [Education Authority] is satisfied with the level of consultation between the Department of Education, Employment and Workplace Relations.

3.18 Most of the Education Authorities that provided submissions to the ANAO recognised that the opportunities for consultation in the very early stages of program establishment were necessarily limited by the need for rapid decision-making, and that as such, they were prepared to accept that the basic parameters for the program were fixed. On the whole, Education Authorities advised the ANAO that the guidelines provided a workable framework for delivery of the program:

In summary, we accepted the overall design of the P21 Program as proposed by the Government as meeting our building needs, manageable but challenging in operational terms and with grants well targeted at schools by enrolment size.

* * *

The [Education Authority] had limited opportunity for involvement in the early development phase of the BER P21 program but is satisfied with the design of the program.

* * *

Given the constraints (e.g. type of facility and amount of funding) the Program Guidelines have generally provided a sound framework for implementation of the program.

3.19 As could be expected, given the tight timeframes for establishment of the program and the need to balance the interests of different stakeholders, a

range of concerns could not be or were not accommodated by DEEWR in the time before the guidelines were released. The two main sources of concern raised in the 17 submissions received by the ANAO from Education Authorities were: the limited flexibility they allowed authorities (mentioned by eight Education Authorities, all of whom represent school systems, government and non-government); and a perceived lack of consistency with existing capital grants administration practices (mentioned by eight Education Authorities, all non-government). These areas of concern are discussed later in this chapter.

Approval of the guidelines

3.20 DEEWR advised that it did not consider that any formal sign-off of the guidelines was necessary and, in fact, there was none:

As program manager and BER National Coordinator [*a senior officer*] approved the BER guidelines. As [*the same officer*] had been intimately involved in the development of the program guidelines, there was no need for a formal sign-off of the guidelines.⁷⁵

3.21 On 24 February 2009, the Deputy Prime Minister announced, in a press release, the availability of the guidelines on the BER website.⁷⁶ The department advised that:

by virtue of the DPM issuing the media release concerning the availability of the guidelines and signing the bilateral agreements with the states and territories the DPM has given her endorsement of the guidelines.⁷⁷

3.22 When the Government made its subsequent decision about providing further funds for BER P21 (see Chapter 5), it specifically required that the guidelines for the BER program be revised following further consideration by the Minister for Employment Participation and the Coordinator-General, and be settled between the Minister, the Deputy Prime Minister and the offices of the Prime Minister and Treasurer.

⁷⁵ DEEWR advice, 24 September 2009.

⁷⁶ Deputy Prime Minister, Media release, 24 February 2009, *Building the Education Revolution Guidelines Available*, available from < http://www.deewr.gov.au/Ministers/Gillard/Media/Releases/Pages/Article_090224_154149.aspx > [accessed 9 November 2009].

⁷⁷ DEEWR advice, 24 September 2009.

Elements of the guidelines required clarification or amendment

3.23 Reflecting the speed with which they were developed, a range of details about how the program would be administered were not resolved in the guidelines when they were released, including ambiguous definitions, operational rules not clearly stated, and some inconsistencies with earlier agreements. Some notable examples were: the lack of articulation of policy on how funding allocations for schools with a high proportion of indigenous students would be calculated; lack of clarity over reporting definitions and expectations; and lack of clarity about how changes to the approved scope of projects would be authorised.

3.24 DEEWR decided early in the program that it would revise the guidelines infrequently, as regular revisions could consume time and resources and create confusion. Therefore, DEEWR addressed these matters as they arose through operational policy decisions and ad hoc revisions to the program guidelines. This represented a pragmatic approach in the circumstances.

Matters requiring DEEWR decisions

3.25 Following the establishment of the guidelines in late February 2009 DEEWR considered an extensive range of matters on a case-by-case basis, and promulgated a large a number of decisions. Some of these decisions were progressively incorporated into the guidelines, in the two revisions that were made in August and September 2009. The matters requiring decisions from DEEWR were extensive and included the following:

- *Allowable use of funding*—This included questions such as how many projects schools would be allowed to implement with BER P21 funding; which projects were eligible (such as teacher accommodation or the construction of a BER P21 funded library on a site separate from the primary school that attracted the funding); whether, and in which circumstances, land could be purchased using BER P21 funding; what could be included in the fit-out of BER P21 buildings;⁷⁸ eligibility of grey water irrigation systems, retractable seating for multipurpose halls, or air conditioning as part of refurbishments.⁷⁹

⁷⁸ An example of advice on this point is that a piano could be included in the fit-out of a music building as a non-portable item, however other instruments could not.

⁷⁹ Funding for these items under BER P21 was deemed allowable by DEEWR.

- *Eligibility for funding*—This included questions about the eligibility of multi-campus and distance education schools,⁸⁰ schools with a high proportion of indigenous students,⁸¹ and schools on leased land.
- *Authorising changes*—Questions arose as to how changes to the scope, budget and timelines for approved projects would be authorised.

3.26 To respond effectively to these questions, DEEWR's decisions needed to be timely, consistent with existing policies, and provide a basis for Education Authorities to deliver against expectations. Some of the administrative decisions made by DEEWR have reduced certainty and constrained flexibility for Education Authorities.

3.27 Specific difficulties with DEEWR's program rules have arisen from:

- measures introduced to ensure progress;
- guidance on the use of allowable funding;
- rules governing project variations; and
- changes in payment schedules.

Each of these is considered below.

Measures introduced to drive progress

3.28 The government decision included clear requirements for BER P21 construction commencement, by funding round. Round 1 projects would commence construction by end June 2009 at the latest; Round 2 projects would commence construction by October 2009; and Round 3 projects would commence construction by February 2010. Subsequently, the NPA with the states and territories set more ambitious targets: Rounds 2 and 3 projects were expected to commence no later than 31 August 2009 and 1 December 2009 respectively.⁸²

⁸⁰ At the commencement of the program, distance education student enrolments were excluded from the calculation of schools' notional funding. With the Deputy Prime Minister's authorisation, this rule was changed to include such students. This was estimated at the time to cost \$15.6 million but more complete data subsequently showed that it cost \$29.9 million.

⁸¹ DEEWR advised that, because of the short timeframe for the original costings, the special treatment of indigenous schools had not been reflected in them. This added an estimated \$43 million to program costs.

⁸² National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity and Supporting Jobs Now, p. 24, available from www.coag.gov.au, [accessed on 23 November 2009].

3.29 The initial BER Guidelines were silent on construction commencement, focusing instead on *project* commencement following completion of each funding round. The term ‘project commencement’ was defined as: ‘the undertaking of any action, post any design phase that incurs an expense covered by BER funding for that project.’⁸³ This definition created confusion over the status of actual construction work in schools, and meant that DEEWR was unable to accurately determine the progress of construction activity under way across the program as a whole.

3.30 To address this issue, DEEWR’s August 2009 revision of the guidelines introduced a new ‘construction commencement’ milestone to identify the start of continuous on-site activity at a school. The Commonwealth Coordinator-General had suggested the inclusion of construction commencement ‘to add an extra reporting point’.⁸⁴ However, he also suggested that Round 3 BER P21 projects be required to meet either project commencement by September–October 2009 or to commence construction by 1 December 2009, the latter being the NPA milestone.

3.31 The new construction commencement definition was not included in the draft guidelines that DEEWR circulated for comment. As a result, Education Authorities became aware of the change only when the final, revised guidelines were published on DEEWR’s website in late August 2009.

3.32 Inclusion of the new milestone ensured the guidelines were more consistent with the NPA. It also reflected a focus on rapid implementation to achieve the program’s stimulus objective. However, this needed to be tempered with a realistic assessment of the time required to design and procure construction work.

3.33 Education Authorities and construction industry bodies believed that more flexibility was desirable for commencement dates. This flexibility would have allowed, for example, more remote construction projects to be completed progressively by teams of builders moving from site-to-site, would cater for climatic conditions in some jurisdictions, and would also help limit the potential overheating of local construction markets. An Education Authority noted that:

⁸³ DEEWR, 2009, BER Guidelines, Version 1, p. 3.

⁸⁴ Letter from the Commonwealth Coordinator-General to the BER National Coordinator, DEEWR, 25 August 2009.

The emphasis on the commencement of the BER P21 program has been around commencement of construction. Although there is a definition of commencement which is defined as any expenditure post design, attention from the media and more recently DEEWR is focused on commencement on site by construction companies. This fails to recognise that the building industry include pre construction elements requiring consultants such as architects, engineers and quantity surveyors who need reasonable time in order to produce quality work. Therefore, while the milestone of commencement has been technically met by this [authority], the construction commencement on site has taken longer.

3.34 Education Authorities informed the ANAO that the introduction of a deadline for continuous on-site construction would have increased costs, slowed construction and disrupted schools for longer than necessary. DEEWR subsequently reversed its decision to include this milestone in the BER guidelines. It did this on the basis of representations from Education Authorities that it was not achievable. As is discussed in Chapter 7, the NPA milestones for construction commencement were met by only 18.6 per cent of projects.⁸⁵

Guidance on the allowable use of administrative funding

3.35 Under the bilateral and funding agreements with Education Authorities an additional amount, equal to 1.5 per cent of the program funding allocated, was made available to them for their administration costs. Those agreements specifically precluded the use of this administration funding for program purposes (that is, projects in schools). However, DEEWR's advice to Education Authorities before October 2009 was that they could apply any savings in their administrative funding to projects under BER P21.⁸⁶ This approach, which provided an efficiency incentive, was consistent with that used by DEEWR in its ongoing Capital Grants Program. It was supported by Education Authorities as a means of encouraging efficiency, and managing contingencies, such as cost overruns in some projects.

⁸⁵ The release of the BER Guidelines in February 2009 and subsequent amendments in August and September 2009 established revised arrangements applying to Education Authorities in relation to the commencement of BER P21 project activity. On the basis of these revised targets, which encompass pre-construction elements, 97 per cent of BER P21 projects had commenced by 28 February 2010.

⁸⁶ Section 4 of the funding agreement between DEEWR and Education Authorities variously states that: *You must not allocate any Funding for administrative expenditure by a [Education Authority] participant, unless otherwise indicated in the Guidelines and Funding under this agreement must not be used for project components for which a School is entitled to receive funding from other Commonwealth or State or Territory sources.*

3.36 Once the department became aware that its initial advice to Education Authorities was inconsistent with the terms of its bilateral and funding agreements, it sought to rectify the inconsistency. After obtaining legal advice and subsequent approval from the Minister for a change in policy, the department advised authorities that any savings in administrative funding were to be returned to the Commonwealth. While consistent with the terms of its agreements with Education Authorities, the initial decision and subsequent reversal reduced the certainty for Education Authorities. This was described by one Education Authority as ‘policy on the run,’ demonstrating a ‘lack of consistency’, with the decision causing ‘considerable angst for some.’

Rules governing project variations

3.37 Project variations are a common occurrence in the course of construction projects. They arise because a requirement becomes apparent which was not foreseen at the outset and some change arises which may affect cost, scope or time allowed at the outset for a project. Soon after the Deputy Prime Minister had approved Round 1 projects, on 7 May 2009, Education Authorities began to seek guidance from DEEWR about how changes would be authorised to the scope, budget and timelines for approved projects. This had not been covered in the program guidelines.

3.38 Applications for BER P21 funding were generally based on early, broad estimates. As projects progressed and took form, it was inevitable that a large number of changes would arise.⁸⁷ Having a simple, orderly process for managing these variations was therefore a central issue in the management of the program. One Education Authority communicated this situation to DEEWR as follows:

The vast majority of variations relate to the cost of projects moving within a school’s overall funding cap, for example a multi-purpose hall and library approved for \$1.5 million each, after consideration of site issues now cost \$1.4 and \$1.6 million respectively. Given the tight timelines at school application stage, cost estimates were used rather than firm costs from tenders. Minor variations are therefore anticipated on virtually all approved DEEWR projects under the BER program.

3.39 Foreseeing this, several Education Authorities proposed to DEEWR approaches intended to satisfy the Commonwealth’s accountability

⁸⁷ DEEWR informed the ANAO that over 10 000 project variations have been processed.

requirements while minimising administrative overheads and the risk of delay. Others suggested that the approach established in DEEWR's Capital Grants Program was a suitable model for management of variations.

3.40 DEEWR did not adopt any of these suggestions. Instead, it introduced a specific set of variation rules for the program. The Deputy Prime Minister approved these (17 May 2009), and the department released them to Education Authorities in June 2009. They were incorporated into the BER Guidelines as part of the August 2009 amendments. DEEWR advised the ANAO that in designing the variations process:

The Department was conscious of keeping the administrative overhead to both the Department and the solution proposed needed to bring a balance which ensured the integrity of the DPM's decision.

3.41 Education Authorities almost universally were of the view that the project variation rules were excessively complicated and that they contributed to additional delays. They attributed this to a number of factors, including the documentation requirements and the level of departmental involvement—many variations required DEEWR approval before projects could progress. Sixteen of the 17 submissions the ANAO received from Education Authorities highlighted major shortcomings and concerns about the variations process:

On the process for submitting variations there was no apparent consultation. The [Education Authority] was presented with a cumbersome, crude and overly-detailed spreadsheet. The directions for using the spreadsheet were confusing and caused additional work because of the need to resubmit applications to correct errors.

* * *

Within this context, the reluctance to consider changes in the variation process has caused unnecessary work and a degree of frustration, particularly when all education authorities articulated a simplified process that satisfies DEEWR's information requirements.

* * *

With regard to the project variation process, [this Authority] continued to make representations to DEEWR that this process is too detailed and cumbersome.

3.42 The Commonwealth Coordinator-General also wrote to the BER National Coordinator in August 2009, confirming views about the *Variations to Project Approvals* process put by his officers to DEEWR at a meeting a few days earlier. He suggested that, for requests to move funds of under five per cent from one school to another:

to enable flexibility to meet program timelines and agreed project scope and schedules, the wording of this section [*of the draft revised BER Guidelines*] be changed to merely require education authorities or BGAs to consult with the schools and later notify DEEWR that this consultation has taken place. I suggest that the requirement to seek prior approval from DEEWR be replaced with a requirement to notify DEEWR.⁸⁸

3.43 DEEWR took up this suggestion in the revised guidelines issued on 27 August 2009.

3.44 DEEWR advised the ANAO that:

All projects were approved by the DPM. The Department proposed a process that would maintain the integrity of the DPM's decision as projects moved into the delivery phase. The project variations process was necessary to ensure that projects implemented aligned with projects approved by the government and that variations to project funding levels was monitored. Changes through the implementation phase are inevitable given the compressed timeframes. DEEWR has been working closely with EAs to streamline the process e.g. an EA working group was established and has developed a more streamlined process for project variations which is now operational.

3.45 Establishment of the working group, while beneficial, only occurred at the end of September 2009, well after a large number of Education Authorities had stated serious concerns about the variation rules to DEEWR. The department has subsequently advised that the working group devised a solution and the revised process was implemented on 20 November 2009.⁸⁹ DEEWR also advised the ANAO that, since the introduction of the process, some 3765 variations had been processed for BER P21.⁹⁰

Changes in payment schedules

3.46 Each bilateral and funding agreement DEEWR established with Education Authorities included a schedule for payment of BER P21 funding. In light of the stimulatory objective of the program, the funding schedules prescribed a small number of large, advance annual payments. There were also some broad controls included in the agreements, such as establishing an Australian Government right to withhold funding where Education

⁸⁸ Letter of 25 August 2009 from the Commonwealth Coordinator-General to the BER National Coordinator.

⁸⁹ DEEWR provided the ANAO with a copy of the relevant advice to BER coordinators and a copy of the instructions relating to the interim solution.

⁹⁰ DEEWR advice, 7 April 2010.

Authorities had used less than half of funding provided in the previous financial year.

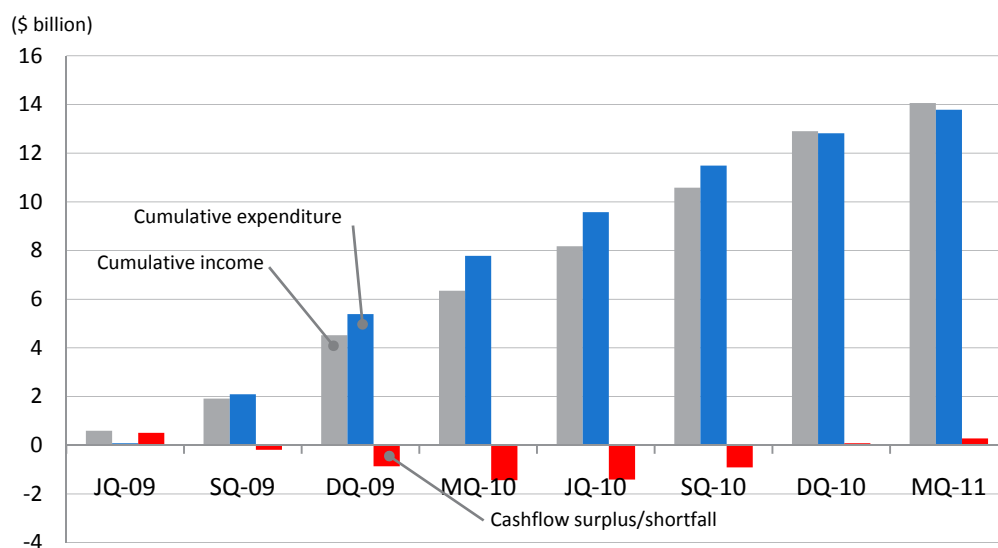
3.47 DEEWR subsequently made two amendments to the payment schedules, first in May 2009, and then in October 2009, which introduced smaller, more regular instalments. It made these changes to encourage timely, accurate reporting and to allow it to monitor expenditure more effectively:

Under the original payment structure should a state, territory or BGA choose not to provide timely reports or not to expend the funding in a timely manner, the Commonwealth had no real remedy until the next yearly payment became due.

3.48 Although DEEWR had a rationale for introducing smaller, more regular funding instalments it did not model or explore the effect of its proposed changes on Education Authorities' capacity to fulfil their funding obligations to schools and contractors. Based on expected payment obligations for agreed project milestones, ANAO analysis shows that payment instalments in the amended funding schedules would inevitably lead Education Authorities to encounter cash flow problems (see Figure 3.1).

Figure 3.1

Cashflow: cumulative P21 income and expenditure (by quarter)



Source: Cumulative BER P21 expenditure estimates are based on SEMIS data provided to the ANAO.

Note: For those projects that have commenced, construction milestone data is used to derive an estimated expenditure profile for those projects. Where milestone data was not yet available (that is, for projects yet to commence construction), a uniform expenditure profile has been assumed. BER P21 income estimates are derived from the payment schedules set out in the October 2009 bilateral/funding agreements.

3.49 Consistent with this analysis, cash flow has caused ongoing concern among Education Authorities. While their level of concern varied (reflecting, in part, their capacity to access alternative sources of funding), 12 of the 17 submissions received from Education Authorities highlighted concerns about cash flow. For example, one observed that:

DEEWR have asked that BER grant payments be made to schools as soon as possible but have not provided certainty in the timing of payments to [Education Authorities]. Our cash flow predictions suggest that we may not be able to meet all of the requests for funds from our schools ... The funding has been spread over the life of the program with the last instalment due in March 2011, when all projects should be completed. This will not meet the anticipated cash flow of the [Education Authority]. Payments to [Education Authorities] were held up in July and only received in September because the monthly reports from schools did not indicate the same level of expenditure as the [Education Authority]. It was not clear in the agreements that [funding] instalments would be linked to school's reported expenditure.

3.50 The magnitude of the cash flow problems facing Education Authorities was outlined by one which reported to DEEWR (16 June 2009):

When comparing your [proposed payment schedule] with our current estimated cash flow in line with our managing contracts; it shows that [this Education Authority] will carry a deficit for the rest of the program, with a maximum exposure of as much as \$976 million.

3.51 Another Education Authority advised DEEWR in June 2009:

Our projections, premised on P21 commencements as per the BER guidelines and completion dates for the small school projects of 7 months and completion dates for larger projects being 12 months, indicate positive cash flow till March 2010 but then continuing shortfalls until the final payment by DEEWR in 2011. In fact our projections indicate a shortfall in excess of \$200m at various stages.

3.52 In total, Education Authorities have encountered cash shortfalls on six occasions, which DEEWR addressed by advancing funding before the next scheduled instalment. In one case, an Education Authority reported to DEEWR that it had exhausted its available cash reserves and was unable to make payments owed to 32 schools.⁹¹ DEEWR advised the ANAO that the payment model it had adopted, including ability to make advance payments, provided

⁹¹ DEEWR notified the Education Authority that it would consider the matter through the monthly reporting process. As a consequence, resolution of the issue through approval of a funding advance was delayed by around one month, with a potential delay in project activity.

it with flexibility to respond quickly to unanticipated cashflow issues, and that no Education Authority had been placed in the position of being unable to make payments due to cashflow problems.

Endorsing rule changes

3.53 The imposition of additional or amended program rules during the delivery of the BER program could have a major effect upon Education Authorities. Therefore DEEWR needed an objective assessment of the potential effects of proposed new rules and policy interpretations, with appropriate controls governing their approval and deployment.

3.54 The department used a number of approaches for the endorsement of new rules, rule changes or policy advice. In some instances, departmental officers dealing with the matter emailed the issue, with a proposed solution, to a senior staff member seeking approval for the proposed response. In other cases, a written minute was prepared with an outline of the considerations and relevant background, with an expectation that the decision-maker approve or reject the proposal. In some cases, rule changes were endorsed by the Minister.

3.55 To facilitate internal management, DEEWR established a register of new rules, rule changes and policy advice. This register included the date of the decision, the approver, an outline of the decision; and a limited summary of the background to the decision. The use of the register was discontinued early in the establishment phase, with the last policy decision on the register dated 2 April 2009. DEEWR subsequently established a BER Projects list that included information on accepted practice under the program. The list did not, however, include information such as the date of the decision or the identity of decision-maker.

3.56 The absence of clear controls over the endorsement of new rules or amendments increased the risk of inconsistent decision-making, the creation of additional work and an increase in cost. DEEWR has advised the ANAO that:

Since the program has moved into its delivery phase, there has been a review of clearance process[es]. All changes of policy, and operational policy, are reviewed by the National BER Coordinator who determines whether the Minister needs to make the decision.⁹²

⁹² DEEWR advice, 3 February 2010.

Consultation about rule changes

3.57 Education Authorities generally recognised the efforts of DEEWR officers to respond to matters encountered during the program implementation in a timely fashion. They observed that departmental officers had been approachable, professional and responsive:

DEEWR staff, under enormous pressure, have been most prompt in responding to queries and issues.

* * *

We are grateful to the Commonwealth Government for the BER funding and to the DEEWR officers who, starting from scratch, have been supportive and cooperative in making the program a reality.

* * *

[*This Authority*] has been pleased at some degree of flexibility on the part of the BER taskforce regarding sensible operational and implementation change.

3.58 DEEWR, as the Australian Government's administering agency, is not obliged to accept suggested changes or enhancements to the program, especially where they may be inconsistent with government policy, or do not support the achievement of the program's objectives. However, submissions received from Education Authorities by the ANAO suggest that, in their view, there were many cases where feedback provided to the department on proposed amendments to program rules was not given sufficient consideration and, in others, that authorities were not given sufficient opportunity to comment on proposed changes.

3.59 In the context of a stimulus program requiring rapid establishment, there are constraints on the time available for consultation with implementing partners on program changes. When determining the extent of consultation over rule changes, judgement is needed to balance the imperative to act quickly with the time required to design and implement rule changes in consultation with key implementing partners. In the case of the BER program, more effective consultation with Education Authorities on the reasons for new rules, or changes to existing rules may have avoided some of the problems encountered during program implementation. This is evident, for example, in the approach to introducing rules governing project variations, where insufficient initial consultation resulted in the need for remedial work to refine and improve the process.

Capitalising on existing practices and knowledge

3.60 DEEWR has a long history of managing capital programs aimed at improving school infrastructure. Examples are programs such as the *Capital Grants Program*,⁹³ and the *Investing in Our Schools Program* (IOSP).⁹⁴ The Government's requirement for the rapid establishment of BER P21 following the announcement of the program in early February 2009 meant that DEEWR had little time to develop new program rules and to promulgate these rules to decision-makers. The department's capital programs, in particular the *Capital Grants Program*, had a mature set of guidance materials that addressed many of the matters that can potentially arise from school infrastructure projects and involved staff with relevant knowledge.

3.61 While BER P21 differed from these programs in many respects and is being delivered under new COAG arrangements, the knowledge gained by the department in implementing these programs provided a robust basis for BER administrators to draw upon. This was important particularly for the non-government education sector, which was not covered by the provisions of the federal financial relations framework and had established systems to meet the requirements of existing programs.

3.62 DEEWR advised the ANAO that it had consciously and deliberately adopted some of the rules from existing programs for the BER P21, and excluded others on the basis they were not suitable for the program's specific circumstances. While this was a valid approach to adopt, consultations with Education Authorities showed that the basis for these decisions was frequently not clear to them.

3.63 Nine out of the ten non-government Education Authorities that provided written submissions to the ANAO were critical of the department's

⁹³ The Capital Grants Program commenced in 1987 and is an ongoing Commonwealth Government funded program. Its objectives are to: provide and improve school capital infrastructure, particularly for the most educationally disadvantaged students; ensure attention to refurbishment/upgrading of capital infrastructure for existing students, while making provision for needs arising from new demographic and enrolment trends; and in implementing the above two objectives, also pursue the Commonwealth Government's other priorities and objectives for schooling.

⁹⁴ *Investing in Our Schools* (IOSP) was a program under the previous government. In government schools its objective was to provide funding for smaller scale infrastructure projects which met the priorities identified by school communities in conjunction with school principals. The focus for non-government schools was on the delivery of projects which met priorities identified by school communities and included larger infrastructure projects.

limited use of existing practices and knowledge in its implementation of BER P21. The following comments were indicative of the feedback received:

The capital grants program has been operational since 1987 and has delivered many hundreds of millions of dollars worth of capital works since its inception. It seemed an eminently sensible proposition to extend this existing process but for reasons unknown to us this course was not followed.

* * *

It would appear greater access to experienced building personnel could have contributed to an appreciation by DEEWR of the complexities of constructing school facilities. It is suggested considerable time could have been saved if the current CGDEP [*Capital Grants Data Exchange Project*] online program was utilised, acknowledging there may have been some requirement to make some enhancements. It may also have been opportune to consider the use of the capital programs current Administrative Arrangements and Quadrennial Administrative Guidelines. The use of these documents or an understanding of them may have helped identify issues which needed to be considered when administering a large capital program.

* * *

The DEEWR Officers appointed to BER were not necessarily familiar with long established BGA processes and probably did not capitalise on the experience on offer.

* * *

It has been apparent from the start of the program that the DEEWR team appeared to be 'reinventing the wheel' in terms of program implementation. Both the BGA and some of the experienced participants wondered why the processes used in the Capital Grants program, familiar to most, were not used.

3.64 This feedback suggests that there was scope to use existing practices and knowledge in capital grants administration to a greater extent, or where departures from existing practices were necessary, to better communicate the basis for these decisions. This would have helped to provide greater understanding and certainty to Education Authorities about how the program would be implemented.

Disseminating the program rules to Education Authorities

3.65 DEEWR used a variety of mechanisms to disseminate program rules and supporting guidance materials to Education Authorities, including:

- emails addressed to the BER Coordinators in each Education Authority;

- face-to-face meetings and teleconferences;⁹⁵
- correspondence with Education Authorities; and
- Frequently Asked Questions located on DEEWR's website.

3.66 The mechanisms that DEEWR employed to disseminate guidance material, in particular the extensive use of email correspondence, represented a 'fit-for-purpose' response to the time constrained delivery environment for BER P21. However, the variety of communication mechanisms used, and the iterative approach adopted by the department to develop and disseminate program rules, meant that there was no single source of program guidance for Education Authorities. This could have been an online reference site with the purpose of underpinning the higher level program guidelines. While DEEWR did confirm some matters by email following teleconferences with Education Authorities, meeting records were not circulated for reference by Education Authorities. As a result, Education Authorities were required to rely on their own record of teleconference proceedings.

3.67 Consequently, when seeking guidance on applicable rules, Education Authorities needed to work with the guidelines, supplemented by operational policy emanating from the department (in the form of ad hoc email communications from the BER Taskforce). They also drew on information recorded within the authority (in the form of notes from meetings and teleconferences). With minimal additional effort, the department could have improved its documentation and dissemination of decisions made through these channels. DEEWR advised the ANAO that it has worked to improve its methods for communicating administrative decisions by issuing guidance memos to Education Authorities. Specifically, it advises that, since late October 2009, it has issued three guidance memoranda.

⁹⁵ Teleconferences between DEEWR and Education Authorities were not, generally, minuted by the department and, therefore, records of the teleconferences were not circulated for reference by Education Authorities. As a result, Education Authorities were required to rely on their own record of teleconference proceedings. DEEWR did, however, confirm some matters by email following teleconferences.

4. Assessing and Approving Funding Allocations

This chapter considers the effectiveness of DEEWR's assessment of eligibility for funding, and approval of funding allocations by Education Authorities to schools in their jurisdictions.

Overview

4.1 The broad parameters of BER P21 were set by the original government decision, and the subsequent Council of Australian Government's *National Partnership Agreement on the Nation Building and Jobs Plan* (NPA).⁹⁶ The NPA was established within a framework for reform of Australia's federal financial relations system.

4.2 The government decision and NPA envisaged a project approval role for the Australian Government and also stated how funding to Education Authorities and schools would be determined, based on the indicative funding allocations, by school size, set out in the relevant schedule. That was clearly a matter for government decision. However, a number of important questions remained about how detailed funding determinations would be made. Central among these was how much flexibility should be provided to Education Authorities to determine priorities for funding in their jurisdictions.

4.3 DEEWR was ultimately responsible for resolving these questions, by developing rules to govern the approval and allocation of funding to Education Authorities and their schools. In doing so, it was important to ensure that the rules developed by the department supported the rapid establishment of the program and achievement of its outcomes.

4.4 The ANAO considered:

- DEEWR's approach to assessing eligibility for funding; and
- DEEWR's approach to assessing and approving the allocation of funding to Education Authorities and schools in their jurisdictions.

⁹⁶ Council of Australian Governments 2009, *National Partnership Agreement on the Nation Building and Jobs Plan*, Canberra.

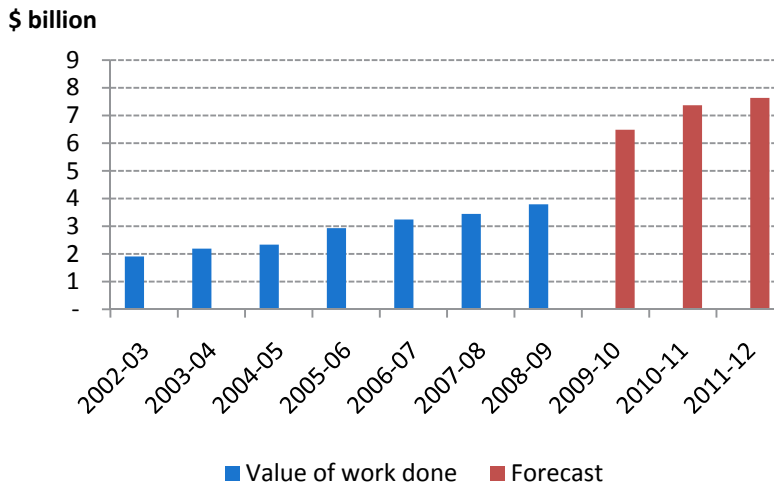
Assessing eligibility for funding

Approach to allocating BER P21 funding

4.5 The BER program, of which the P21 is the biggest component, represents an approximate doubling of recent levels of capital investment in educational infrastructure (Figure 4.1).

Figure 4.1

Value of educational building activity (actual and forecast)



Source: Australian Bureau of Statistics, Time Series '8752.0 Building Activity, Australia' (2002-03 to 2008-09) and Construction Forecasting Council forecast (2009-10 to 2011-12)

4.6 In the case of all eligible schools, this increase in capital funding represented an opportunity to substantially upgrade facilities, through one, or in some cases two, major infrastructure investments, along with the usual challenges of defining and procuring the scope of work identified.

4.7 For managers of schools that are not part of school systems (that is, independent schools) these challenges were contained within the scope of their school boundaries. Managers of school systems faced the additional challenge of ensuring the increased capital investment would cater for both immediate and long term needs of their systems. This included taking into account the effect of demographic changes, and other trends on school enrolments; the age and quality of existing infrastructure; available evidence about the optimal size of schools, and the relative merits of smaller or larger schools (in terms of value-for-money and learning outcomes for students); and the ability of education infrastructure to cater for special needs, including the needs of

communities in remote locations. An additional consideration for school systems was the fact that some schools would be under consideration for closure or amalgamation because of declining enrolments, among other factors.

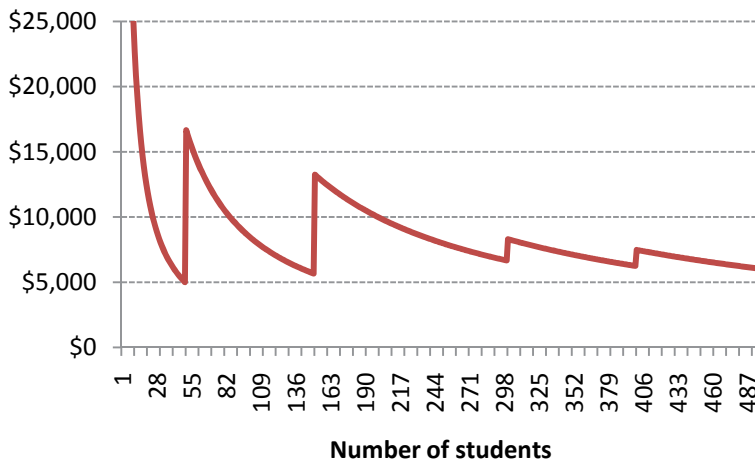
4.8 DEEWR considered funding applications submitted for schools by Education Authorities on a case-by-case basis. Funding for Education Authorities was determined on the basis of data that DEEWR collected on the number of eligible schools in their jurisdictions, and their indicative funding levels as determined by school enrolments. Education Authorities were then required to submit funding applications to gain approval to use the funding that was attracted on a school-by-school, project-by-project basis.

4.9 The use of student enrolments as a basis for determining funding levels was central to DEEWR's case-by-case consideration of funding applications, and the recommendations made by Education Authorities about how available funding should be allocated to their schools. This section examines:

- the importance of enrolment data for determining BER P21 funding allocations;
- the decision to conduct a special census of school enrolments to determine funding entitlements; and
- assurance that funding allocations were consistent with school enrolments.

Importance of enrolment data for determining BER P21 funding allocations

4.10 Maximum payments for schools with different numbers of students were established by the government decision and reflected in the NPA. The caps created some substantial discontinuities in the amounts of funding attracted by school size. For example, a school with 50 students receiving its maximum payment of \$250 000 would be receiving around \$5000 per student, whereas a school with just one more student would be notionally entitled to a maximum of \$850 000, or over \$16 000 per student (Figure 4.2). This pattern repeats at each funding band change, although the per capita funding differences are smaller for larger schools.

Figure 4.2**Funding per student resulting from BER P21 funding bands**

Source: ANAO analysis

4.11 As a result of these parameters, data on schools and their enrolments was important to the operation of the program, as it would provide the basis for determining the funding of Education Authorities and individual schools.⁹⁷ In an effort to ensure that funding allocations were commensurate with school needs, DEEWR decided to conduct a special census for BER P21.

A special census was conducted to determine BER P21 funding entitlements

4.12 To collect data on schools and their enrolments across Australia, DEEWR conducts an annual census, which is used as a basis for calculating grants for government and non-government schools. At the time of the announcement of the program the last school census had been conducted in the August–October period the previous year (2008). In establishing the program, DEEWR considered it essential that schools should be able to apply for funding on the basis of their current, rather than past year enrolments.⁹⁸ For this reason, DEEWR conducted a special census of school enrolments in early

⁹⁷ As is discussed in Chapter 5, this data was also important as a basis for estimating the program's ultimate cost, and advising government on the likely costs of changes of policy governing eligibility and entitlement that would be considered during program establishment.

⁹⁸ DEEWR advice, 3 December 2009.

2009 to provide a basis for funding decisions made under the program. DEEWR viewed the use of 2009 enrolment data as important because:

This would allow the calculation of notional funding allocations based on the *current* year enrolments ensuring that the types of facilities that could be applied for was relevant to the *current* size of the school [emphasis added].⁹⁹

4.13 DEEWR further advised that:

[A] schools census takes around six months from commencement to completion. This would have meant that data would not have been available until August 2009 at the earliest. This would have been a barrier to the effective and rapid implementation of the program and would have resulted in significant uncertainty about final funding, and the eligibility of schools to notional funding allocations until late in the year. As a result, the department decided to conduct a special census.

4.14 Because student enrolments naturally fluctuate, both within and between school years, the use of student enrolments as a basis for determining funding allocations meant that it was inevitable that there would be some who gained more than others resulting from the data used and depending on the precise time it was collected. For this reason, the decision to conduct the special census for BER P21 had different effects on funding outcomes for schools. This was noted by a number of school principals in their responses to the ANAO's survey.¹⁰⁰ For example:

Appreciated the decision to change the enrolment numbers to 2009 data. This provided additional funding to my school that was needed.

* * *

As our Primary School is growing, it was disappointing that the funding brackets were not able to take into account identified growth in this part of our school. In 2009 Primary numbers equal 66 students but in 2011 it is expected that numbers will be at least 160 students. The school community were disappointed with the funding allocated by enrolment bands. This severely disadvantaged our school which at the time was 3 students under the \$2m level. There was no provision made for schools in this marginal situation.

* * *

⁹⁹ DEEWR advice, 3 December 2009.

¹⁰⁰ Details of the survey method and results from the survey are set out in full at Appendix 2.

It was disappointing that our current enrolment was very close to accessing the next level of funding, and even though we could provide evidence that our enrolments are on quite a steep upward trend and that by the beginning of 2010 we would be in the next funding enrolment band, there was never any hope of being able to construct a multi-purpose room that would be of an adequate size over the coming years. There needed to be further consultation at both a regional, network and school level to ensure that other factors rather than an enrolment formula were taken into account.

4.15 The decision by DEEWR to conduct the special census was motivated by an understandable desire to have the best available information on which to base funding decisions. However, because BER P21 funding criteria were known to schools before the special BER P21 census was conducted, such an approach exposed the program to the risk that schools would manage their enrolments to maximise the funding for which they were eligible. Accordingly, it was important for the department to have in place a reasonably tight regime to provide it with confidence in the reported enrolment numbers.

Assurance that funding allocations were consistent with school enrolments

4.16 The special BER P21 2009 census was conducted after the indicative funding caps for the program became widely known. This created an incentive for schools with enrolments just under higher funding bands to manage their enrolments to attract increased funding to their school, or to fail to report a decline in enrolments, where that could have resulted in reduced funding. As a result, there was a risk that schools with the same enrolments would receive different funding amounts. This risk was amplified by the fact that rapid implementation of the program meant there was insufficient time to follow the usual quality assurance and audit regime associated with DEEWR's annual census.¹⁰¹ As a result, some of the enrolment data provided by Education

¹⁰¹ Ordinarily, DEEWR's schools census area collects data on school enrolments annually, commencing in August for non-government schools, and October for government schools. The data undergoes a series of validation checks, including initial checks for completeness and consistency. This is followed by independent verification of the enrolment numbers for a sample of schools, involving the checking of census data against school records. The final data is available in late November for non-government schools, and early in the following year for government schools.

Authorities was not audited by the authority, and none was subject to DEEWR's usual quality assurance and audit work.¹⁰²

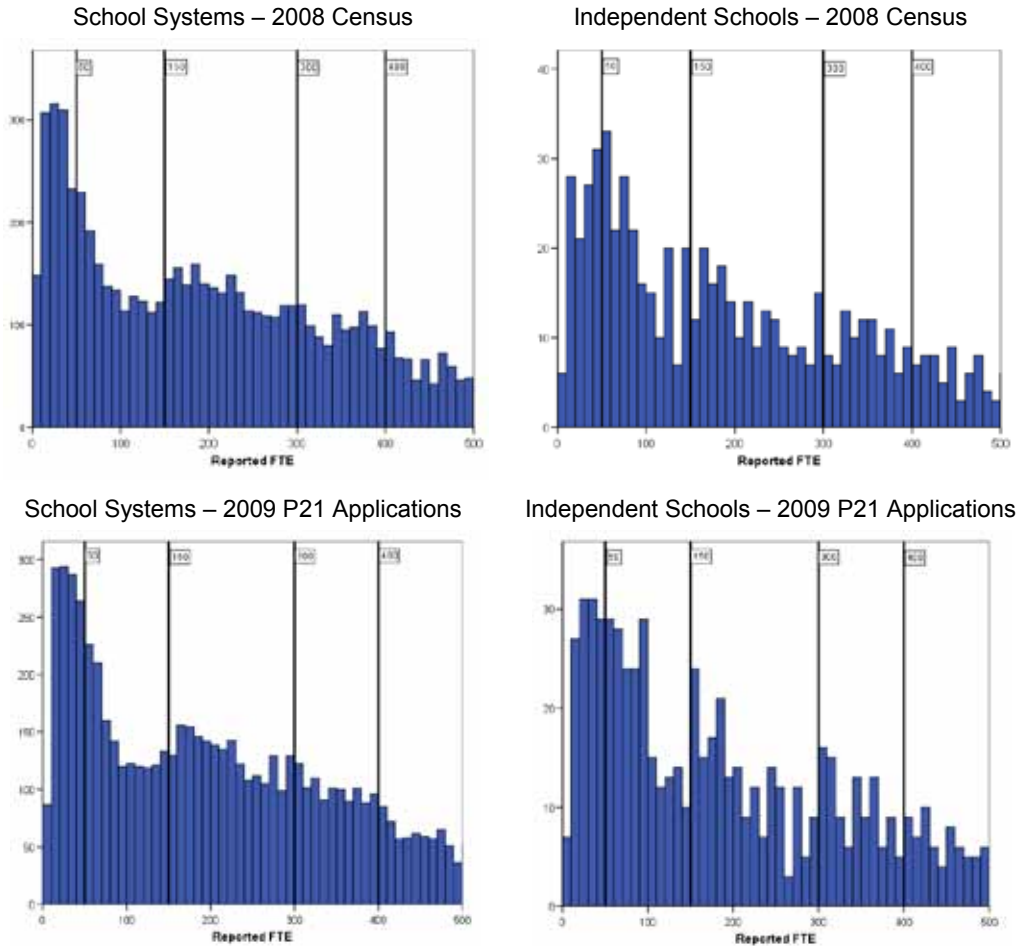
4.17 To determine if there was any evidence that school enrolments were managed in order to attract increased funding, the ANAO compared school enrolments reported in routine censuses for the past three years, with those reported in the special census conducted for the BER program. The results of this analysis suggests a probability that management and reporting of school enrolments has been influenced by the announcement of funding rules established for the program in advance of the census. While clear patterns were not evident in the case of schools that are part of school systems, a substantially higher number of schools that are not part of school systems (that is, independent schools) reported enrolments for the special census just above the funding thresholds established in the BER Guidelines, when compared to their routine census results, and fewer just below (see Figure 4.3).

¹⁰² Four of the 22 Education Authorities notified DEEWR that the data they provided had not been audited and none of the data was subject to audit by DEEWR. In cases where there was insufficient time for Education Authorities to audit the data provided, DEEWR asked them to provide a covering letter from their organisational head assuring them that the data was accurate.

Figure 4.3

Number of schools by Full-Time Equivalent (FTE)— School Systems and Independent Schools

(2008 Census versus 2009 funding approvals, by increments of 10 FTE)



Source: ANAO analysis of school enrolment data (2008 regular census and 2009 BER P21 special census)

Note: While not presented here, the same differences in the distribution of school enrolments are evident when comparing the routine August 2007 and August 2009 censuses and the 2009 special census results.

4.18 Compared with the 2008 census enrolment distributions, the proportion of independent schools reporting primary student enrolments slightly above the BER P21 thresholds is higher than would be expected, which

raises the question of whether some schools may have managed or overstated their enrolment numbers to increase their BER P21 funding.¹⁰³

4.19 The risk of manipulation of enrolments is not new to DEEWR.¹⁰⁴ Consistent with this experience, the risk of schools inflating their enrolment data is identified in DEEWR's risk register.¹⁰⁵ In managing the risk of overreporting of student enrolments by schools to attract increased funding, DEEWR scrutinised those schools that had moved up one or two funding bands from \$850 000, to \$2 million or \$2.5 million.¹⁰⁶ DEEWR selected this treatment because movement between these bands provided the greatest increase in funding, and therefore the greatest incentive to manipulate enrolment data.

4.20 DEEWR's approach did not address the risk of over-reporting to increase funding for any of the other three funding bands, which also incur substantial financial benefits (see Figure 4.3 for changes in the number of schools reporting enrolments just under and just over 50, 150, 300, and 400 students). It also did not address the risk that some schools with declining enrolments may have over-reported enrolment numbers to maintain the funding that would have been allocated to them had previous enrolment data been used.

4.21 Examination of BER P21 enrolment data suggests that only a small number of schools (that is 15 to 30 schools or less than 0.5 per cent of eligible

¹⁰³ In 2008, two per cent of independent schools reported student enrolments one or two FTE below the BER P21 funding thresholds compared with 1.8 per cent one or two FTE above. In contrast, in the special BER P21 Census, 1.6 per cent of independent schools reported enrolments one or two FTE below these thresholds compared with 3.4 per cent one or two FTE above. The hypothesis that *the proportion of Independent schools reporting student enrolments one or two FTE above or below the P21 thresholds is independent of the census used to collect the data* is rejected at a 90 per cent confidence level (based on a calculated Pearson Chi-square statistic).

¹⁰⁴ Instances of inflation of enrolment numbers to increase access to general recurrent grants funding have previously been identified by DEEWR and prosecuted through the legal system. See discussion of these cases in ANAO Audit Report No.45, 2008–09, *Funding for Non-government Schools*, p. 61.

¹⁰⁵ Specifically, DEEWR's risk register identifies the risk that: *Information supplied by schools in response to questions on applications is unclear, insufficient, incomplete or incorrect*, which could result in *allocation of incorrect funding due to incorrect data provided by schools, or schools intentionally reporting incorrectly*. DEEWR identified the following controls: *Funding contracts are drawn up on the basis of 2007 data; Variations to be processed once 2009 audited data are provided; Information cross checking to ensure data validity (sources of information include current school census data held within DEEWR and other IT information systems maintained within the department); and contractual arrangements allow for the recovery of funding.*

¹⁰⁶ DEEWR Minute, April 2009, 'Primary Schools for the 21st Century Application Assurance Check: Schools that were in Band 2 or 3 FTE for 2007 and are now in a higher band'.

schools) may have managed their enrolments so as to increase their P21 entitlement, and that the financial effect would not be material in terms of the total BER P21 funding.

4.22 Without examination of school enrolment records it is not possible to determine the extent to which the patterns identified in BER P21 enrolment data reflect legitimate changes in enrolments, as opposed to deliberate overstatements. However, the results of the above analysis indicate that weaknesses in the department's regime of assurance over reported school enrolments have reduced the level of confidence in the student numbers reported by some schools, and that the risk of management of enrolments by schools warranted closer attention.

4.23 DEEWR informed the ANAO that it intends to compare the August 2009 census results with those obtained through the special BER P21 census and take action to recover any overpayments detected as a result.

Assessing and approving the allocation of funding to Education Authorities and schools

4.24 While DEEWR earmarked notional funding amounts for Education Authorities on the basis of data it collected on the number of eligible schools in their jurisdictions, and their indicative funding levels, it required Education Authorities to submit funding applications to gain approval to use the funding attracted on a school-by-school, project-by-project basis. DEEWR established a number of rules which affected the flexibility of Education Authorities' funding decisions. The ANAO examined:

- the importance of flexibility to education systems to determine funding priorities;
- program rules that have affected the flexibility of education systems to determine funding priorities;
- the effect of constraints on Education Authorities to determine funding priorities; and
- the effect of program rules governing the allocation of funding to schools under consideration for closure or amalgamation.

Importance of flexibility to education systems to determine funding priorities

4.25 Student enrolments naturally fluctuate both within and between years. This means that enrolment figures provide a coarse basis for estimating a school's current or future resource requirements, which are generally subject to long term demographic trends not evident in point-in-time data. Other factors that affect resource requirements include geographic differences in the cost of construction,¹⁰⁷ and that some schools have special needs, for example, as a result of socio-economic factors, or a focus on catering for children with disabilities. To address these factors, education systems generally consider a range of evidence, including demographic models, construction cost indices, and socio-economic data to assist in prioritising the use of capital funding.

4.26 In submissions provided to the ANAO, government and Catholic Education Authorities consistently emphasised that flexibility to account for these factors is critical in ensuring that they obtain the best outcome with BER P21 funding for the schools in their jurisdictions. This was noted by the Victorian Department of Education and Early Childhood Development in its submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into BER P21:

A system-wide approach to contingency funds has been adopted consistent with standard practice in managing a large scale capital program. This recognises that costs will vary across individual schools, for example, where a school encounters rock or soil issues, or needs to extend its water, gas or electricity services. It would not be fair for this individual school to have to forego part of its facility in order to meet this extra cost, so costs have been allocated across all projects. It also ensures that rural and remote schools are not disadvantaged by the higher construction costs in these areas, and that

¹⁰⁷ One Education Authority noted in its submission to the ANAO: *[N]umbers of projects face very real higher costs due to the tyranny of distance and isolation. It is not uncommon for remote projects to cost up to 75% more than a similar project in [a capital city].* Some school principals made similar observations in response to the ANAO's survey. For example, one noted: *The cost of providing infrastructure in remote and isolated locations significantly reduces capacity to provide equity when same dollar funding is attributed per student enrolment across the state. The net result is that schools in isolated and remote locations are provided with less which compounding over time means that schools have significantly less in relation to infrastructure.*

schools whose projects are in different rounds are not negatively affected by prevailing market conditions at the time their project is tendered.¹⁰⁸

4.27 In contrast, this emphasis on flexibility was not a feature of the submissions received from Education Authorities representing independent schools. This is because these authorities do not manage education systems, but rather are service organisations set up to facilitate access to funding for autonomous schools or school systems in the independent school sector, and are thus less concerned with a system-wide matters.

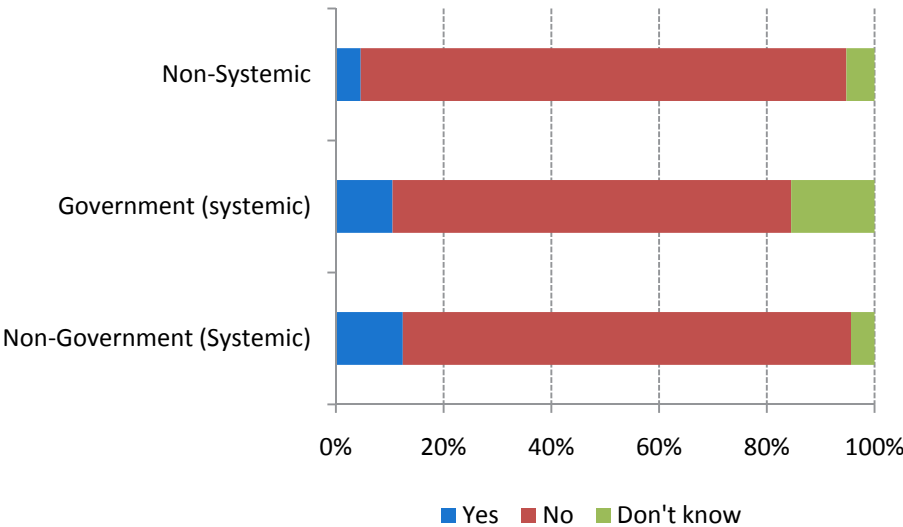
4.28 The difference between the independent schools and the government and Catholic school systems is reflected in the allocation decisions made by Education Authorities (see Figure 4.4). The ANAO's survey of school principals showed that school systems were more likely to use the flexibility in the guidelines to allocate schools under or over their indicative funding levels, while the independent school sector tended to allocate schools funding amounts consistent with their indicative funding levels under the guidelines.¹⁰⁹

¹⁰⁸ Victorian Department of Education and Early Childhood Development, Submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into the Primary Schools for the Twenty First Century, p. 4. The importance of flexibility in allocation decisions was also noted by the NSW Department of Education in its submission to the same inquiry: *the BER Program Office needs to manage individual school's project budgets, as well as a procedure for transferring funds between schools where appropriate. Schools whose projects are affordable within their indicative funding allocation progress straight to construction. However, there are other schools whose projects are not affordable within their funding allocations. For example, schools in remote locations may find that their projects are more expensive simply because of the cost of transporting building supplies and tradespeople to the site. In other cases, the school may be located on a very difficult site, leaving little room available for construction of new buildings. Other schools might be subject to multiple easements, flooding, or even be home to koala colonies which cannot be disturbed*, NSW Government Submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into the Primary Schools for the Twenty First Century, p. 16.

¹⁰⁹ Details of the method and results from the survey are set out in full at Appendix 2.

Figure 4.4

Principal Survey Question: *Was the funding allocated to your school under BER P21 program less than the indicative funding cap established in the program guidelines as applicable to a school of your size?*



Source: ANAO survey of school principals

4.29 While a key objective of the program was that all primary schools in Australia would benefit from the program funding, the Government’s intentions about the flexibility that should be afforded to Education Authorities in making funding decisions were less clear.¹¹⁰ For example, the new federal financial relations framework under which the program has been implemented strongly emphasises the need to provide states and territories with maximum flexibility to set their own priorities for the use of Australian Government funding. The NPA, conceived under this framework, and agreed by Commonwealth, state and territory governments also implies that states and territories would be provided flexibility to set funding priorities, within the framework that funding amounts would be ‘based’ on school size

¹¹⁰ The media release announcing the program stated that the program would: *Build or upgrade large scale infrastructure, such as libraries and multipurpose halls in every primary school, special school, and K-12 school in Australia.* The Hon Julia Gillard MP, Joint Media Release with Prime Minister Kevin Rudd and Wayne Swan MP, 3 February 2009, *Building The Education Revolution—New and upgraded buildings in every Australian school.*

according to ‘indicative caps’ or ‘indicative funding allocations.’¹¹¹ However, the government decision (before the NPA) provides less flexibility—amounts could be varied from the enrolment formula, but only in exceptional circumstances.

4.30 On this basis, the delivery framework agreed by governments and existing government policies allowed scope for DEEWR to provide a degree of flexibility to Education Authorities to prioritise the use of available funding.

Program rules that have affected the flexibility of Education Authorities to prioritise the use of funding

4.31 The BER Guidelines introduced a rule (not stated in the decision by government) that Education Authorities would be required to obtain agreement from school principals to decisions to allocate their school less funding than they were notionally entitled.¹¹² This rule effectively made ‘indicative funding amounts’ established in the guidelines, into entitlements to funding for individual schools, restricting the ability of education systems to allocate available funds according to the needs of different schools, or to account for differences in the cost of building arising from geographical or site factors. To monitor compliance with these requirements, DEEWR closely scrutinised decisions by Education Authorities to allocate funding amounts below schools’ indicative funding amounts under the BER Guidelines, requiring written evidence of agreement from affected school principals.¹¹³

4.32 DEEWR provided the following advice to the ANAO about the rationale for this approach:

The policy rationale for the Economic Stimulus Package was to ensure that there was widespread economic stimulus activity across all regions. Set in this context, the requirement for principal endorsement was a mechanism to ensure that every school had the opportunity to benefit under the P21 program. If this was achieved then every community with a school benefitted through some economic stimulus activity.

¹¹¹ Council of Australian Governments 2009, *National Partnership Agreement on the Nation Building and Jobs Plan*, Canberra, p. 26.

¹¹² DEEWR 2009, BER Guidelines Version 1, 24 February 2009, p. 5.

¹¹³ In each of the funding rounds, DEEWR produced reports that showed any school which had indicative funding levels below its notional funding entitlement, and required that Education Authorities provide written evidence from the affected school principal that they agreed to the decision.

4.33 Following the approval of funding allocations to schools in each of the three BER P21 funding rounds, DEEWR has continued to use the agreement of school principals as a basis for authorising changes to the scope, budget and timelines for approved projects.¹¹⁴ Specifically, project variation rules, introduced in June 2009, have constrained Education Authorities' flexibility to manage approved funding by requiring approval from school principals to any movement of funds between schools—for example, the reallocation of projected underspends from one school, to cover higher than expected costs at another.¹¹⁵ DEEWR advised one Education Authority that:

Movement of funds from one school to another (for example, an underspend from one school being applied to an overspend at another school) cannot be made at the discretion of an Education Authority and the variation request must be accompanied by the agreement of the principal (in writing) with the underspend.

4.34 The approach was based on the premise that individual schools should be allowed as much flexibility as possible to maximise the benefit of BER P21 funding within their school, providing projects remained within the scope of the guidelines.¹¹⁶ DEEWR explained this rationale to one Education Authority as follows:

If the total cost estimate varies by less than 10 per cent—these could be quite significant amounts of money and schools could legitimately seek a variation to either extend their original project or do a second project.

4.35 The effect of this approach on funding allocation decisions by Education Authorities is discussed below.

¹¹⁴ The process through which these rules were introduced is discussed in Chapter 3. The following sections examine the impact of the approach DEEWR developed, on the ability of Education Authorities to prioritise how available funding would be allocated.

¹¹⁵ Email from DEEWR to Education Authorities, 24 June 2009, entitled 'BER Project Variations.' The National Coordinators BER Implementation Report from September 2009 noted that:

Education authorities have the flexibility to manage underspends and overspends on projects in their schools within their total P21 funding allocation. However, DEEWR's prior approval is required in instances where the quantum of funding to be moved from one school to another is five percent or more of the approved project. Approval will not be given unless the school principal agrees to the unspent funding for their school's project being moved to another school within the same jurisdiction. DEEWR, 2009, Building the Education Revolution: National Coordinator's Implementation Report, February–September 2009, Canberra.

¹¹⁶ Briefing to the Minister for Education (BR09-003335), 'Building the Education Revolution—Process for project variation,' 13 May 2009.

Constraints on the flexibility of Education Authorities to prioritise the use of funding

Constrained flexibility on a system basis

4.36 The rules established by DEEWR in seeking to ensure that there was widespread economic stimulus activity across all regions have reduced the capacity of school systems to take account of system priorities and the differing needs of schools in their systems, within the Australian Government's policy parameters for the program. This was noted by several Education Authorities in their submissions to the ANAO, with comments including:

The flexibility to use funds across the system as enunciated in the original guidelines is no longer available to jurisdictions ... [*This Education Authority*] is of the view that greater flexibility needs to be afforded to jurisdictions to achieve value for money through a more flexible variation process.

* * *

[*The Education Authority*] would have preferred greater flexibility around the process of variations in recognition of the need to balance equity considerations in the overall system against individual projects.

* * *

The program design and funding variation process, which is focussed at project/school and ties funding to individual projects within schools has not allowed the States to manage BER at a program level. The complex and constantly amended funding variation process has not enabled States to readily transfer funds between schools in order to achieve the agreed outcomes. The variation process and adherence to a narrow definition of approved project scope is considered increased input control, which is inconsistent with the principals of the [*Intergovernmental Agreement on Federal Financial Relations*] to focus on outcomes.

4.37 The combination of a notion of entitlement to a particular amount of funding plus inflexibility in variation rules has increased the potential for conflict between school principals seeking to maximise the benefits for their schools from their funding 'entitlement' and Education Authorities seeking to meet their priorities across the whole of their systems. In combination with a cap on the number of projects allowed under BER P21, these rules have created an incentive and basis for schools to expand the scope of their existing projects or seek higher-quality fit-out to utilise their entitlement rather than cede excess

funds to their Education Authority for higher value investments within their systems.¹¹⁷

4.38 As a result of these constraints, there is an increased likelihood that the scope of many high cost projects, such as those in remote locations, will be reduced to ensure Education Authorities remain within their approved funding. In discussing the effect of the variation rules on Education Authorities before their introduction, DEEWR recognised that this would mean that Education Authorities would have less money to offset overspends or higher cost projects, but that this risk would be one for authorities to manage.

Increased risk of delays to program implementation

4.39 A second effect of constraints on the ability of Education Authorities to make funding decisions is that they have increased the risk of delays in the commencement of projects. As acknowledged earlier, although a variations process was necessary to cater for project changes not foreseen at the outset, it was important in the context of a stimulus measure that that process be efficient and streamlined. The variation rules adopted meant that additional time has been needed to seek written approval from school principals and for DEEWR to review and approve the requests for changes to project budgets before tendering decisions were authorised. DEEWR emphasised to Education Authorities that:

[A]ll project variations must be approved by DEEWR before work on the varied project can commence ... It has come to my attention that some jurisdictions are under the impression that if they tender for projects for a cluster of schools and the costs of projects vary from the approved BER funding amounts that funds can be moved from project to project without approval from DEEWR. This is not the case—the approved BER funding amounts that have been announced to date have been announced in relation to specific schools and where cost variations do occur any movement of funds or rescoping of projects where the money may stretch further than anticipated ... must go through the project variations process.¹¹⁸

¹¹⁷ As is discussed in Chapter 5, a concern to avoid exactly this situation was the basis for other decisions made under the program. For example, in explaining the basis for the decision to allow schools to undertake more than one project with their available funding, DEEWR advised the ANAO that: *If only one project was allowed, education authorities/schools may have inflated their one project to utilise the notional funding allocation, or to select a different project, neither of which may have resulted in the best use of funding and would have attracted possible criticism of waste.*

¹¹⁸ Email from DEEWR to Education Authorities, 24 June 2009, entitled 'BER Project Variations.'

4.40 In the case of one of the largest Education Authorities, the requirement for these additional approvals resulted in delays in the tendering of construction contracts worth over \$200 million. The authority wrote to DEEWR on 24 July 2009 to express its concerns as follows:

Significant delays are occurring with the approvals of variations by [DEEWR] under the BER program. This has a corresponding effect on achieving delivery and expenditure under the program placing the objectives of the program at great risk. As a result, no BER building contracts have been let by the [Education Authority] since 26 June 2009. At the time of writing this letter, DEEWR has variations for consideration with projects totalling \$228 million ...

The [Education Authority] has been working closely with the building industry to mobilise a large and geographically dispersed workforce to meet the BER program objectives. Our industry partners are now raising their concerns that delays are eroding their efficiencies in the bundling of projects, firm tender prices may lapse and prolongation costs may be appropriate. The retrospective variation process cannot be simply applied across the [Education Authority's] existing contractual arrangements.

4.41 The project variation rules created a risk of more extensive delays in cases where Education Authorities were unable to obtain agreement from principals to the reallocation of funds saved through tender results. In such cases, completed designs would need to be re-visited, to expand the scope of the approved project or projects to enable a school's funding allocation to be fully used.

Conflict between schools and education systems

4.42 A further effect of constraints on system managers to prioritise the use of available funding, is that it has increased the risk of conflict between school and system priorities. In effect, the rules developed by DEEWR introduced a model of accountability that runs contrary to existing arrangements for the delegation of decision-making authority within school systems. In school systems, the entitlement rules have put school principals, as employees within those systems, in the unusual position of being able to arbitrate over, and ultimately veto funding allocation decisions made by their employers.

4.43 One government Education Authority highlighted a consequence of the department's approach in its submission to the ANAO, that DEEWR's enforcement of this rule had, in effect:

[S]ought to provide schools with a greater level of autonomy on preferred capital works and control/ownership of the BER program. This approach is at odds with existing practice in [the State] and undermines the State's role as the

responsible authority for planning, managing and delivering education and schooling at a systemic level throughout the State.

4.44 DEEWR elaborated on the rationale for the use of school principals as delegates under the program as follows:

DEEWR knows from long experience that schools and communities expect to be treated equitably. It is unreasonable to suggest that schools in the non-government sector should have autonomy re the determination of projects while schools in the government system don't have a similar level of decision making ability. It is apparent from the way in which some EAs have implemented the program that any perceived differences of treatment between government and non-government schools of similar sizes has caused concern and angst in the community. To allow further flexibility may have exacerbated those differences and impacted on the smooth and rapid implementation of the program.

4.45 However, the ANAO notes that the level of decision-making autonomy of schools is derived from either their status as independent schools, or within systems, the policies of the authorities that govern them—within the various educational jurisdictions in Australia, systems differ in the kinds of decisions that have been delegated to schools, and those which can only be made centrally.¹¹⁹

4.46 In many cases the requirement for the agreement of school principals to funding decisions did not affect funding outcomes—Education Authorities were able to negotiate and agree on decisions to allocate schools less than the amounts to which they were notionally entitled under the guidelines. The ANAO's survey of school principals showed that around 42 per cent of principals whose school received less than the amount they were entitled to

¹¹⁹ The ANAO notes for example, that in the case of one of the more decentralised government school systems, Victoria, a centralised approach to program delivery was delivery taken to the BER P21 to mitigate the risks associated with the program. The Victorian Department of Education and Early Childhood Development elaborated on the rationale for this approach in its submission to the current senate inquiry into BER P21 as follows:

Traditionally Victorian school principals have been closely involved in capital projects in their schools, including a role in engaging architects and managing projects. However this is not an area of expertise for most school principals and many have seen it as a distraction from their core roles of school leadership and educational improvement. In recognition of the need to minimise the burden on principals and ensure the delivery of projects within unprecedented timelines, DEECD engaged a team of project management firms to manage the delivery of BER P21 ... projects across schools in defined geographic areas. [Victorian Department of Education and Early Childhood Development, 2009, Submission Senate Education, Employment and Workplace Relations Committee Inquiry into the Primary Schools for the Twenty First Century, p. 8.]

under the guidelines agreed that the decision was reasonable, while a further 30 per cent were undecided.¹²⁰ Principals variously noted:

We asked for less than the cap. What is more we happily signed over our unused portion to [*our Education Authority*].

* * *

As a relatively new and modern school, we felt that if the cost of our P21 program was less than the indicative funding then it was reasonable for the remainder to be spent on a school with greater needs.

* * *

I chose to apply for less funding than the school is entitled to because the cost of the projects the school wanted to undertake required less funding than the school's entitlement.¹²¹

4.47 On the other hand, 28 per cent of principals whose schools had been allocated less than their funding indicative funding amounts either disagreed, or strongly disagreed that the decision had been reasonable. For example, respondents to the ANAO's survey of school principals variously observed:

I was asked by a phone call to take a million dollars out of our entitlement. I asked for time to consider this request. I then met with two people from the regional office to discuss our decision a day later. I told them you might take it from our school but we will not give it away as it is a once in a lifetime opportunity. I felt pressured. We consequently retained our entitlement.

* * *

I have been told that we have been allocated a facility not an amount of money—our School Council does not agree with this and have not agreed to accept less than the indicated amount for our school—they are not happy and we are trying to get costings from the [*Education Authority*—this information is being withheld. The [*Education Authority*] tried to persuade us to accept a smaller building—at regional network meetings we were pressured to accept a smaller amount. We refused to be pressured.¹²²

¹²⁰ Response to the question 'To what extent do you agree or disagree with the decision to allocate my school less than the indicative funding levels set out in the BER program guidelines was reasonable?' in the ANAO's survey of school principals. Details of the method and results from the survey are set out in full at Appendix 2.

¹²¹ Sample of statements from school principals received in response to the ANAO's survey of school principals.

¹²² Sample of statements from school principals received in response to the ANAO's survey of school principals. Details of the method and results from the survey are set out in full at Appendix 2.

4.48 The ANAO estimates that almost half of the complaints received by the BER National Coordinator about BER P21 were from schools that disagreed with the decision by their Education Authority to allocate them less than their indicative funding amounts.¹²³ In some of these cases, conflict between the perceived priorities of school principals and those of system managers resulted in allegations of coercion being made by principals or community members about attempts by their Education Authorities to allocate them less funding than their indicative funding amounts. Many of these complaints resulted in a reversal of allocation decisions made by Education Authorities, while some others attracted negative publicity to the program.¹²⁴

Effect of program rules on allocation of funding to schools under consideration for closure or amalgamation

4.49 The BER Guidelines state that: 'If a school is planned for closure, then funding must not be approved for that school entity. The state, territory or BGA will not receive any funding for that school.'¹²⁵ In the case of amalgamating schools the guidelines allow for indicative funding amounts attracted by amalgamating schools to be used at the new school.¹²⁶

4.50 School closures or amalgamations are often highly contentious because of their educational, financial and social effect on students, families and school communities. The sensitivities surrounding such decisions require careful management, and extensive consultation with affected stakeholders.

4.51 The rules covering the allocation of funding to schools presented a challenge for Education Authorities in the case of schools under consideration for closure or amalgamation. At the commencement of BER P21, a number of schools were under active consideration for amalgamation or closure, but final decisions had not been made. This was problematic for Education Authorities, because failure to apply for the funding for such schools could prematurely signal to affected school communities that a decision had been made about

¹²³ ANAO analysis of BER complaint register as at 20 October 2009.

¹²⁴ See for example, Wallace, W. *It's a bungle out there, says Berwick principal Henry Grossek* in: *The Australian*, 18 June 2009; Ferrari, J. *Apollo Parkways Primary School claims state burned it on BER funds* in: *The Australian* 2 October 2009; Ferrari, J. *Third Victorian school feels cheated out of pledged funds* in: *The Australian*, 14 October 2009; Ferrari, J. *Primary school that was 'robbed'* in: *The Australian* 25 September 2009.

¹²⁵ DEEWR, 2009, BER Guidelines Version 3–21 September 2009, p. 6.

¹²⁶ *ibid.*

their future. The program rules meant that Education Authorities were required to apply for the funding attracted to their systems in the name of a school, or forgo that funding.

4.52 DEEWR stated that funding determinations for closing, merging or new schools would be made on the basis of the data provided by Education Authorities as part of the February 2009 census.¹²⁷ However, because Education Authorities were only able to provide data in cases where final determinations had been made, DEEWR was unable to assess the likelihood of closure or amalgamation when assessing funding applications.

4.53 In most of these cases, the answers provided indicate that a final decision on amalgamation or closure had not yet been made. DEEWR informed the ANAO that the department had developed business rules covering closing or amalgamating schools that were pragmatic, transparent and equitable in the context of rapid implementation of a stimulus measure. In cases of impending closure or amalgamation, Education Authorities were able to apply for the funding attracted to these schools, but were expected to defer decision-making on the use of funding until a final decision had been made to either amalgamate or close the school. In some cases, DEEWR approved the allocation of funding to schools that Education Authorities had advised them were likely to close or amalgamate.

4.54 The requirement under the rules established for the program to tie available funding to schools or relinquish it, resulted in an imperative to allocate all the available funding to schools, even those under consideration for closure or amalgamation. DEEWR informed the ANAO that, if funding announcements about closing or amalgamating schools had been withheld, it was highly likely that those schools would have expressed concerns about being denied funding and being treated differently from other schools.¹²⁸

4.55 It was, however, readily foreseeable that approving the allocation of funding to schools under consideration for closure or amalgamation was likely to raise questions about the method of program funding. An alternative course of action could have been to agree, in collaboration with Education

¹²⁷ Department of Education, Employment and Workplace Relations, *Submission to the Senate Education, Employment and Workplace Relations References Committee: Inquiry into the Primary Schools for the 21st Century element of Building the Education Revolution*, p.10.

¹²⁸ ANAO analysis showed that DEEWR approved 114 projects for schools with less than 10 students; 21 projects for schools with less than five students; and 12 projects for schools with one student.

Authorities, strategies for funding at risk schools. These could have included in the case of some schools, agreement to withhold funding announcements until final decisions had been made about their futures. This would have minimised public concerns regarding the appropriate use of program funding, including those expressed by principals of closing schools, that arose in cases where funding was allocated to schools under active consideration for closure or amalgamation.

5. Funding the Program

This chapter considers the funding of BER P21 and explores the reasons for a substantial increase to that funding within six months of the original decision.

Development of the proposal

5.1 Like many government measures, the BER program flowed from an iterative process of policy development but, on this occasion, over a truncated period of time. A number of proposals were developed in late 2008 and during January 2009 under the name *Building Better Schools*, building on earlier work and programs.

5.2 Mostly, these earlier developments reflected smaller schemes with a lesser cost than the BER program. The earliest proposal identified by DEEWR that could be said to have represented an incipient version of the BER program was dated 9 January 2009. The details were devised by DEEWR and costed by the department. The most intensive work took place in late January 2009 when the Strategic Priorities and Budget Committee of Cabinet (SPBC) met several times to consider options for inclusion in the Government's Nation Building and Jobs Plan.

5.3 The Department of the Prime Minister and Cabinet (PM&C) was closely involved in preparing the papers for SPBC and advising on the options. The final costing for the government decision on the BER program was undertaken by the Department of Finance and Deregulation (Finance). The BER was announced on 3 February 2009, along with other economic stimulus measures forming part of the Nation Building and Jobs Plan, with total funding of \$12 431.8 million over three financial years for the major infrastructure element for primary schools under the BER program (the element now known as 'BER P21'). The policy intent for the BER program reflected a desire on the part of government to provide an economic stimulus and reduce the effect of the global recession on Australia by 'long term investment to improve the quality of facilities, like gymnasiums, libraries and science labs in Australian schools.'¹²⁹

¹²⁹ Prime Minister of Australia, Media Release, 3 February 2009. See: <<http://www.pm.gov.au/node/5338>>.

5.4 The Government decided that the funding allocations for BER P21 would depend on the size of the school with the smallest schools (up to 50 students) attracting a maximum of \$250 000. Larger numbers of students placed schools in higher maximum funding categories, attracting a maximum of \$3 million per school where the school had over 400 students.

Funding provided for BER P21

5.5 If all or nearly all schools sought the maximum amount per school specified in the decision then the cost of the program would exceed the total funding allocated of \$12.4 billion. The ANAO was informed that, at the time of the decision on the BER program, SPBC ministers were aware that the BER P21 funding envelope represented only 90 per cent of possible expenditure. Further, ministers advised that they had never intended to hold expenditure to an average 90 per cent of maximum amounts available to each school and that they had envisaged that a budget estimates variation may be required to provide more funding, depending on the response of schools.¹³⁰

5.6 To have managed the program within the funding amount specifically authorised would have depended upon the majority of school projects being completed for less than the applicable funding cap. As DEEWR was aware, however, in practice this was a most unlikely outcome.

5.7 In the face of the scale of applications, the Government agreed, in August 2009, to a 13.6 per cent increase in the funding for BER P21 from \$12.4 billion to \$14.1 billion. Additional funds of \$1.5 billion were reallocated from within the Nation Building and Jobs Plan plus a further \$175.9 million from an existing appropriation.¹³¹

5.8 Behind these decisions are two administrative matters which influenced events. These are:

- the costing of the proposal; and
- the actions of the administering department in working with uncertainty about funding.

¹³⁰ Advice of 15 March 2010.

¹³¹ Department of the Prime Minister and Cabinet, 2009, *Nation Building—Economic Stimulus Plan, Commonwealth Coordinator-General's Progress Report, 3 February 2009–30 June 2009*, p. 54, available from < <http://www.economicstimulusplan.gov.au> > [accessed 9 November 2009].

5.9 The agencies involved in finalising and costing the proposal and preparing advice to government, DEEWR, Finance and PM&C, did not clarify and agree policy parameters for the proposal before the costing was finalised. This led to the costing for BER P21 providing 90 per cent of the maximum possible expenditure. The costing of the proposal and subsequent uncertainty about its basis is examined in the next section of this chapter.

5.10 From the outset, DEEWR has regarded the 90 per cent factor used in costing as problematic because:

DEEWR's experience ... is that this opportunity would not be missed by schools or education authorities, nor would the opportunity be missed to maximise the amount of investment in a school.¹³²

5.11 Thus, at the time of original government decision, DEEWR had a concern about the level of funding provided (\$12.4 billion). It was aware that, once the maximum school funding levels had been announced, there would be pressure for funding close to the maximum per school at most schools. This was likely to add over a billion dollars to the program cost. The subsequent section of this chapter considers DEEWR's approach to establishment, in the light of the uncertainty about the basis of the costing, followed by an analysis of the process of requesting more funds for BER P21, which was considered by government in July–August 2009.

Costing of the proposal

Eligibility for BER P21

5.12 The Government decided that, under BER P21, all primary schools in Australia (including special schools and the primary sections of combined primary-to-year 12 schools) would be eligible to apply for funding to build new facilities or to upgrade existing ones.

5.13 The amount of the funds attracted by any particular school depended upon the size of the school, as indicated in paragraph 5.4. However, there was to be flexibility for approving authorities to approve smaller and larger amounts per school where exceptional circumstances were determined, subject to remaining within total funding allocations for their jurisdiction.¹³³ The

¹³² DEEWR advice, 21 February 2010.

¹³³ The term 'approving authorities' clearly refers to state and territory education departments and the governing bodies for other schools systems in the non-government sector.

papers circulated to ministers at the time show that, on the basis of informal estimates provided by state authorities, the funding maxima would cater for circumstances where construction costs would be higher, such as locations far from urban centres.¹³⁴

5.14 The total funding provided for the BER program was \$14 719.8 million, of which most (\$12 431.8 million) was for BER P21.¹³⁵ The Deputy Prime Minister's press release of 4 February 2009 referred to these totals and provided a detailed breakdown by state and territory, by year and by jurisdiction.¹³⁶

5.15 On 5 February 2009, COAG signed the National Partnership Agreement that encompassed the BER program. A schedule to this agreement also specified that \$12 431.8 million was available for BER P21. However, the schedule also included the maximum funding amounts agreed by government, specified by school size and described both as 'indicative caps' and 'indicative funding allocations'. Also on that day, DEEWR published these amounts on its website.¹³⁷

Finance provided the costing for the decision

5.16 It is conventional practice that departments develop costings of measures being proposed by their minister and agree them with Finance ahead of Cabinet considering the proposals. Agreement on costs requires a common understanding of how the program is intended to work. The onus here is upon the department that 'owns' the proposed program:

Ministers bringing forward submissions are responsible for ensuring that the consultation necessary to enable a fully informed decision to be taken occurs at both ministerial and official levels. It is particularly important that there be agreement regarding the factual matters, including costs (that is, matters that

¹³⁴ The papers included estimates of likely costs for individual projects. These estimates had been provided informally by state education departments.

¹³⁵ Press release available from <<http://www.pm.gov.au/node/5338>> [accessed 1 December 2009].

¹³⁶ See: <http://www.deewr.gov.au/Ministers/Gillard/Media/Releases/Pages/Article_090205_100110.aspx> [accessed 4 February 2010].

¹³⁷ At a meeting the Prime Minister held with education stakeholders the following day, DEEWR officers drew attention to the availability of a fact sheet with these funding allocations on the DEEWR website (PM&C, notes of meeting, circulated by email to other officers, 9 February 2009).

are not open to interpretation or differences of opinion) which will form the basis of Cabinet discussions.¹³⁸

5.17 Achieving agreement therefore required DEEWR and Finance to work closely to ensure that the basis for the program and the estimates of costs, including program rules and assumptions, were sound, clearly understood by both parties and consistent with the planned program objectives.

5.18 The final version of the new policy proposal prepared by DEEWR was sent to Finance and PM&C several days before the government decision. Although DEEWR had costed earlier versions of the proposal (including the several options in the proposal that became BER P21), Finance undertook and supplied the final costing. PM&C provided the papers for ministers on which the Government made its decision. DEEWR has advised that it had ‘not been provided with the final papers that were provided to SPBC [and] it is unclear [to DEEWR] what was put to it.’¹³⁹

5.19 In DEEWR’s proposal, the funding amounts to be provided were based on indicative funding amounts per school, according to school size, in five funding categories. Finance formed a view, based on data obtained from state government departments, that the average costs for BER P21 proposed by DEEWR were too low.¹⁴⁰ Ultimately, the government decision specified higher maximum funding per school in four of the five bands than had been proposed by DEEWR.

5.20 Several important assumptions underpinned the Finance calculation, including the following:

- (1) funds would be provided for 7986 schools in three rounds;¹⁴¹
- (2) there would be just one ‘iconic’ project in each school;

¹³⁸ Department of the Prime Minister and Cabinet, 2009, *Cabinet Handbook*, sixth edition, p. 17, available from <<http://www.pmc.gov.au/guidelines/index.cfm>> [accessed 26 November 2009].

¹³⁹ DEEWR advice, 21 January 2010.

¹⁴⁰ For example, DEEWR had suggested in its last version of its proposal that schools of 400 or more students receive up to \$1.3 million, as compared with the amount of up to \$3 million actually made available by government (Finance, undated file note, circa 27 January 2009).

¹⁴¹ This number of schools was based on advice received from DEEWR (6500 primary schools and 1486 with combined primary and secondary enrolments) on 29 January 2009.

- (3) its use of 2007 enrolment data was adequate for costing the program;¹⁴²
- (4) funding would be project rather than entitlement-based and schools would, on average, use only 90 per cent of the maximum payment available to them; and
- (5) an additional 1.5 per cent of the total funding would be provided for administration costs.

5.21 Although Finance, DEEWR and PM&C had discussed earlier versions of the proposal, they did not clarify and agree these assumptions before the costing was finalised for government consideration, nor did DEEWR see the final costing before that took place. Thus there was not agreement on the costings among relevant agencies, as envisaged by the Cabinet Handbook.¹⁴³

5.22 The costing Finance performed was based on a simple calculation of the number of schools in each funding category multiplied by the maximum amount available in that category. The costs were distributed across the years of the program allowing for different timing across the three rounds and a schedule of times at which payments were expected to be made.

5.23 An important step in the calculation was the reduction to 90 per cent of the theoretical maximum funding. Finance applied this reduction on the basis that amounts allowed per school were all maxima and, following procurement for one major project in each school, not all of these maxima would be reached in practice. Finance advised that a range of possibilities was discussed at senior levels across central agencies and a final number of 90 per cent was agreed.¹⁴⁴ DEEWR was not a party to this agreement. Finance has confirmed that it does not have empirically-based analysis (such as of the outcomes of previous programs of a relevant nature) to support this judgement.

5.24 Contemporaneous evidence from departmental records shows that this rationale did underpin the calculation. A senior Finance officer advised his

¹⁴² Finance recorded that it had DEEWR advice that enrolment data did not change significantly from year to year: therefore, 2007 data would be adequate. At that point, DEEWR had received 2008 data but had not finished processing it in time for it to be used for costing the BER program.

¹⁴³ DEEWR has stated that it was not provided with a copy of the assumptions that underpinned the costing until August 2009 (advice of 7 April 2010).

¹⁴⁴ Finance, advice, 3 March 2010. Thus, for example, Finance expected that schools of the largest size (more than 400 pupils), which could attract a maximum of \$3 million, would spend, on average, \$2.7 million. Some would spend more and some less; a few (such as new schools with adequate facilities) might not seek funding at all.

superiors on the day before the government funding decision of a discussion with his PM&C counterpart and the BER National Coordinator:

[*The BER National Coordinator*] noted a concern with the 90% assumption of maximum cost take-up, noting that her [*department*] had been criticised for a similar assumption used in the IOPS [*sic*] program. I noted that 3 options were put to the SPBC meeting and that the feedback we had was that Ministers had opted for the 90% option. She noted that [*her department*] intended to raise the issue with [*Finance*].¹⁴⁵

5.25 DEEWR's proposal had contained no assumption that schools would use, on average, only 90 per cent of the maximum funding allocation nor that there would be a fixed cap on the amounts available to each school.¹⁴⁶ The BER National Coordinator raised her concerns about the 90 per cent assumption internally within the department before the government decision was taken. However, DEEWR records show that, within the department, the reduction to 90 per cent in the costing was misinterpreted as a forecast of a *90 per cent take-up rate by schools*. That is, it was thought that the calculation incorporated an assumption that 10 per cent of schools would not seek BER P21 funding.

5.26 Finance—the party that did the relevant costing—explained publicly how it performed the calculation at a Senate Estimates Committee in May 2009:

We made general assumptions about the level of take-up of that program. We assumed in general terms a 90 per cent take-up. It was not a 90 per cent take-up of schools but just that, in general, schools might not use the full amount of the grants that were available, depending on the facilities they were able to build. That was an assumption that was used in the costing. ...

Effectively, the 90 per cent assumption was not a 90 per cent take-up, as I explained before. You expect virtually all schools to take it up—do they spend the full amount that is allocated? As an assumption, we use 90 per cent, which seemed like a reasonable assumption to use for a program of this magnitude.¹⁴⁷

5.27 The point has been explained to DEEWR by Finance on a number of occasions from at least June 2009, though the explanation would have been apparent to DEEWR from evidence Finance provided to Senate Estimates in

¹⁴⁵ Finance, email, 'BER—Building the Education Revolution.doc', 28 January 2009, 7.16 pm.

¹⁴⁶ DEEWR advice, 21 January 2010.

¹⁴⁷ Evidence provided by a Deputy Secretary, Finance, to the Senate Finance and Public Administration Legislation Committee, Budget Estimates, 27 May 2009, p. 134, available from <<http://www.aph.gov.au/hansard/senate/committee/S12037.pdf>> [accessed 1 December 2009].

May 2009.¹⁴⁸ In July 2009, when DEEWR prepared its draft submission to government seeking additional funds, Finance commented:

References throughout the Submission to an assumption in the costings to 90 per cent take-up for schools are incorrect. The assumption used to discount costs was that the majority of projects would be completed at less than 100 per cent of the applicable funding cap and that a small proportion of schools would not apply for various reasons.¹⁴⁹

5.28 The department had used its misinterpretation in earlier briefs to its minister¹⁵⁰ and, subsequently, in public reports and advice to Parliament.¹⁵¹

5.29 In late November 2009, DEEWR gave the following account of the need for additional funds:

The program has proven to be highly successful and, while the 90 per cent take-up was originally assumed for costing purposes, the numbers of schools seeking to participate in the program was close to 100 per cent. The high demand together with the need to reflect updated student enrolment data led to the government's decision to allocate an additional \$1.5 billion to the

¹⁴⁸ DEEWR has pointed out that the Deputy Prime Minister wrote to the Minister for Finance and Deregulation in March 2009 mentioning explicitly DEEWR's understanding that costings were based on a 90 per cent take-up basis. However, scrutiny of Finance records shows no evidence that it appreciated the nature of the misinterpretation at that stage. Later, there were email exchanges between Finance (Education Agency Advice Unit) and DEEWR (Branch Manager, Budget), 18 June 2009; and Finance and DEEWR (Budget Officer), 15 July 2009, explaining the issue. Finance also stated to PM&C in July 2009 that: *Throughout this process we have repeatedly attempted to correct the misrepresentation by DEEWR of the 90 per cent assumption.* Finance comments [to PM&C] on *Building the Education Revolution* (BER) papers circulated at 12.42 pm 24 July 2009.

¹⁴⁹ 'Finance Comments on Exposure Draft: Building the Education Revolution (BER)—Additional Funding and Implementation', 14 July 2009. Copy obtained from DEEWR records.

¹⁵⁰ For example, in DEEWR Briefing No. BR09-001717 to the Minister for Education, dated 12 March 2009; Briefing No. BR09-002901 to the Minister for Education, circa 22 April 2009.

¹⁵¹ For public reports, see, for example, DEEWR, *Building the Education Revolution: National Coordinator's report, February–September 2009*, p. 47, available from <<http://www.deewr.gov.au/Schooling/BuildingTheEducationRevolution/Documents/NCIRReport.pdf>> [accessed 9 November 2009]. See, for example, Hansard, House of Representatives; 7 September 2009, Questions Without Notice, 'Building the Education Revolution', pp. 8656–7; 9 September 2009, Questions Without Notice, Building the Education Revolution Program, pp. 9061–2; 10 September 2009, Matter of Public Importance, Building the Education Revolution Program, pp. 9299–301. See also Deputy Prime Minister, Transcript, television interview, 8:45 am, 28 August 2009. A review of the variation in BER P21 costs prepared for ministers' offices by a senior Treasury officer in August 2009 confirmed that the Finance costing was based on a 90 per cent utilisation rate of funds. (The Treasury, Minute entitled 'Building the Education Revolution (BER)—Primary Schools for the 21st Century element—Cost Variation', 26 August 2009. This minute was provided to DEEWR at the time. See also paragraph 5.49.)

program to maximise its objectives of job support and providing learning environments for the 21st century.¹⁵²

5.30 This shows that a consistent part of DEEWR's explanation for needing more funds for BER P21 was that the number of schools likely to participate in the program had been underestimated in the costing. In fact, Finance always expected take up to be very high but that schools would use an average of only 90 per cent of their maximum possible funding.

DEEWR's approach to implementation

5.31 On the day the Government made its decision (29 January 2009),¹⁵³ senior officers in DEEWR were concerned that the funding likely to be provided by government would be insufficient to implement BER P21 in the way it thought the Government expected (making maximum payments available to all schools). The department advised Finance that it foresaw that interested parties would 'quickly do the sums on the total number of schools and the allocations of funding and work out the discrepancy.'¹⁵⁴

5.32 In other words, if the department proceeded to allocate funds on the basis that only the specified \$12.4 billion were available, others might conclude that the total funding was insufficient. Further, DEEWR did not wish to have to return to government for more funds. The department suggested to Finance:

the solution is either to allow costings based on an assumption of 100% take-up, noting we are working on average costs not an upper cap ... Alternatively, the decision could explicitly give DEEWR permission to come back if takeup is above 90%.¹⁵⁵

5.33 The response from Finance noted by DEEWR was that: 'any need for more [*funds*] would be treated as an estimates variation and would not have to return to ERC [*Expenditure Review Committee*].' Finance also advised in the

¹⁵² Hansard, Senate Education, Employment and Workplace Relations References Committee, inquiry into the [BER] Primary Schools for the 21st Century program; DEEWR evidence at the first public hearing, 30 November 2009. ANAO analysis shows that the reflecting updated student enrolment data added about \$30 million (about two per cent of the extra funds needed).

¹⁵³ The final decision was made by the Government on 3 February 2009.

¹⁵⁴ Email from DEEWR to Finance, 2.20 pm, 29 January 2009.

¹⁵⁵ Ibid. The ANAO found evidence to show that, when DEEWR had costed earlier proposals during January 2009, it had explicitly 'worked on average costs'. It had used an average of \$1 million per school for 'iconic infrastructure projects'. However, this was not the proposal agreed by government even though it is identifiably an earlier version of what developed into BER P21.

same discussion with DEEWR that the costings were ‘up tos’ not ‘averages’. This reflects Finance’s assumption that the funding was project-based at the school level, and the amounts per school were maximum payments.¹⁵⁶

5.34 DEEWR noted that Finance said it would respond in writing shortly after the discussion. However, it did not and DEEWR did not pursue the matter with Finance until mid-March, when the Deputy Prime Minister wrote to the Finance Minister (see paragraph 5.40 et seq.)

5.35 Regardless of the detail of how Finance undertook the costing, the government decision did reflect the outcome of that costing and provided \$12.4 billion for BER P21.¹⁵⁷ The decision also set payments by school size and described these amounts as ‘maximum payments’. As mentioned earlier (paragraph 5.13), the Government also allowed flexibility for approving authorities to approve smaller and larger amounts per school in exceptional circumstances. The wording of the decision reflects a policy decision to fund schools to the maximum amount but provided insufficient funds in the event that most schools sought access to the maximum.

5.36 DEEWR has stated:

The Government’s decision can be interpreted in two ways:

- the funding provided for the program is limited to the amount specified in the decision. This would require education authorities to manage their funds to remain within the funding allocation, which would be set at 90 per cent of the maximum allocation per school; or
- schools would be able to apply for up to the maximum amount of funding, as set out in the Government’s decision. This would mean that there was not sufficient funding appropriated to the program.

DEEWR interpreted the decision in accordance with the second interpretation.¹⁵⁸

5.37 DEEWR considered that its approach reflected the Government’s policy intent, even though the funding actually provided at that time was not sufficient to support this approach. The ANAO has been informed that SPBC

¹⁵⁶ DEEWR found Finance’s advice about the costings being ‘up tos’ not ‘averages’ confusing. Further clarification of this matter would have likely revealed that the costing had been based on 90 per cent *utilisation* of funds, not 90 per cent of schools *taking up* BER P21 funding.

¹⁵⁷ The decision did not endorse the assumptions or calculation of the costing.

¹⁵⁸ DEEWR advice, 28 February 2010.

ministers were aware that there may be a need, in meeting the Government's policy objective, to provide more funds than they had originally provided.

5.38 The program needed to be established quickly and the department proceeded to do so, including, in particular, developing the program guidelines as a priority. The need for further funding became pressing for the 2009–10 financial year and DEEWR prepared a new submission in July 2009, seeking additional funds.

The request for more funds for BER P21

5.39 As set out above, DEEWR was concerned, on the day of the original government decision (29 January 2009), that the program costing would lead to insufficient funding being provided for the program. Although it had raised its funding concern at the time with officials (see paragraph 5.31 et seq.), it formally raised the matter with the Deputy Prime Minister on 12 March 2009.

5.40 The department then advised the Deputy Prime Minister that the proposed BER program expenditure exceeded current expenditure estimates. Therefore, the department needed the authorisation of the Minister for Finance and Deregulation to enter into commitments exceeding the available funds. It advised that the proposed contract amounts included provision for 100 per cent take up by schools of BER P21 funding: 'rather than the 90 per cent take-up applied during the costing process.'¹⁵⁹ It identified an implicit shortfall of \$1.3782 billion but did not seek to quantify the funding gap definitively.¹⁶⁰

At this stage it is difficult to forecast the financial implications but to progress with the roll-out of the program as envisioned the Department needs assurances that if additional funding is required it will be supported.¹⁶¹

5.41 The Deputy Prime Minister wrote to the Finance Minister seeking the authorisation required and, on 17 March 2009, he provided the authorisation the department was seeking.¹⁶²

¹⁵⁹ DEEWR Briefing No. BR09-001717.

¹⁶⁰ The further amount of \$1.3782 billion would have the effect of raising the commitment from 90 per cent to 100 per cent of the maximum spend originally calculated.

¹⁶¹ DEEWR Briefing No. BR09-001717, received in the Deputy Prime Minister's Office 12 March 2009. The brief sought approval and signature of a letter to the Minister for Finance and Deregulation seeking FMA Act authorisation under Regulation 10 for DEEWR to enter into a spending proposal where no (or insufficient) appropriation exists.

¹⁶² It is important to note that such authorisation does not vary or create an appropriation nor does it provide any additional funding.

Based on the information provided, I authorise under FMA Regulation 10, you and officials of DEEWR, to consider approving spending proposals in relation to agreements under the program of up to \$16.098 billion.

A condition of my authorisation is that DEEWR will actively manage payments under the program within the relevant appropriation (Nation Building and Jobs Act 2009 (Bill 2)). This will entail DEEWR ensuring that payments do not exceed the current appropriation and that DEEWR must advise my officials on a quarterly basis on the program roll-out and spending uptake.

5.42 The Finance Minister also stated in his reply:

I also note that you are preparing a letter to the Treasurer, which would outline the various scenarios and may prompt the need for additional funding. As a condition of my authorisation, I would appreciate if you could keep me informed about this process. Further to this, should additional appropriation be required, it is a condition of my authorisation that you bring such a proposal forward in the Budget process.¹⁶³

5.43 In late April 2009, DEEWR briefed the Deputy Prime Minister again, proposing she write to the Prime Minister advising of the pressure on BER P21 funding. This included a clearer view about the size of the potential shortfall:

The original costing of the Building the Education Revolution ... included an assumption of a 90 per cent take-up rate, used 2007 enrolment data to make assumptions about the profile across the years and assumed an even take-up in terms of the size of schools. The best estimate at this stage, however, is that the original estimate of \$14.7 billion could be exceeded by an estimated \$1.737 billion (of which \$164.4 million will be managed within the 2008–09 financial year allocation).

¹⁶³ Letter from the Deputy Prime Minister to the Minister for Finance and Deregulation, 13 March 2009; reply from the latter to the former, 17 March 2009.

5.44 The Deputy Prime Minister then wrote to the Prime Minister, advising of DEEWR's need for a further \$1.572 billion across 2009–11.¹⁶⁴ This estimate was based on departmental analysis using the most recent (February 2009) school enrolment data. The same data formed the basis of the department's bid for more resources in July 2009.¹⁶⁵

5.45 The Prime Minister, responding to the Deputy Prime Minister's letter, asked that 'expenditure be controlled to match the current funding profile':

I also advise that your Department and the Department of Finance and Deregulation should examine all the options available to manage the program within the existing appropriations, including consideration of use of unspent funds and movement of funds between years. However, if a need for additional funding can be demonstrated, then additional funding could be sought through the 2010–11 Budget.¹⁶⁶

5.46 However, by this time, the program was in full operation with an expectation by schools of access to maximum payments.

5.47 The tension between the total amount originally provided by the Government for BER P21 and the approach to implementation taken by DEEWR (as given effect in its program guidelines) subsequently became apparent to other agencies. When, in mid-July 2009, the department did seek more funds from government, the Treasury commented on the department's proposal:

We could not find mention of the inconsistency between the SPBC decision and the guidelines on the notion of 'maximum funding.' We would like to see this inconsistency noted in the submission—and include reference to the pressure this has placed on funding under the program.

5.48 Ultimately, the Government decided in August 2009 to provide the additional funds.¹⁶⁷ This was announced in the context of the progress report of the Coordinator-General.¹⁶⁸ Offsetting savings were made elsewhere within the \$42 billion Nation Building and Jobs Plan, including from the Science and

¹⁶⁴ Letter from the Deputy Prime Minister to the Prime Minister, 29 April 2009, copied to the Treasurer and the Minister for Finance and Deregulation.

¹⁶⁵ ANAO analysis shows that the changes in enrolment data between the earlier and February 2009 census ultimately added only around \$30 million (about 2 per cent) to the extra funds required.

¹⁶⁶ Letter from the Prime Minister to the Deputy Prime Minister, 27 May 2009.

¹⁶⁷ The matter was decided over the period 28 July – 17 August 2009.

¹⁶⁸ Commonwealth Coordinator-General's Progress Report, 3 February – 30 June 2009, 27 August 2009.

Language Centres element of the BER program. In addition, the Government decided to reduce the funding for the social housing program and to close the Low Emission Assistance Plan for Renters (both programs under the National Building and Jobs Plan), and collectively these decisions provided \$1.4 billion in offsetting savings to the additional funding for BER P21.

5.49 To confirm the classification for budget reporting purposes of the variation in funding, a senior Treasury officer reviewed the reasons for the variation. He concluded:

The classification for budget reporting purposes of any consequent effects on a costing is a matter of judgment. On balance, it would seem appropriate to treat the variations stemming from observed higher utilisation rate as estimates variations. While the implementation details have allowed greater flexibility than assumed in the original costing, they have been determined within the parameters of the SPBC decision.¹⁶⁹

5.50 Although taken as a single decision, this change was subsequently recorded in the *Mid-Year Economic and Fiscal Outlook* (MYEFO) as an estimates variation for the bulk of the funds provided for BER P21, but as a set of policy decisions insofar as it affected other programs yielding offsetting savings.¹⁷⁰

5.51 Until this funding issue was decided, DEEWR was unable to announce the outcome of Round 3 of BER P21 funding, as this would require the additional funds being sought. This led to a delay of a month in project start dates for Round 3 from August – September 2009¹⁷¹ to September – October 2009,¹⁷² slowing program delivery.

¹⁶⁹ Minute to the offices of the Prime Minister, Deputy Prime Minister, Treasurer and Minister for Finance and Deregulation, 26 August 2009. The review identified the permission for schools to nominate multiple projects for funding as the major reason for the higher than expected cost of the program. Second projects cost an average of \$680 000 and, in total, cost \$1.866 billion, some 13.5 per cent of the final approved funding. However, any actual additional cost for multiple projects is difficult to estimate, but is probably relatively minor. This is because, if only one project had been possible under the approach taken to implement the program, there is a reasonable likelihood that schools would have proposed more costly single projects, seeking to exhaust the maximum funding available.

¹⁷⁰ An additional \$50.7 million to fund the extension of the program for distance education students was a specific measure. See Australian Government, *Mid-Year Economic and Fiscal Outlook 2009–10*, pp. 30–3, 54–5, 169, 2 November 2009.
See <http://www.budget.gov.au/2009-10/content/myefo/html/index.htm> [last accessed 20 April 2010.]

¹⁷¹ As specified in the original edition of the guidelines.

¹⁷² As specified in Version 3 of the guidelines, 21 September 2009.

5.52 The time that elapsed from the original government decision to the later decision to provide the additional funding that was then required was six months.

6. Performance Monitoring and Reporting

This chapter examines the effectiveness of DEEWR's performance monitoring of BER P21 progress towards program objectives and assesses arrangements for reporting to stakeholders.

Overview

6.1 Robust performance monitoring and reporting supports the assessment of program progress and informs decisions about whether the objectives remain achievable or whether the scope, timing or resourcing need review.

6.2 As the administering agency for BER P21, responsibility rested with DEEWR to monitor and report progress towards the achievement of program outputs and outcomes. An important consideration for the department when developing performance monitoring arrangements for BER P21 was alignment with the common monitoring and reporting arrangements established by the Coordinator-General for all infrastructure elements under the Nation Building and Jobs Plan.

6.3 It was also important for the performance monitoring arrangements established for BER P21 to be consistent with the objectives of the reforms to federal financial relations and implementing an NPA under these reforms. In particular, the department had to balance stakeholders' desire for extensive and detailed data on program delivery, with the reform objectives of simpler, standardised and more transparent public performance reporting.

6.4 A further requirement was that DEEWR's monitoring should recognise the devolved delivery of a large infrastructure program by a diverse range of agencies—the Education Authorities—and address the inherent risks in delivery by different sizes and types of organisation.

6.5 The focus of the ANAO's examination of DEEWR's monitoring arrangements and performance reporting was:

- the considerations that needed to be taken into account by the department when developing its performance monitoring arrangements;
- the monitoring approach adopted by DEEWR to meet its BER P21 accountability obligations; and

- the extent to which program performance has been reported to stakeholders.

Developing performance monitoring arrangements for BER P21

COAG performance measurement framework for BER P21

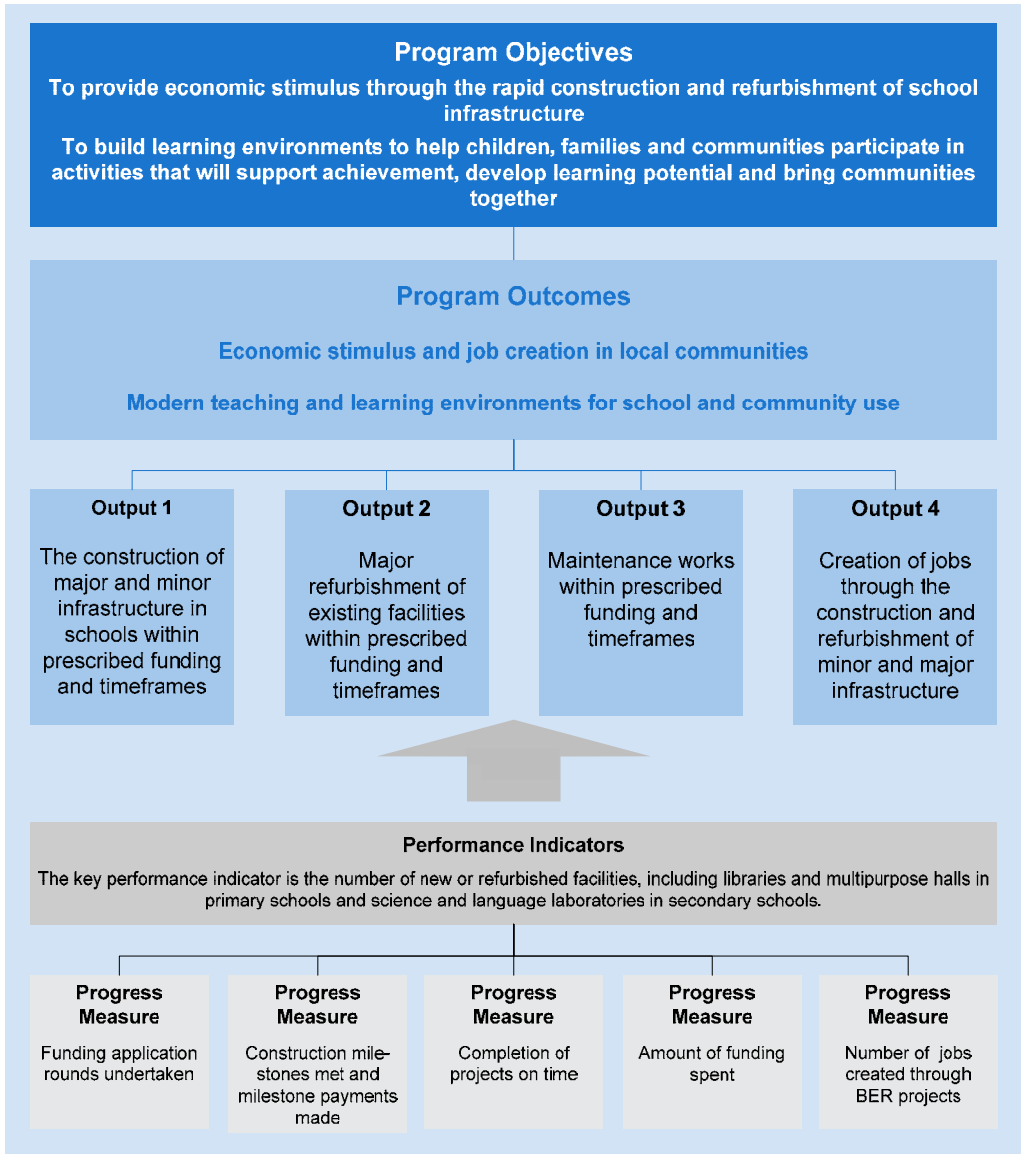
6.6 In accordance with the new federal financial relations framework requirements, the BER program's objectives, outcomes, outputs and performance indicators were established by COAG under the Nation Building and Jobs Plan NPA. In essence, the agreement provided a basis for assessing progress and achievement of objectives. COAG's early endorsement (5 February 2009) of the framework provided DEEWR with a sound platform to monitor the program and report progress.

6.7 To inform an assessment of progress toward the achievement of program outcomes, governments agreed through the NPA to the establishment of the following five progress measures: funding application rounds undertaken; construction milestones met and milestone payments made; completion of projects on time; amount of funding spent; and number of jobs created through BER projects (see Figure 6.1).

6.8 The NPA was not binding on non-government education authorities, with DEEWR assigned responsibility for establishing reporting requirements for the non-government sector through funding agreements.

Figure 6.1

COAG performance measurement framework for the BER program



Source: ANAO analysis from information in the NPA on the Nation Building and Jobs Plan

Development of an effective approach to program monitoring

6.9 In monitoring BER P21 progress, DEEWR had to consider which approach would be most effective in the context of the arrangements that had been established for delivering the program, including the parameters set by the NPA. This called for what the Prime Minister has described as ‘a

contemporary view of the role of the state in service delivery', one informed by 'the available evidence on how to deliver services efficiently and effectively'.¹⁷³

6.10 One of the characteristics of the program that needed to be considered was the fact that the program would be delivered through devolved delivery arrangements, involving 22 diverse Education Authorities administering the program on behalf of the Australian Government. Another was that accountability arrangements governing Education Authorities were not uniform and presented different risk profiles.

Challenges of devolved service delivery arrangements

6.11 The advantages of devolved service delivery arrangements are that they use organisations that have the proximity, legitimacy, and expertise to develop local responses to local problems. They are particularly useful in circumstances where required skills are not available to the degree necessary in the public service.¹⁷⁴

6.12 The Australian Public Service Commission has observed that the adoption of devolved service delivery approaches has also presented a challenge to traditional methods of ensuring accountability:

The current accountability framework and arrangements were designed around traditional modes of government bureaucracy. Devolved government brings additional levels of complexity and challenge; it involves longer, and often more diffuse, relationship and responsibility chains. Many policy responses, whatever the implementation approach, require flexibility and innovation at the point of delivery, implying a degree of open-endedness which does not always sit easily with traditional accountability mechanisms.¹⁷⁵

Monitoring BER P21 performance

6.13 The responsibility for monitoring and reporting performance under the Nation Building and Jobs Plan is shared at the Commonwealth level by the Treasury, the Coordinator-General and DEEWR. The Treasury has responsibility for modelling and reporting on the economic effect of the plan, as well as other stimulus measures. The Coordinator-General is responsible for

¹⁷³ Rudd, K., Prime Minister, *Address to Heads of Agencies and Members of the Senior Executive Service*, Great Hall, Parliament House, Canberra, 30 April 2008, p. 7.

¹⁷⁴ Australian Public Service Commission, 19 June 2009, *Contemporary Government Challenges: Policy implementation through devolved government*, Canberra.

¹⁷⁵ *ibid.* p. 23.

overall monitoring of the plan and performance reporting, with the monitoring of each element under the plan assigned to administering agencies—DEEWR in the case of the BER program.

Establishing BER P21 performance monitoring arrangements

6.14 DEEWR has developed a *Building the Education Revolution Monitoring and Performance Information Plan* and associated framework to govern its monitoring activities. The department's monitoring regime, comprising the plan and framework, aims to address a broad range of monitoring and reporting activities.

6.15 The purpose of the plan is to: 'guide internal DEEWR stakeholders in monitoring progress during the life of the program with the aim of achieving the program's objectives'. It includes: an assessment of strategic, management, and operational stakeholders; high level outcomes overview; primary and secondary indicators of outcome contribution; short communication strategy; roles and responsibilities statement; risk log; monthly reporting guidelines; and proposed report formats and distribution lists.

6.16 The associated framework was developed: 'to assess the extent to which the program is implemented successfully, meets its identified priorities and achieves effectively its objectives.' DEEWR stated that the framework includes a range of mechanisms to assess: 'contract and guidelines compliance, financial compliance and project compliance.' The mechanisms comprise monthly reporting, the annual provision of audited financial statements, desktop monitoring, and on-site visits.

6.17 The plan and framework were not, however, in place sufficiently early to inform the department's initial consultations with the Coordinator-General on the appropriateness of monitoring arrangements, or to guide departmental monitoring activity over the establishment and early implementation phases of BER P21.¹⁷⁶ It is clear that the rapid establishment of the program placed limits on DEEWR's ability to adequately establish comprehensive administrative arrangements from program commencement. In some instances, the department put in place interim arrangements and subsequently revised them

¹⁷⁶ The department, in its submission to the Senate Education, Employment and Workplace Relations References Committee's Inquiry into the Primary Schools for the 21st Century element of the BER program, stated that: *During July and August 2009, DEEWR developed a monitoring and performance information framework and plan.*

over time. This represented a pragmatic approach in the circumstances. Nevertheless, the early establishment of a performance measurement framework was necessary to allow Education Authorities to design data collection systems and to inform targeted data collection activities, such as commissioning external organisations to collect and analyse data where Education Authorities or schools were not well placed to collect reliable data, such as employment data.¹⁷⁷

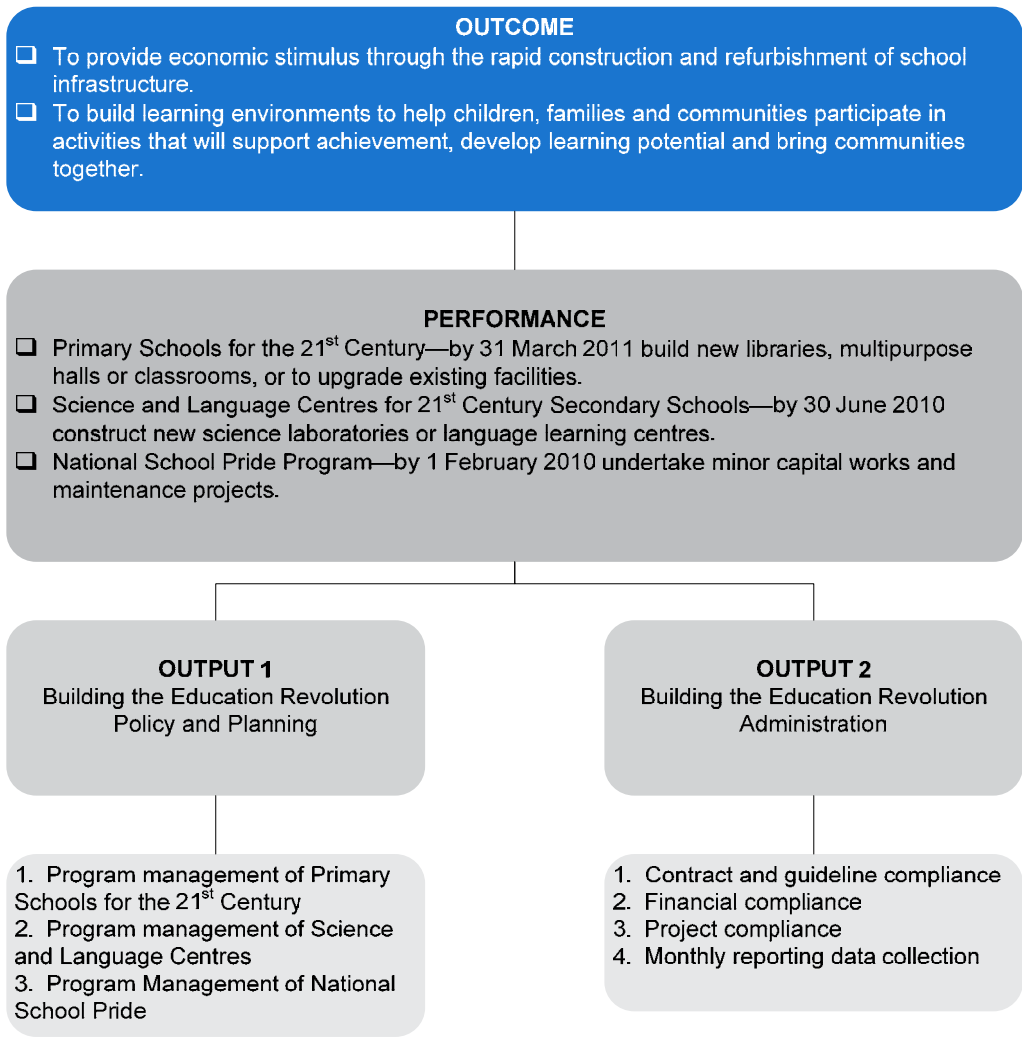
Meeting COAG's outcome monitoring expectations

6.18 As noted earlier, COAG, through the NPA assigned DEEWR responsibility for monitoring BER program outcomes. DEEWR has outlined a performance measurement framework in its *Monitoring and Performance Information Plan* (see Figure 6.2) to inform its assessment of progress toward achievement of BER program outcomes.

¹⁷⁷ DEEWR informed the ANAO that monthly reporting from Education Authorities has been undertaken since June 2009, before the development of the department's monitoring and performance information plan and framework.

Figure 6.2

Indicators of BER outputs' contribution to outcomes



Source: DEEWR

6.19 The framework established by DEEWR was not, however, consistent with the performance information regime established by COAG under the NPA (refer to earlier Figure 6.1). The program's objectives have been retitled as 'program outcomes' and four outputs identified in the agreement have been replaced with two unrelated new outputs. The lack of consistency of the monitoring arrangements proposed by DEEWR with the COAG performance measurement framework means that additional work will be required on the

part of the department to reliably monitor progress toward achievement of program outcomes.

Assessing risk to inform monitoring arrangements

6.20 The task of implementing construction projects, from initial conception to completion and use is complex, and entails time-consuming design, procurement and coordination amongst a large number of people with different skills and interests. Such complexity is further compounded by many uncontrollable external factors, including availability of resources and labour, inflation, or unpredictable weather events. These risks were amplified for BER P21 given the size of the program, and the compressed timeframes within which it had to be implemented.

6.21 The risks facing the program were not uniform both in terms of the location of financial transactions and also the accountability arrangements that apply. The level of devolution of responsibility for financial decisions varies between Education Authorities, and in some cases within them. The independent schools sector is comprised largely of self-managing schools, which have complete autonomy in decision-making on financial matters. On the other hand, decision-making on financial matters in school systems is generally more centralised, with the greatest level of centralisation existing in the government sector. Government school systems have multiple levels of accountability, to their respective state and territory parliaments and the broader public, and subject to review by institutions such as relevant auditors-general.¹⁷⁸ In contrast, independent schools generally have more constrained accountability obligations, to their school community, boards of management, and independent auditors.

6.22 The department has informed the ANAO that it managed risks to the program through the use of existing relationships:

DEEWR managed these risks by utilising the long standing funding arrangements with BGAs. This approach supported rapid implementation in

¹⁷⁸ For example, in November 2009, the Tasmanian Auditor-General released *Special Report No. 86—Major works procurement: Nation Building Projects, Treasurer's Instructions 1299 and 1214*. The audit report examined the Tasmanian Government's preparedness to comply with: the Nation Building and Jobs Plan NPA; and the State Treasurer's Instructions covering project procurement and agency procurement audit requirements. With regard to the implementation of the BER program by the State Department of Education (DoE), the Auditor-General found that: *In practice, it is not possible to guarantee that project costs will not be inflated above pre-stimulus levels, but we were satisfied that DoE had established reasonable processes to contain costs as much as possible.*

the non-government sector within a strong accountability structure. Although government education authorities have clear accountability structures, the magnitude of the funding and the robust monitoring regime was unfamiliar to them. Consequently, DEEWR worked closely with all education authorities to ensure that they demonstrated the capacity to delivery [sic] the projects within the timeframes required.¹⁷⁹

6.23 DEEWR's monitoring regime—which is outlined in the *Monitoring and Performance Information Framework*—primarily comprises a monthly reporting framework, desktop monitoring and on-site monitoring visits. The department has not, however, tailored its monitoring activities to address the key risks to the achievement of program outcomes.

6.24 DEEWR could have better targeted its monitoring activities if it had reviewed the monitoring arrangements established by Education Authorities and used a risk based approach to determine the assurance information that it required. During the course of the audit, the ANAO raised with DEEWR the potential for the greater use of targeted compliance action, underpinned by a sound risk assessment, to allow the department to better direct the resources that it has at its disposal for compliance work. It would also ensure that lower risk providers were freed from unnecessary scrutiny of their activities.

6.25 DEEWR has developed a program for compliance monitoring visits to a small number (six) Education Authorities, which it has outsourced to a private sector firm to undertake. A file note provided to the ANAO by the department outlining its rationale did not clearly set out the basis for the selection of Education Authorities, in terms of risk:

Meeting was held on 26 October 2009 at 10am to 10:30am to discuss the selection of the six education authorities (EAs) to be visited by the performance monitoring consultancy being conducted by [contracted consultant]. The breakdown of EAs was discussed. Should the consultancy visit two Government and four non-government education authorities or should it be three Government and three non-government? A 3 – 3 split would provide an equitable split between the government and non-government sectors. However, there are 22 education authorities, 14 of which are Block Grant Authorities (BGAs). It was agreed that two Government EAs and four BGAs would be visited.¹⁸⁰

¹⁷⁹ DEEWR advice, 7 April 2010.

¹⁸⁰ DEEWR file note of 26 October 2010 entitled: 'Rationale for choosing six Education Authorities for consultancy'.

6.26 Departmental officers subsequently considered additional and different factors for an initial selection of eight authorities, such as the proportion of BER funding received, adverse media coverage, adequacy of governance arrangements and numbers of project variations sought, in order to identify the two government and four non-government authorities that would be subject to a compliance monitoring visit.

DEEWR's approach to monitoring

6.27 As outlined in Chapter 2, DEEWR's administration of the BER program was undertaken within a coordination framework agreed to by governments for the Nation Building and Jobs Plan. Within this framework, the Commonwealth Coordinator-General was responsible for supporting and monitoring the implementation of key infrastructure and stimulus measures. While the Coordinator-General is responsible for the overall monitoring of the Nation Building and Jobs Plan, Commonwealth, state and territory agencies were responsible for the delivery of individual plan elements. The Coordinator-General has reported that:

Monitoring the progress of each element of the Plan is reliant upon data being provided to the Commonwealth Coordinator-General by Commonwealth and State and Territory government agencies. The administration of the programs covered under the Plan is the core business of the Commonwealth agencies responsible for delivering those elements. Commonwealth agencies have many years of experience in these areas and existing departmental systems for monitoring and managing issues.¹⁸¹

6.28 The former Coordinator-General has informed the ANAO that the stimulus objectives of the initiative and the requirement for urgent implementation meant that additional assurance was required by the Australian Government as to whether policy objectives were being met. The former Coordinator-General also advised that he required reporting on a 'building-by-building' level and that the intent was to have detailed information on the 'flow of money out the door' and 'progress of individual projects'. Consequently, the Office of the Coordinator-General has sought from administering agencies monthly information on project details, project dates (actual commencements, completions and achievement of milestone dates), project expenditure (actual and committed), as well as estimates of jobs

¹⁸¹ Commonwealth Coordinator-General's Progress Report, 3 February 2009–30 June 2009, p. 14.

supported at the start of each project. The information required by the Coordinator-General is closely aligned to the progress indicators agreed by governments under the NPA (see earlier Figure 6.1).

6.29 The approach developed by DEEWR to approve the allocation by Education Authorities to schools, as explained in Chapter 4, was also characterised by a project-by-project consideration of funding applications submitted by Education Authorities on behalf of their schools. The application phase required Education Authorities to submit for each project, a range of information, including project and facility type, size of building and type of construction materials, sustainability measures, and estimated milestones, including start and completion dates. Following approval of projects, Education Authorities have been required to report, on a monthly basis on a number of items, including detailed data on project expenditure and commitments, progress against milestones, community access, project management and fit-out costs, and the number and types of jobs supported by projects.

6.30 While the bilateral/funding agreements and program guidelines provided a basis to introduce additional performance measures and reporting requirements, DEEWR in working with state and territory governments, was required to balance stakeholders' desire for extensive and detailed data on program delivery, with the federal financial relations framework reform objectives of simpler, standardised and more transparent public performance reporting. In particular, DEEWR and the Coordinator-General needed to carefully consider the capacity of Education Authorities and schools to provide robust and accurate data on aspects of the program, and the administrative costs associated with data collection and subsequent quality assurance.

Detailed assessment of each project provided limited assurance

6.31 The rapid delivery of the program meant that Education Authorities and schools were often unable to submit applications based on completed designs, geotechnical analysis of the building site, or tender results which would have provided firm cost estimates. Applications were submitted at a time when limited information was available about the proposed scope and cost of projects and the funding sought was generally consistent with the school's notional entitlement. This meant that work was needed, subsequent to the initial approval of projects, to commission architects and building companies to develop detailed designs as a basis for tendering for either the whole scope of work or components of the work to be defined progressively.

6.32 As is discussed in Chapter 4, the approval of funding allocations before project designs were developed and procurement undertaken presented a risk that project designs and building contracts would be structured to ensure approved funding allocations could be fully used in a way that was inconsistent with value-for-money principles, for example, through inclusion of ‘optional extras’.

6.33 The ANAO’s analysis of data (extracted for the period up to 31 October 2009) provided by Education Authorities to DEEWR on their tender results indicated that it would be of limited utility in understanding the use of funding. For example: almost 70 per cent of the project contract amounts provided by an Education Authority were less than 50 per cent of the approved amounts; and 60 per cent of contract amounts provided by another Education Authority were just five per cent of the approved value of the project.

6.34 The extent of these data integrity problems, as at October 2009, coupled with varied approaches to procuring BER P21 construction works across Education Authorities and schools meant that it was not possible to draw reliable conclusions from reported data about actual project expenditure levels or how funding was being used.

6.35 DEEWR has advised that, from the department’s experience, the data integrity issues identified by the ANAO are more likely to be the result of incomplete procurement activity. DEEWR has subsequently advised the ANAO that, as at 28 February 2010:

- nearly 70 per cent of projects have a commitment of 90 per cent or more of P21 funding; and
- 23 per cent of commenced projects had a commitment of 50 per cent or less of P21 funding.

Established benchmarks have not provided a useful basis for monitoring the use of funding

6.36 Another mechanism through which DEEWR has sought assurance about program expenditure has been the requirement that Education Authorities and schools include in their applications for funding:

- estimates of the total construction and/or refurbishment cost; and

- non-construction costs, such as professional fees, site development costs, local authority charges, external infrastructure costs, fit-out (furniture and equipment) costs.¹⁸²

6.37 To assess whether the proposed costs were reasonable, DEEWR established benchmarks and required Education Authorities to justify the basis for their estimates when benchmarks were exceeded.¹⁸³ The ANAO's analysis demonstrated that the project management and fit-out costs data provided by Education Authorities were both incomplete and, to an extent, assumption-driven.¹⁸⁴

6.38 The ANAO noted that Education Authorities have employed a range of strategies in an effort to gain value-for-money from the use of program funding. For example, Education Authorities have generally engaged independent consultants to provide advice and assurance about procurement activity, including the engagement of independent quantity surveyors to assess project designs as detailed plans became available. A greater focus on the appropriateness of these strategies through consultation, while reducing as far as practicable the use of benchmarks and detailed rules, would have provided DEEWR with assurance while limiting the administrative workload on Education Authorities and the department. The implementation plans that DEEWR required Education Authorities to lodge could also have better informed the department about the strategies being used by authorities to govern the delivery of aspects of the program, such as procurement activity and sustainable building practices employed. The department, through its program of onsite monitoring visits, would also be in a position to monitor the deployment of agreed strategies.

¹⁸² The BER Guidelines state that funding may be used for the fit-out of new buildings or refurbishments to the extent that it is necessary to make them operational for the purpose for which they are designed.

¹⁸³ DEEWR informed the ANAO that project management benchmarks were developed based on information provided by the Building Industry Branch within the department and the Department of Infrastructure, Transport, Regional Development and Local Government.

¹⁸⁴ DEEWR established a benchmark of four per cent of total project costs for project management fees to assist it to assess the reasonableness of proposed expenditure on project management. Most Education Authorities (15 of 22) did not provide estimates of project management fees in their applications. Of those that did, around half assumed that these costs would represent four per cent of approved funding, which suggests they had used DEEWR's benchmark as a basis for their estimates in order to gain rapid approval of their proposals—despite having been advised by DEEWR that it was not appropriate to enter four per cent as a default estimate.

Reporting on jobs has not produced reliable information

6.39 One of the most important measures for the economic stimulus plan is its effect on employment. The Treasury has been assigned responsibility for monitoring the overall economic effect of the plan, including the total number of jobs supported. Employment effects are estimated by the Treasury at an aggregate level using standard macroeconomic modelling which captures not only the initial effect of the stimulus, but also the broader effects as the stimulus is transmitted to other parts of the economy. The Treasury's analysis of the economic stimulus plan's effect on employment has been reported during implementation, including in the most recent Coordinator-General's progress report released in February 2010.¹⁸⁵ The Treasury has informed the ANAO that:

we note that public investment grew by 22.4 per cent over the last three quarters of 2009, contributing around 1 percentage point to GDP growth, and accounting for more than half of the growth in GDP over this period. This has clearly supported strong employment growth over this period.¹⁸⁶

6.40 The importance of employment outcomes for the BER program was recognised by COAG through establishment of *Economic stimulus and job creation in local communities* as one of two outcomes for the program in the NPA. To inform progress toward the achievement of the outcome, the NPA provides for the *Number of jobs created through BER projects* as a progress measure. Furthermore, jobs created is a data item for which the Coordinator-General has sought monthly reports from administering agencies.¹⁸⁷

6.41 To provide a basis for monitoring employment outcomes and to meet the information needs of the Coordinator-General, DEEWR has required Education Authorities, in collaboration with their schools, to provide monthly reports on the number of jobs supported by individual projects, including also, the number of indigenous employees, and number of trainees or apprentices. A large number of Education Authorities have informed the ANAO that the reporting of the number of jobs supported has been problematic from a range of perspectives. A sample of the comments received from Education

¹⁸⁵ Commonwealth Coordinator-General's Progress Report, to 31 December 2009, p. 15.

¹⁸⁶ Treasury advice, 9 April 2010.

¹⁸⁷ DEEWR has informed the ANAO that the Coordinator-General asked administering agencies to collect project level jobs data using the following definition: *estimated average daily number of on-site workers for the duration of the project*.

Authorities in written submissions to the ANAO provides an indication of the problems they have encountered:

The reporting of jobs on site cannot be accurate if builders are asked to make an estimate. A retrospective or snap-shot approach should be taken here. A reliable estimate of jobs to be created by the BER could have been undertaken by ABS based on the value, number and location of projects using historical statistical employment data for the building industry on record in ABS industry data sets.

* * *

One of the prime objectives from the BER program was job creation. Reporting jobs was therefore a key part of reporting once a project had started. The definition provided by DEEWR for counting job numbers was *'the estimated average daily number of on-site workers for the duration of the project'*. This [Education Authority] interpreted the definition strictly and insisted that schools provide realistic figures. Until September no further guidance was provided by DEEWR. A draft memo was finally issued which spelt out what was required in some detail (I have yet to see a final version of the memo). In the meantime jurisdictions used different methods for calculating jobs. One jurisdiction was for some time reporting raw head count, despite the clear intent in the definition. The data provided to the government was undoubtedly flawed.

* * *

In respect of reporting requirements around the number of jobs supported we have a strong view that attempts by DEEWR to collect this information via estimates from the Builders and contractors are never going to be able to accurately reflect the number of positions created. This is evidenced by the wide variation in terms of the numbers reported for similar projects. Our view is that DEEWR would have been much better informed in respect of these statistics if they have used proven employment monitoring tools.

6.42 DEEWR was also aware of the limitations of the data it was collecting. At its appearances at Senate Estimates committee hearings in October 2009 and February 2010, the department indicated that it was not possible to aggregate project-level jobs data at a state or national level. In response to a question on notice regarding this issue, the department stated that:

It is not meaningful to aggregate BER jobs data at a national or state level, as work crews may move between projects, between schools or work on more

than project at a particular school. In particular, apprentices and trainees often move between employers and between jobs.¹⁸⁸

6.43 The department's Research, Analysis and Evaluation Group provided the BER Taskforce with economic advice regarding the limitations on the jobs supported data collected under the program. In particular, the advice indicated that any aggregation of the jobs supported data without further information and analysis would be misleading. The advice also indicated that individuals may be employed on multiple BER P21 projects and thus any aggregation would risk counting any individual employment outcome more than once.

6.44 DEEWR has informed the ANAO that the jobs data collected from Education Authorities and schools has limited application and is generally used to inform an understanding of jobs supported on a project-by-project basis. The department also advised that all measurement tools have limitations and that the objective of collecting project level data was to provide local communities with information about the jobs supported by individual projects at schools. These data complemented the macro-level monitoring undertaken by the Treasury across the economic stimulus plan, but were never intended to be aggregated to provide a picture of jobs supported through BER P21. The inability to aggregate project level data means that it is not currently possible to accurately determine the effect of the BER program on employment.

6.45 Given the potential data integrity problems identified by Education Authorities, the effort required from Education Authorities and schools to collect the data, and the limited application of the data once collected, there would be scope for DEEWR, and ultimately the Coordinator-General, to have considered alternative options to obtain data to facilitate reporting against BER progress measures and program outcomes for the BER program in Schedule D of the NPA. Where it is not possible to identify alternative options that yield valid data at the program level, it would have been prudent for DEEWR, in consultation with the Coordinator-General, to advise government accordingly.

Education Authorities perceive reporting obligations have been onerous

6.46 As outlined in Chapter 2, the Nation Building and Jobs Plan NPA incorporated more frequent and detailed reporting requirements than in other

¹⁸⁸ Commonwealth of Australia, 2009, *Senate Standing Committee on Education, Employment and Workplace Relations Legislation Committee—Budget Estimates 11/02/2010*, Canberra, p. 62, available from <www.aph.gov.au> [accessed 16 February 2010].

national partnerships. Education Authorities, in general, recognised that the stimulus objective of the BER program necessitated more regular reporting than would normally be the case for a school infrastructure program. Education Authorities also acknowledged that they are receiving 1.5 per cent of the total available program funding to cover the administration costs for the program, including reporting progress to the Australian Government. This amounts to some \$207 million over three years.

6.47 However, Education Authorities considered that the reporting framework established for the BER program was too detailed, ambiguous, constantly changing and included reporting items of limited perceived value in assessing program progress. Of the 17 Education Authorities that provided a submission to the ANAO, 13 questioned the usefulness of the reporting that they have been expected to undertake. Submissions from authorities included comments such as:

The reporting requirements for the BER are onerous and time-consuming for schools and the [Education Authority] and, in our opinion, out of proportion to the value of the data supplied. DEEWR appears to be placing a lot of importance on the data collected, especially around dates and jobs supported. This estimated data is unreliable as an information source and may vary across schools and sectors...DEEWR requires [Education Authorities] to respond to any inconsistencies in reporting, many of these relating to events that have now passed and are not applicable, e.g. school has missed start date however the school may in the next month have completed the project. The time spent on this micro-management by DEEWR is questionable in providing value in the outcomes for schools and the use of Government funds.

* * *

The reporting process is a labour intensive process and it takes our [Education Authority] most of the month to collate and correct the data from schools. To allow sufficient time to collate the reports, schools are required to submit the data early in the month, often before the invoices have been received from the builder, which means costs must be reported the following month.

* * *

It is considered that a significant amount of extraneous information was sought from the original application process, which would be of little meaningful value, for example, material type, construction and finishes... As a general statement the reporting requirements and arrangements around funding agreements such as milestone dates and payments imply bureaucratic over-kill and a lack of confidence in the integrity and ability of Education Authorities to appropriately administer and account for the funding.

6.48 While the responsibility for preparing monthly reports for DEEWR rests with Education Authorities, schools also have a role in collecting information to inform reporting by authorities. The ANAO, therefore, sought the views of principals on reporting obligations under the BER program. In response to its survey, just over 40 per cent of respondents to the ANAO indicated that they provided information to their Education Authorities to fulfil reporting obligations. Of these, around 65 per cent indicated that reporting requirements were clear, have been consistent, are manageable, and will give program managers a meaningful understanding of program progress (see Appendix 2 for further results from the survey).¹⁸⁹

6.49 DEEWR has informed the ANAO that the reporting requirements established for the BER program have been set by the Coordinator-General, in agreement with the state coordinators-general, to allow consistent reporting across the whole economic stimulus plan.¹⁹⁰ While the ANAO recognises the role of the Coordinator-General in monitoring implementation of key infrastructure and stimulus measures, the department plays an important role in providing advice to the Coordinator-General on the adequacy of monitoring arrangements. The department also has a role in working with Education Authorities to explain requirements, address any concerns, identify areas of improvement, and provide advice to the Coordinator-General.

6.50 The decisions that DEEWR has taken to gain greater insights into the implementation activities of Education Authorities, and the resulting workload that this approach has attracted, has also meant that DEEWR's ability to engage with authorities at a more strategic level on some important program objectives has been limited. One such objective relates to the sustainability of BER program infrastructure and is discussed below.

Monitoring of sustainability measures has been limited

6.51 The BER program presented an opportunity to upgrade and modernise education infrastructure, including by incorporating sustainable building standards. This was particularly important, in the context of the Government's

¹⁸⁹ Details of the method and results from the survey are set out in full at Appendix 2.

¹⁹⁰ The ANAO has, however, noted that public reporting by the Commonwealth Coordinator-General has provided differing information for elements of the economic stimulus plan; for example, project commencement has been reported for the BER program but has not been reported for the social housing initiative.

broader policy objective to reduce carbon emissions, through its intended Carbon Pollution Reduction Scheme, and to minimise the costs of doing so.¹⁹¹

6.52 The priority to be given to energy efficiency was recognised at the conception of the program. In reaching agreement on the economic stimulus package before its passage through Parliament, the Government agreed in relation to the BER program, that:

Any new building will be designed to maximise energy efficiency including insulation, energy efficient solar hot water (where appropriate), energy efficient lighting, energy efficient glazing, energy efficient heating and cooling, and a water tank.¹⁹²

6.53 The BER Guidelines contain the following requirement for energy efficiency: '*wherever possible, all new buildings and refurbishments should incorporate sustainable building principles to help reduce any impact of building on the natural environment [emphasis added]*'.¹⁹³

6.54 The BER Guidelines also exempted projects from adhering to 'global area standard' requirements, which are normally used by DEEWR to determine whether the size of a proposed school building is appropriate to the student population. These requirements are important as a means to minimise energy consumption and reduce ongoing maintenance needs. For example, working within its facilities standards, the Queensland Department of Education and Training has estimated that the construction of BER P21 projects would increase annual operating costs by around \$30 million for electricity, cleaning, water, maintenance and \$20 million in depreciation expense.¹⁹⁴

¹⁹¹ For example, a recent report by the Australian Sustainable Built Environment Council estimated that fully realising the energy efficiency potential of the building sector would save the economy, annually, around \$38 billion by 2050, and would thus substantially reduce the costs associated with a CPRS. The Victorian Department of Education and Childhood Development has estimated the CPRS could translate to an increase in its budget of approximately \$90 million annually. [see Australian Sustainable Built Environment Council, 2008, *The second plank—Building a low carbon economy with energy efficient homes* and Victorian Department of Education and Early Childhood Development, October 2008, *Looking Ahead: DEECD's Environmental Sustainability Strategy*, available from <<http://www.eduweb.vic.gov.au/edulibrary/public/>> [accessed 18 December 2009].

¹⁹² Letter from the Hon. Wayne Swan, MP, Treasurer, to Senator Bob Brown, Leader of the Australian Greens, 12 February 2009.

¹⁹³ DEEWR, 2009, BER Guidelines Version 3—21 September 2009, p. 7.

¹⁹⁴ PricewaterhouseCoopers, 2009, *Building the Education Revolution Program* report produced for the Queensland Department of Education and Training, available from <http://education.qld.gov.au/infrastructure/strategy/ber/pdfs/berprogramreview_final.pdf> [accessed 18 December 2009].

6.55 DEEWR's monitoring of the sustainability of infrastructure funded under BER P21 has been limited to the information contained in applications for funding, sustainability approaches outlined in implementation plans provided by Education Authorities, and project completion reporting.

6.56 In funding applications, DEEWR asked applicants to provide information on the sustainability measures that would be pursued as part of the project design from a list of six sustainable building items, namely: building insulation; energy efficient glazing; energy efficient lighting; recycled/grey water; solar panels; and water tanks. The first three of these measures are requirements of the Building Code of Australia, to which new school buildings would have had to conform.

6.57 While existing building codes establish a baseline standard for all new buildings, the task of maximising energy efficiency and reducing both financial and environmental costs is complex, requiring close consideration of site constraints and prevailing climatic conditions and factors such as: orientation; airflow and ventilation; thermal comfort; lighting; and acoustics.¹⁹⁵ DEEWR's project-level 'checklist' approach did not allow the department to perform this assessment, nor did it provide a higher level assurance that other entities (either Education Authorities or schools) were doing so. Consequently, DEEWR had limited assurance about whether sustainable design principles were being pursued. This was noted by one Education Authority as follows:

The need to provide the types of sustainability materials appears irrelevant to the task. It is acknowledged that an awareness and focus on sustainability by architects and related consultants should be a major consideration. However, the Building Code of Australia (under section J) requires the inclusion of sustainable materials within building projects. The requirement to identify individual material types at the pre design stage is not a practical proposal, particularly when greater flexibility at the detailed design stage provides an opportunity to explore greater sustainability options and alternatives.

6.58 The information provided by Education Authorities against the checklist required by DEEWR only represents an intention, as at the application stage detailed plans and costings for projects had not been completed.

¹⁹⁵ DEEWR, 2009, *Building the Education Revolution: Advancing Sustainability Fact Sheet* written in partnership with the Australian Government and The Australian Institute of Architects, available from <<http://www.deewr.gov.au/Schooling/BuildingTheEducationRevolution/Pages/FactSheets.aspx>> [accessed 17 December 2009].

6.59 Implementation plans provided by Education Authorities to DEEWR were to explain how sustainable building principles would be incorporated into construction, refurbishment and maintenance works. Some authorities, such as the Queensland Department of Education, Training and the Arts referenced existing policies and standards:

DETA will utilise its Ecologically Sustainable Development Requirements for School Facilities which outline sustainable building practices for energy, water, materials, waste, environmental health, heating/ventilation and cooling, equipment and furniture etc. Copy of this document previously provided.

6.60 Conversely, the information provided by some Education Authorities in their implementation plans provides little confidence that rigorous standards would be promulgated and enforced. For example:

The [*Education Authority*] **will encourage** all schools and architects to use sustainable building principles in their design [*sic*] to be environmentally friendly and low maintenance materials [*sic*]. The [*Education Authority*] has been promoting these concepts with schools and architects for the last two years [emphasis added].

* * *

Each school **will be asked to consider** and implement where possible the [*Education Authority's*] standard Environmentally Sustainable Design Guidelines [emphasis added].

6.61 These statements indicate a level of commitment that is substantially lower than the Government's intentions, as originally stated. While they may have alerted DEEWR to the risks that Education Authorities would not seek to ensure compliance with sustainable design principles, the department did not seek additional assurances.

6.62 With regard to project completion reporting, DEEWR has adopted a similar check list approach that it used for the funding application process. At the completion of each project, Education Authorities are required to identify which sustainable building items from the listing of six that were used in school projects.

6.63 Overall, there is a limited focus on sustainable building design in DEEWR's program management materials and monitoring activities. For example:

- failure to adhere to sustainable building principles is not included in DEEWR's risk management plans;

- key stakeholders in the area of sustainable building design such as the Department of Environment and the Arts, the Australian Sustainable Built Environment Council, and the Australian Institute of Architects are not identified as stakeholders in the departments Building the Education Revolution Stakeholder Engagement Strategy;¹⁹⁶ and
- checklists developed to guide DEEWR's monitoring visits do not include questions relating to sustainable building design.¹⁹⁷

6.64 In relation to sustainability of infrastructure funded under the BER program, the Commonwealth Coordinator-General's progress report, released in August 2009, noted that:

It is a requirement under the Building the Education Revolution (BER) component that, wherever possible, all new buildings and refurbishments should incorporate sustainable building principles to help reduce any impact of building on the natural environment. The Department of Education, Employment and Workplace Relations (DEEWR) is monitoring sustainability measures across projects and to date schools are taking the opportunity to build sustainable buildings and projects. For example, of the Primary Schools for the 21st Century (P21) projects announced to date, over 4,000 projects (nearly 60 per cent) include water tanks and 3,400 (or nearly 50 per cent) include energy efficient glazing.¹⁹⁸

6.65 To an extent, the risk that sustainable building practices are not incorporated into school building projects funded under BER P21 is offset by the standards and policies used by many education systems to guide their management of education infrastructure. Reflecting the size and scale of the education infrastructure they manage, and their interest in achieving efficiencies in energy consumption and maintenance costs (among other

¹⁹⁶ DEEWR informed the ANAO that, although the Australian Institute of Architects was not identified as a key stakeholder by the department in its BER Stakeholder Engagement Strategy, consultations did occur, with a sustainability fact sheet produced by the Institute and issued to Education Authorities by DEEWR.

¹⁹⁷ Monitoring visits for BER projects include the review of tendering processes, project commencement and payments, project variations, Commonwealth recognition and branding, and accountability.

¹⁹⁸ Available from <http://www.economicstimulusplan.gov.au/documents/pdf/ESP_Project_Report_August.pdf> [accessed 18 December 2009]. DEEWR has since advised that, as at 6 April 2010, 6076 (57 per cent) of projects include water tanks and 5210 (49 per cent) of projects include energy efficient glazing.

considerations), the larger Education Authorities generally have policies to inform their approach to sustainable building practices.¹⁹⁹

Reporting program performance to stakeholders

Responsibility for performance reporting under the BER program is shared

6.66 The Commonwealth Coordinator-General is responsible for reporting overall performance under the Nation Building and Jobs Plan whereas Commonwealth, state and territory agencies are responsible for reporting on the progress of individual elements of the plan. In the case of the BER program, DEEWR is responsible for monitoring and reporting progress against program outputs and outcomes.

6.67 In addition to its reporting role on the progress of the BER program, DEEWR was also responsible for contributing performance information to the Coordinator-General to facilitate reporting to COAG on achievements against the objectives established for the Nation Building and Jobs Plan. Performance information for each element of the plan also supports overall economic modelling by the Treasury to gauge the broader result of stimulus measures on the economy.

¹⁹⁹ For example, the Victorian Department of Education and Early Childhood Development, which manages around \$5.6 billion and 7.6 million square metres of education infrastructure is guided by its own environmental sustainability strategy and building quality standards handbook, which contain detailed indicators, targets and standards. In order to minimise maintenance requirements and costs, entitlement to facilities is determined by 'facilities schedules' which itemise a mix of room types and area requirements according to their student numbers, and curriculum offered. For further information, see for example, Victorian Department of Education and Early Childhood Development, October 2008, *Looking Ahead: DEECD's Environmental Sustainability Strategy*, available from <http://www.eduweb.vic.gov.au/edulibrary/public/schadmin/environment/lookahead.pdf> [accessed 17 December 2009]. Victorian Department of Education and Early Childhood Development, October 2008, *Building Quality Standards Handbook*, available from <http://www.eduweb.vic.gov.au/edulibrary/public/propman/facility/BuildingQualityStandardsHandbook.pdf> [accessed 17 December 2009]. Victorian Department of Education and Early Childhood Development, *Building Policy and Entitlements*, available from <http://www.education.vic.gov.au/management/infrastructure/buildingprogram/policy.htm> [accessed 18 December 2009].

Commonwealth Coordinator-General has reported on BER program activity

6.68 The Commonwealth Coordinator-General has publicly released two progress reports on implementation of the Nation Building and Jobs Plan.²⁰⁰ The reports, covering 3 February – 31 December 2009, were published in late August 2009 and early February 2010. These reports provided background information on the plan, some preliminary results from the Government's stimulus strategy and include a 'snapshot of results' from all four infrastructure elements of the plan.²⁰¹ Given the period covered by the first report, it included minimal information on the progress of the BER program. Primarily, the reported information comprised the target number of schools to receive BER funding compared with schools funded to date and status of construction projects. The number of schools approved for funding and the total approved funding was also provided. That funding included adjustments made as a result of the increased requirement for BER P21 (see Chapter 5). The second progress report from the Coordinator-General included high level information on progress of the BER program up to 31 December 2009. The report provided information on the status of BER P21 projects, that is whether they had been approved, whether they had commenced, and whether onsite construction had commenced or whether they had been completed.

DEEWR has used a variety of means to report BER program progress to stakeholders

6.69 DEEWR advised that it has reported on BER program progress in various ways, including: the department's annual report; its contribution to the Coordinator-General's progress report; the BER National Coordinator's Implementation Report (February–September 2009); and through meeting its parliamentary obligations to appear and give evidence at Senate Estimates hearings and responding to parliamentary questioning.

6.70 As DEEWR did not establish performance indicators in its 2009–10 Portfolio Budget Statements, it did not report its performance against such

²⁰⁰ Commonwealth of Australia, 2009, Commonwealth Coordinator-General's Progress Report: 3 February 2009 – 30 June 2009, Canberra, p. 24, available from <economicstimulusplan.gov.au> [accessed 17 November 2009] and Commonwealth of Australia, 2010, Commonwealth Coordinator-General's Progress Report: To 30 December 2009, Canberra, p. 25, available from <economicstimulusplan.gov.au> [accessed 3 February 2010].

²⁰¹ These are: education; social/defence housing; transport/infrastructure; and energy efficient homes.

indicators in its annual report.²⁰² As a consequence, DEEWR's 2008–09 annual report provides only superficial coverage of the progress of the BER program, comprising a general overview of the program and a case study of a school construction project funded under it.

6.71 DEEWR's decision to produce a BER National Coordinator's Implementation Plan positively contributed to the promulgation of progress information to program stakeholders. While this report was not required by COAG, it ensured useful information was released into the public domain.

6.72 The department has also provided extensive information directly to Parliament through its attendance at Senate Estimates committees and before Parliamentary inquiries into the BER program.

Reporting progress against established performance measures

6.73 The former Coordinator-General has informed the ANAO that the Office of the Coordinator-General holds responsibility for reporting on BER program objectives, outcomes, outputs and performance benchmarks established under Schedule D of the NPA (see earlier Figure 6.1). However, the two reports released by the Coordinator-General to date, while providing general high level progress information, have not specifically reported progress against established performance measures established under the NPA. For example, the Coordinator-General's progress reports have not provided stakeholders with progress information against agreed performance benchmarks, such as the amount of funding spent on BER P21 projects, nor have they reported progress against the BER program outcomes of *economic stimulus and job creation in local communities* and *modern teaching and learning environments for school and community use*.

6.74 The department's reporting on BER program performance has provided a broad range of general information on the program. This information includes: background on the economic stimulus plan; the BER program policy framework, information on each element of the BER program; implementation arrangements for the program; and future program phases.

²⁰² DEEWR stated in its 2009–10 Portfolio Budget Statements (PBS) that: *Performance data and effectiveness indicators will be developed as part of the process of implementation of the National Partnership*. The department has informed the ANAO that more extensive performance information will be included in the 2010–11 PBS.

6.75 The various means used by the department to date to report on program performance have not included an assessment of the department's achievements against the performance framework established by COAG under the NPA. This is evident in the BER National Coordinator's Implementation Report, where a section of the report is dedicated to 'BER Outcomes', but the achievements outlined do not align with the outcomes specified by COAG. The outcome performance is stated as:

- 25 489 applications for funding have been received and assessed, and 24 382 approved. This represents a 96 per cent success rate for schools; and
- 9526 schools will receive BER funding of \$15.9 billion for maintenance, refurbishment or construction projects.

6.76 The reported performance of the BER program to date by DEEWR and the Coordinator-General has not provided stakeholders with insights into key stimulus objectives, such as the amount of BER P21 funds that have been injected into the economy or the number of jobs created in local communities through BER P21 projects. The Department of the Prime Minister and Cabinet has, however, informed the ANAO that:

further reporting, over time, on the BER will, of course, as data becomes available, have more to draw on to report against key indicators.²⁰³

The use of concerns or complaints as an indicator of program performance

6.77 In establishing the program, the Government decided that a BER National Coordinator would be appointed to ensure achievement of milestones, and to address implementation challenges. DEEWR subsequently decided this role would include the task of resolving 'concerns' and (in subsequent versions of the guidelines released in August and September 2009) 'complaints' from schools about administration of the BER program.²⁰⁴ The capacity to lodge a concern, and subsequently a complaint, was publicised to schools in the BER Guidelines, with the complaints handling arrangements

²⁰³ Department of the Prime Minister and Cabinet advice, 12 April 2010.

²⁰⁴ DEEWR informed the ANAO that its concerns/complaints monitoring regime allowed the department to identify any trends that might have been forthcoming on the small number of complaints that were made to it.

established by DEEWR receiving increased media exposure over recent months.

6.78 Given the devolution of service delivery under the BER program, frontline responsibility for dealing with stakeholder concerns or complaints about BER P21 rests with schools, and the systems and/or Education Authorities that manage them. DEEWR's ability to resolve concerns (pre-August 2009) or complaints about the program is limited to cases where Education Authorities do not adhere to the terms and conditions attached to the receipt of funding, as are set out in the program guidelines. However, DEEWR's articulation of its role in resolving concerns or complaints about program administration in the program guidelines does not recognise this limitation, or direct complainants to their Education Authorities as the most appropriate mechanism for resolving concerns or complaints about program implementation. Additionally, there was a low awareness among school principals about DEEWR's role in resolving concerns or complaints—only 30.7 per cent of school principals that responded to the ANAO's survey were aware of it.²⁰⁵ These factors have reduced DEEWR's capacity to address concerns or complaints about program implementation and also limited:

- the completeness of the concerns or complaints data held by the department; and
- the usefulness of the data for management purposes.

6.79 Responding to the public interest in the program, the number of concerns or complaints received by DEEWR has been regularly reported and, on occasion, used as an indicator of successful program establishment.²⁰⁶ Given the low level of awareness among school principals at the time the ANAO's survey was undertaken regarding DEEWR's role, as well as the fact that most concerns or complaints are dealt with by front line staff involved in delivering the program, data held by DEEWR is not able to be interpreted as a comprehensive indicator of program concerns or complaints. Consequently, the data presents a limited measure of program performance.

²⁰⁵ The ANAO's survey was conducted in October and November 2009 and does not reflect potential changes to awareness levels resulting from the increase in awareness activities over recent months. Details of the survey method and results from the survey are set out in full at Appendix 2.

²⁰⁶ As at 15 April 2010, DEEWR reported that it had received 103 complaints to date across the BER program, with 59 of those relating specifically to BER P21.

6.80 As part of its survey of primary school principals, the ANAO sought information on the prevalence of concerns or complaints about BER P21.²⁰⁷ The survey results showed that about one-third of respondents stated that they or someone in their school community had communicated a concern or complaint about BER P21. The survey results, however, include matters that were not recorded as formal complaints under the program and, consequently, the ANAO and DEEWR data sets are not directly comparable. Further, it is not possible to determine the extent to which concerns or complaints outlined by survey respondents were resolved locally and, therefore, not raised directly with the department. DEEWR has informed the ANAO that it has sought formal complaints data from government Education Authorities and, for those jurisdictions that collected complaints data, the number of formal complaints recorded was generally low.²⁰⁸

²⁰⁷ The ANAO's survey question sought information on concerns and complaints in order to reflect DEEWR's approach to complaints management outlined in its program guidelines, which assigned the BER National Coordinator responsibility for resolving concerns from February to August 2009 and complaints from August 2009. The department has not defined 'concerns' or 'complaints'.

²⁰⁸ Before November 2009, DEEWR did not collect information from Education Authorities about concerns or complaints lodged with them about the BER program. In response to a Question on Notice from the Senate Education, Employment and Workplace Relations References Committee, the department sought complaints data from the eight government Education Authorities. DEEWR's response to the committee is available from: <http://aph.gov.au/Senate/committee/eet_ctte/primary_schools/submissions.htm>. The response does not include information from the 14 non-government Education Authorities. Furthermore, the response outlined that some government Education Authorities do not collect complaints data, while others are unable to disaggregate complaints data from other feedback.

7. Indicators of Program Progress

This chapter examines some of the early evidence about BER P21 progress against its intended outputs and outcomes, and discusses some of the factors that have affected progress to date.

Overview

7.1 BER P21, as a high profile initiative to ameliorate the effect of the global financial crisis on the Australian economy, has elicited considerable stakeholder interest in its design and progress. Any assessment and subsequent reporting of BER P21 achievements, however, must be framed by the context in which the program was implemented. The delivery of a program the scale of BER P21 within compressed timeframes has created an inherent tension between the approaches adopted to ensure timely program delivery and traditional practices for the delivery of capital infrastructure in schools.

7.2 The ANAO examined available evidence to gain insights into progress to date and factors affecting the performance of the program. The ANAO examined:

- the stimulus effects of the program and early indicators of progress to date;
- factors affecting stakeholders' views on value-for-money of education infrastructure funded under BER P21; and
- stakeholders' views on the effect of BER P21 on teaching and learning outcomes.

Stimulus effects—progress to date

Speed of delivery needed to be balanced with pursuit of value-for-money

7.3 Given the uncertainty around construction timelines, the imperative for rapid delivery of the program had to be carefully balanced with the requirement for careful planning and specification of construction requirements to optimise value-for-money. As one Education Authority observed in its submission to the ANAO:

There is a tension between value for money and timeliness of project delivery and it does need to be balanced. In essence we are of the view time taken to

ensure all aspects of projects are properly documented will be rewarded with better outcomes in the form of more competitive outcomes, greater certainty of project deliverables and better facilities.

7.4 The need to effectively balance timeliness of program delivery with value-for-money was also influenced by the fact that the effect of the global financial crisis was not uniform across all locations. In submissions to the ANAO, several Education Authorities advised that the challenge of obtaining value-for-money from the construction market had delayed commencement of projects in some locations, particularly in rural areas. For example, one Education Authority stated that:

There have been some situations, particularly in regional areas, where some projects have experienced delays in order to ensure that value for money outcomes were able to be achieved in the procurement process, particularly given the smaller field of available contractors. After discussion with local building and construction industry representatives ... [we] adopted a phased approach for tendering for round three of the program. This involved approximately 50 per cent of the projects being tendered in late August with the remainder being tendered in late October. The reason for this was to prevent any potential overheating of the construction market within the State, whilst still being able to meet the established completion dates for the program.

7.5 For these reasons, there were limitations on the speed with which Education Authorities were able to implement the program.

Progress of BER P21 projects

Commencement of project activity

7.6 DEEWR, during the development phase of the policy proposal for the BER program, consulted with Education Authorities on the timeframes for the construction of different types of projects. On the basis of the advice provided to DEEWR and, in turn, provided to government about construction timeframes, governments agreed through the NPA to construction commencing on projects shortly after each funding round:

- all Round 1 projects would commence construction by end June 2009 at the latest;
- all Round 2 projects would commence construction by July/August 2009; and

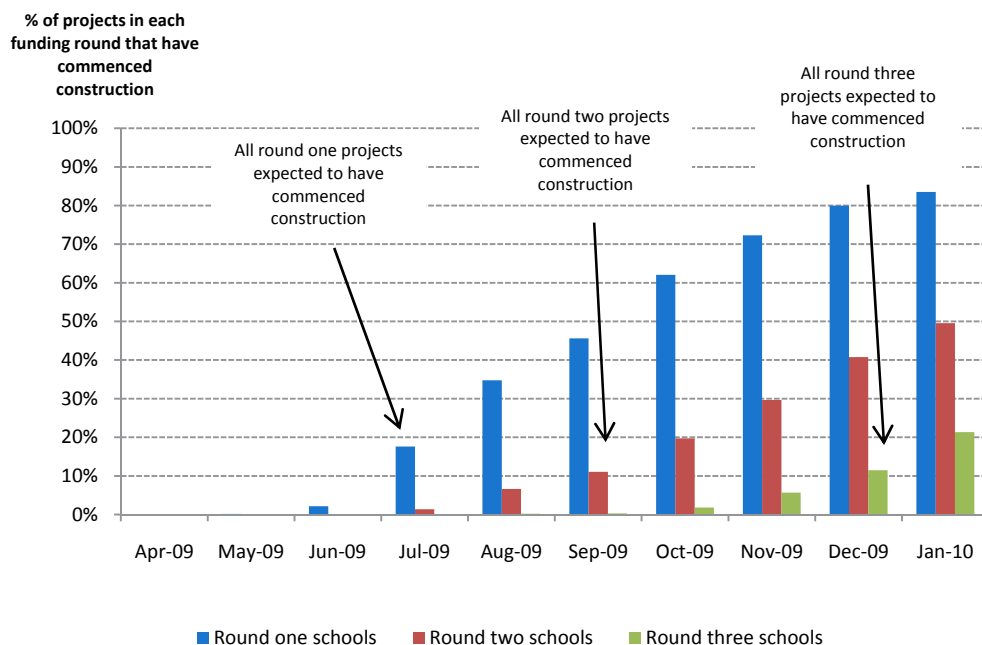
- all Round 3 projects would commence construction by 1 December 2009.²⁰⁹

7.7 The ANAO analysed the data collected by DEEWR on the number of projects that had commenced construction in each application round to determine program progress.²¹⁰ As can be seen in Figure 7.1, progress on the construction of projects is behind original expectations established by COAG. DEEWR advised the ANAO that of the 10 700 approved projects, 1995 (18.6 per cent) had met the construction commencement expectations for each funding round originally agreed by governments in the NPA.²¹¹ While the NPA milestone for all BER P21 projects to commence by 1 December 2009 has not been met, 5334 projects (nearly 50 per cent of approved projects) had commenced construction, with 200 projects completed as at 31 December 2009.

²⁰⁹ The ANAO notes that the government decision provided for different construction commencement dates, with Round 3 projects required to commence by February 2010.

²¹⁰ The ANAO used DEEWR's measure of 'construction commencement', which was defined as the commencement of continuous on-site activity at a school, and was introduced in the August 2009 revision to the BER Guidelines. This is not to be confused with 'project commencement,' which was defined as in the original BER Guidelines as: *the undertaking of any action, post any design phase that incurs an expense covered by BER funding for that project.* [DEEWR, 2009, BER Guidelines Version 1 – 24 February 2009, p. 3.]

²¹¹ The delay in commencement of construction activity, in part, reflects the ambitious targets established for the program and the fact that implementing the number and range of construction projects for BER P21, from initial conception to completion and use, is complex, and entails time-consuming design, procurement and coordination among a large number of stakeholders. Delays also resulted from some of the approaches adopted for the establishment of the program.

Figure 7.1**Construction progress for BER P21 projects**

Source: ANAO analysis of DEEWR SEMIS data

7.8 DEEWR has informed the ANAO that, during the development of the BER Guidelines, feedback from Education Authorities indicated that construction milestones for the first two rounds of projects were not achievable. This was primarily due to the extent of pre-construction activity required, including planning approvals, site assessment and consultation with schools. The BER Guidelines, released on 24 February 2009, changed the milestones to the following:

- Round 1 projects must commence by 30 June 2009;
- Round 2 projects must commence by 31 July 2009; and
- Round 3 projects must commence by 30 September 2009. The guidelines were amended on 21 September 2009 to require that

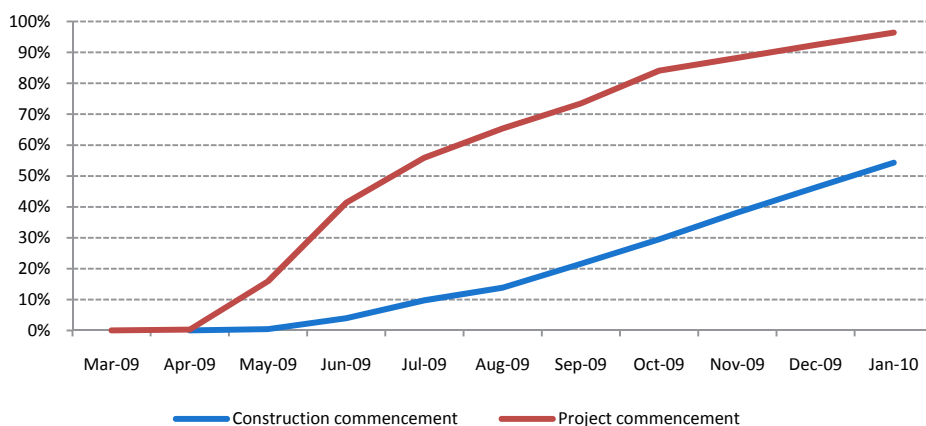
Round 3 projects must either commence by 31 October 2009 or commence construction by 1 December 2009.²¹²

7.9 Progress against the revised milestones, which encompass pre-construction elements, has been faster than the original construction milestones agreed by COAG. DEEWR has advised that around 78 per cent of BER P21 projects met the project commencement milestones and, by the end of February 2010, around 97 per cent of projects had met project commencement expectations, although in a large number of these cases construction activity was not yet underway. (see Figure 7.2).

Figure 7.2

Project and construction commencement, March 2009 to end-January 2010

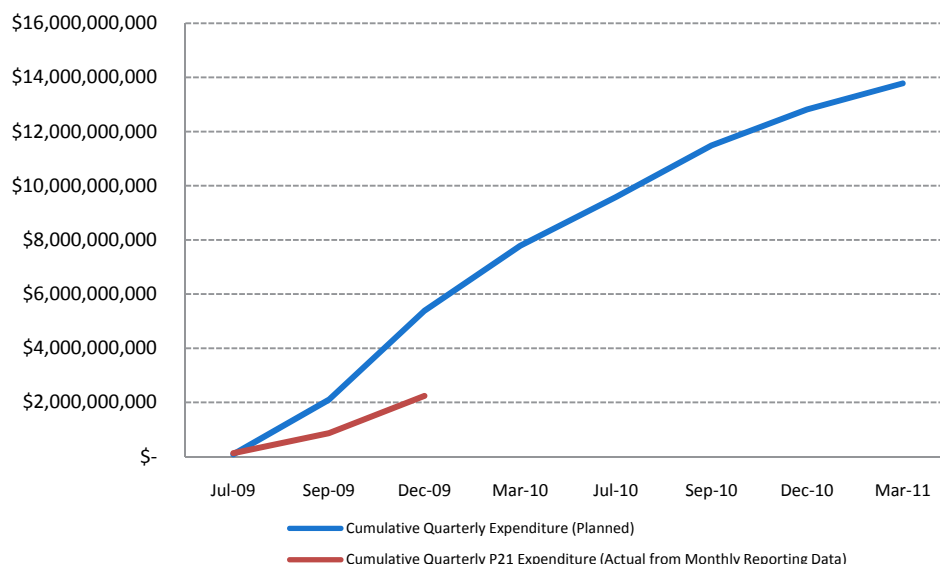
Proportion of projects



Source: ANAO analysis of DEEWR SEMIS data and material provided by DEEWR

7.10 The slower progress than that envisaged by governments at the commencement of the program is also reflected in BER P21 expenditure. As can be seen from Figure 7.3, program expenditure falls substantially short of what would be expected if anticipated payment milestones had been met by schools.

²¹² The revised milestones established new expectations relating to *project commencement*, which was defined as: *the undertaking of any action, post any design phase that incurs an expense covered by BER funding for that project.*

Figure 7.3**Cumulative BER P21 Expenditure (Actual versus Planned)**

Source: ANAO analysis

7.11 The delays in expending program funds is partly explained by the time required for planning and developing designs for construction projects, which is often extensive, but incurs relatively little cost. For example, one Education Authority observed:

The expenditure on construction projects follows an S-curve, usually with a slow start but reaching a peak by the 50%-75% milestones before flattening out towards the end of the project.

7.12 On this basis, the ANAO estimates that construction expenditure will accelerate rapidly from the first quarter of 2010 onwards.

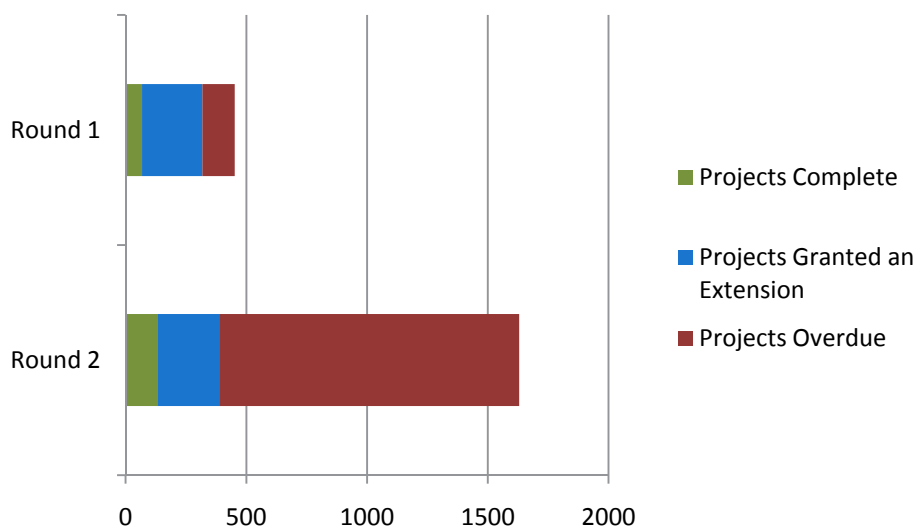
Completion of project activity

7.13 As outlined in Figure 1.7 in Chapter 1, completion milestones have been established for each funding round of the BER program. Within each round, a completion milestone has been established of up to seven months for schools with 150 or less students and up to 18 months for schools larger than 150 students. While the majority of milestones for project completion are yet to be reached, smaller schools in Rounds 1 and 2 of BER P21 were required to have completed their projects by 20 January 2010 (452 projects) and 28 February 2010 (1630 projects) respectively. DEEWR has advised that only 15 per cent of Round 1 projects (68 projects) and 8 per cent of Round 2 projects

(131 projects) in smaller schools have been completed by the respective milestones (see Figure 7.4).

Figure 7.4

BER P21 small projects completed in accordance with established milestones



Source: DEEWR

7.14 Education Authorities have been able to seek extensions to the completion dates for BER P21 projects on a case-by-case basis. DEEWR has advised that 250 Round 1 projects (55 per cent) and 260 Round 2 projects (16 per cent) have had an extension to their completion milestones approved. This means that 34 per cent of Round 1 projects and 9.6 per cent of Round 2 projects have been completed in accordance with revised milestones.

7.15 The Coordinator-General's progress report released in February 2010 was, nevertheless, generally positive, stating that:

Construction under the Program is well underway, but tracking slightly behind interim milestones to date. Through intensive construction activity during 2010 the program is still expected to meet its completion milestones.²¹³

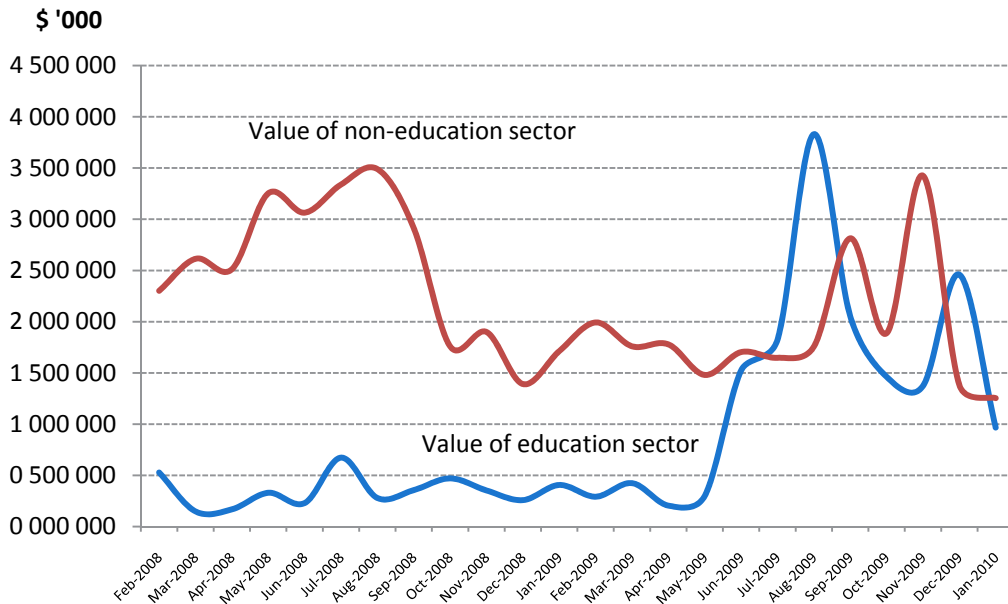
²¹³ Commonwealth Coordinator-General's Progress Report, to 31 December 2009, p. 25.

Lead indicators show an effect of BER program spending

7.16 A key leading indicator measured by the Australian Bureau of Statistics, that of the value of building approvals, shows that education sector spending (almost wholly attributable to the BER program) has contributed to a reversal in the sharp decline in non-residential construction activity which commenced in July 2008 (see Figure 7.5).

Figure 7.5

Non-residential building approvals (February 2008 to January 2010)

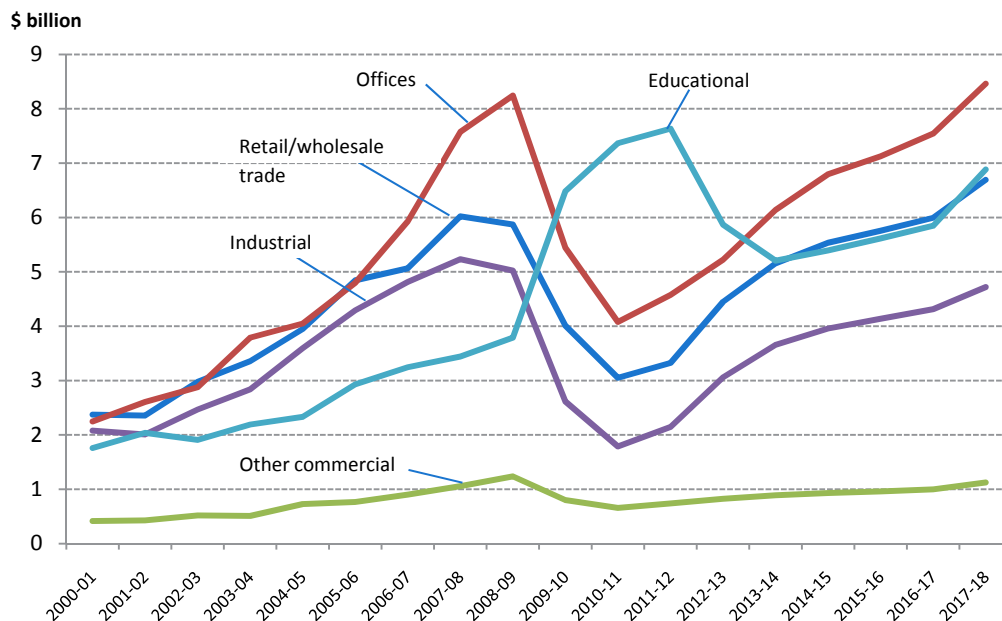


Source: ABS time series workbook 8731.0, 'Building Approvals, Australia, Value of Non-residential Building Approved, By Sector, Original—Australia

7.17 The effect of BER P21 is also evident in Construction Forecasting Council data, which shows that the program is likely to partly offset the sharp decline in non-residential building activity which commenced in 2008–09, and is expected to continue until 2011–12 (see Figure 7.6).

Figure 7.6

Non residential building activity (actual and forecast)



Source: Historical data (2000–01 to 2008–09) was compiled by the Construction Forecasting Council on the basis of Australian Bureau of Statistics series ABS Cat No. 8731.0, and ABS Cat No. 8752.0. Forecasts are from the Construction Forecasting Council.²¹⁴

7.18 On the basis of these lead indicators, the program will have a major effect on the construction sector. This has been recognised by construction industry peak bodies, such as the Master Builders Association.²¹⁵ However, as the overwhelming majority of BER P21 funding is yet to be delivered, the effect of program spending on an economy-wide basis is unclear at this time.

Value-for-money considerations

7.19 In conducting the audit, the ANAO was aware of issues raised by stakeholders concerning whether value-for-money was being achieved in relation to the infrastructure being delivered under BER P21 to specific

²¹⁴ Available from <<http://www.cfc.acif.com.au/forecasts.asp>> [accessed 21 December 2009].

²¹⁵ See for example, Media Release from the Master Builders Association, 'Government's Stimulus Package Welcome Boost for Building Industry,' 3 February 2009, available from <<http://www.masterbuilders.com.au/NewsArchive.asp>> [accessed 7 April 2010].

schools.²¹⁶ Under BER P21, Education Authorities are responsible for service delivery, which includes responsibility for achieving value-for-money for the buildings constructed in each school under the program. This responsibility is outlined in the BER Guidelines.²¹⁷

7.20 While an examination of particular BER P21 projects was outside the scope of the audit, there are some broad program features that have influenced stakeholder views regarding the achievement of value-for-money that were considered by the audit. An important feature has been the speed with which the program had to be delivered. Drawing on the results of its survey of primary school principals, the ANAO considered the effects of:

- constrained consultation periods
- decision-making processes; and
- the use of template designs.²¹⁸

Constrained consultation periods

7.21 A feature of BER P21 was that decisions that are ordinarily made on the basis of extensive and comprehensive consultation with schools and their communities were constrained by the compressed timelines associated with the stimulus objective of the program. As could be expected, these constrained timelines are reflected in the results of the ANAO's survey of school principals, which shows that a substantial proportion of school principals (45 per cent) reported that they had insufficient time to consult with their school communities about how their BER P21 funding should be used (see Figure 7.7).

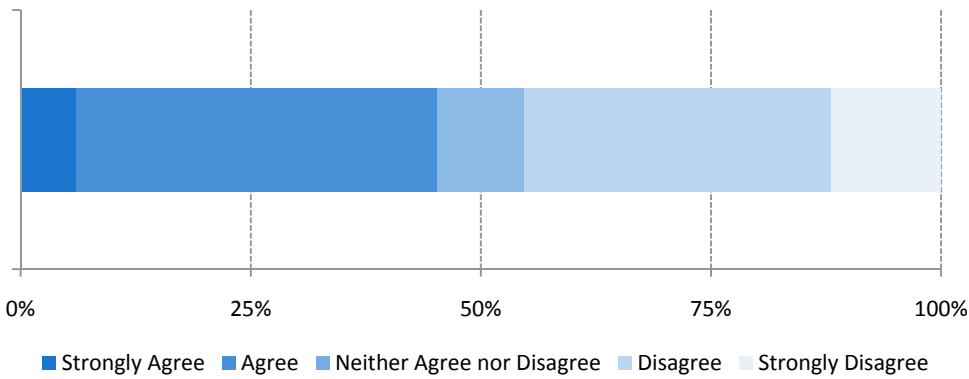
²¹⁶ A large number of media articles have discussed value-for-money concerns including allegations of skimming and price gouging. See for example, Houston, C. and Reilly, T., 24 May 2009, *Schools slam state funding 'rip-off'* in The Age; Lower, G., 19 June 2009, *Plans axed as pledged funds fall short* in: The Australian; Ferrari, J., and Robinson, N., 11 July 2009, *'Evil Revolution' eats up school funds* in: The Australia.

²¹⁷ DEEWR, 2009, BER Guidelines Version 3—21 September 2009, pp.15–22.

²¹⁸ Details of the method and results from the survey are set out in full at Appendix 2.

Figure 7.7

Response to principal survey statement: *‘I had sufficient time to consult with my school community about how its BER P21 funding allocation should be used’*

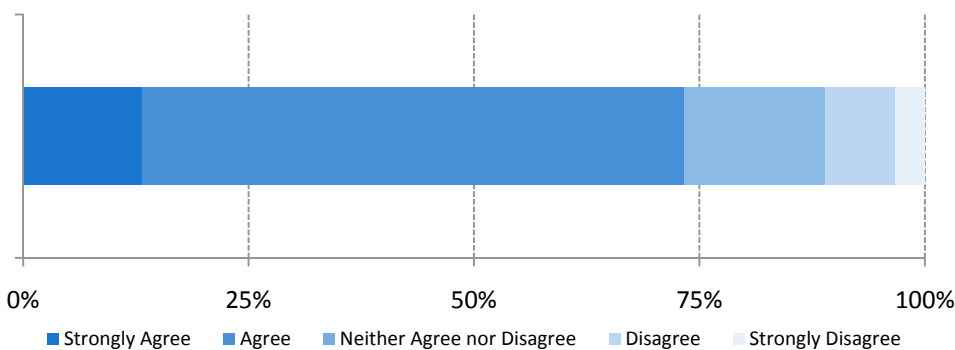


Source: ANAO survey of school principals

7.22 As a result, there was a heightened risk that there would be insufficient time to reach a consensus with members of school communities, including their principals, school boards, or parents and citizens associations about how BER P21 funding should be used. In spite of this heightened risk, and as can be seen in Figure 7.8, consensus was able to be obtained from a substantial majority (73 per cent) of school communities about the use of BER P21 funding, in spite of the limited time available for consultation.

Figure 7.8

Response to principal survey statement: *‘Consultation with my school community enabled a consensus to be reached about how our BER P21 funding should be used’*



Source: ANAO survey of school principals

7.23 The ANAO received comments from principals as part of its survey that illustrate problems that have arisen in the small minority of cases where consensus could not be reached. It is unclear, however, the extent to which these conflicts resulted from the priorities determined by education system owners not being reconciled with the priorities of schools and school community members. However, compressed timelines for BER P21 meant that education systems were not afforded normal consultation periods to work with schools and their communities to resolve them.

7.24 As is discussed in Chapter 4, the potential for conflict between schools and system owners was also increased by rules in the guidelines conferring a perceived funding entitlement to schools.

Decision-making processes

7.25 In considering stakeholder views, it is important to understand how school systems differ, in terms of the level of authority delegated to principals to make decisions at the school level. Some systems (mostly government) tend to have more centralised decision-making structures, while in others (such as is mostly the case in the independent sector) schools are predominantly managed at a local level by school principals, under the oversight of a school board.²¹⁹

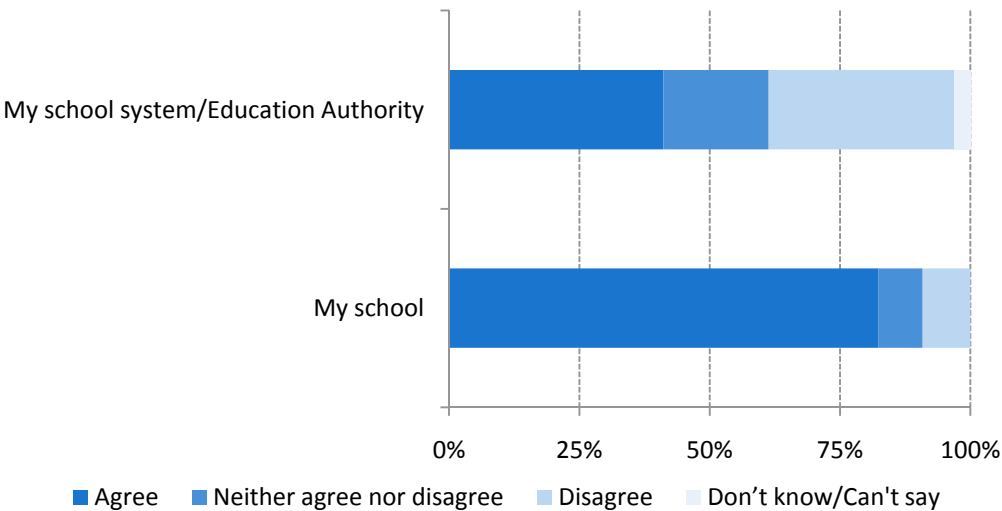
7.26 For these reasons, school principals who have had complete autonomy over the design and procurement of construction works under the program would be less likely to have concerns about the achievement of value-for-money from infrastructure decisions. On the other hand, it is more likely that school principals who have not been involved in design and construction decisions for their schools would be more likely to be critical of infrastructure decisions, but also less knowledgeable about the basis of the decisions taken by Education Authorities on their behalf.

7.27 The effect of these differences on stakeholder views is evident in the results of the ANAO's survey of school principals. As can be seen in Figure 7.9, concerns about value-for-money predominately arise in the case of schools that

²¹⁹ Differences between systems is evident in the results of the ANAO's survey of school principals. For example, only 10 per cent of government school principals reported that they were responsible for commissioning the design of their project, whereas this was over 60 per cent in the case of Catholic schools and over 90 per cent in the case of independent schools. In terms of procuring the building works, only two per cent of government school principals reported that they had been given responsibility, whereas the figure was 45 per cent in the case of Catholic schools, and over 90 per cent in the case of independent schools. Details of the method and results from the survey are set out in full at Appendix 2.

have had the design and construction of BER P21 works procured by their Education Authority, rather than those who procured these services themselves.

Figure 7.9
Response to principal survey statement ‘The use of BER P21 money for my school represents value-for-money’ by who commissioned its design



Source: ANAO survey of school principals

7.28 In many cases, concerns from principals and community members about value-for-money relate to a misunderstanding of the building standards Education Authorities are expected to adhere to in building education infrastructure. This was pointed out, for example, by the NSW Department of Education in its submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into BER P21:

It should be noted that local quotes are often found to be competitive with those obtained through the Managing Contractors’ tender processes. However, there have been instances where local quotes have been presented to the BER Program Office which at first glance appear far less costly than their estimates,

but which on further examination did not represent value for money in terms of quality of the product required to meet the Schools' Facilities Standards.²²⁰

7.29 The ANAO observed on the basis of consultations with 14 Education Authorities, that achievement of value-for-money, through procurement and contract management activity, is a major area of focus of program managers.

Use of template designs

7.30 In the original conception of the program by government, the use of template designs, which could be used across education systems, was expected to be a key strategy for enabling rapid progress in the implementation of the program. On this basis, the BER Guidelines included the requirement that:

To further enhance efficiency and early take-up, design templates will be used by states, territories and BGAs, wherever possible. These templates must be used by each project unless a school or system has a pre-approved design available, or can demonstrate that the non-use of a template is reasonable, appropriate and that the building process can still be expedited and achieved within the prescribed timeframes.²²¹

7.31 Because government systems tend to have more centralised approaches to the management of education infrastructure, the development and use of templates has been critical to their ability to implement the program rapidly. In contrast, templates have generally not been used by non-government schools, reflecting their more devolved decision-making structures, which means that school principals more often have delegation and authority for capital works decisions at the school level.²²² Almost 75 per cent of government school principals reported that their project was based on a template developed by

²²⁰ NSW Government Submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into the 'Primary Schools for the Twenty First Century', p. 9. The department also noted: *At Epping North Public School for example, a parent and builder on the [parents' and citizens' committee] indicated he could complete the building works cheaper than the managing contractor's estimated price for a hall, [covered outdoor learning area] and canteen. The BER [integrated program office] arranged for the managing contractor to include this builder in the tender process. His quote was the most expensive option at well over \$3 million for the project—or 50 per cent higher than his original claim.*

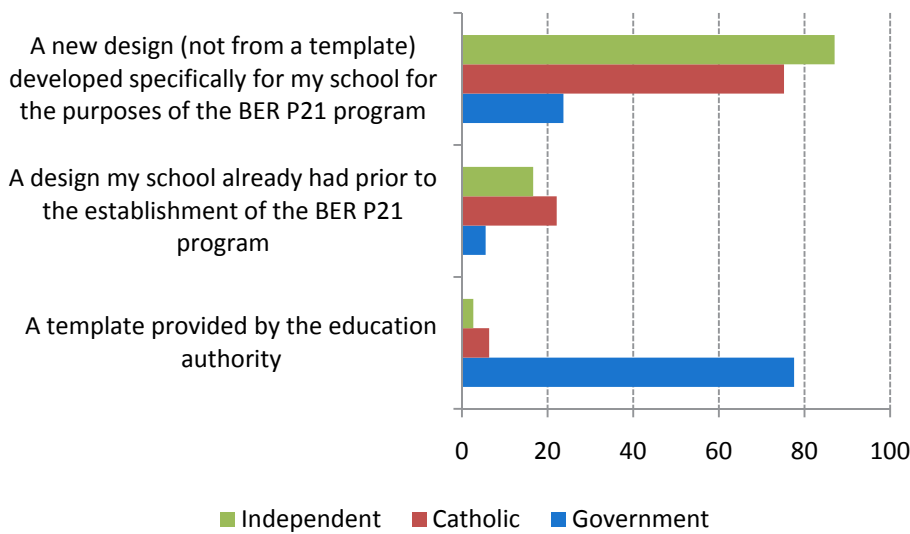
²²¹ DEEWR, 2009, BER Guidelines Version 3 –21 September 2009, p. 3.

²²² This was confirmed by the results of the ANAO's survey of school principals, as discussed earlier. While only 10 per cent of Government school principals reported that they were responsible for commissioning the design of their project, this was over 60 per cent in the case of Catholic schools and over 90 per cent in the case of independent schools. In terms of procuring the building works, only two per cent of government school principals reported that they had been given responsibility, whereas this was 45 per cent in the case of Catholic schools, and over 90 per cent in the case of independent schools.

their education department, whereas only a small proportion of non-government schools used templates (see Figure 7.10).

Figure 7.10

Response to principal survey question: ‘What was the design of the BER P21 program option provided to your school based on?’



Source: ANAO survey of school principals

7.32 Among school principals whose designs were based on templates developed by their Education Authorities, 69.9 per cent did not agree that: ‘there is a large degree of customization possible in using the template(s) on which the design of my school's BER P21 project or projects is based.’²²³ Reflecting the tension in the program, identified earlier in the chapter, between time and value-for-money, the reliance on template designs in the government sector has generally affected the perspective of government school principals about value-for-money from the program (see Figure 7.9), as well as other aspects of satisfaction, including with the opportunity to provide input into the

²²³ The use of template designs was a significant determinant of satisfaction in these areas. For example:

- 21.4 per cent of principals using template designs reported that they did not understand what was included in those designs, compared to less than three per cent for principals not using templates;
- 18.9 per cent of principals using templates reported that they did not think the design was appropriate to their needs, compared to less than seven per cent for principals not using templates; and
- 39.8 per cent of principals using templates reported that they were not satisfied with the opportunity for input into the design, compared to less than seven per cent for principals not using templates.

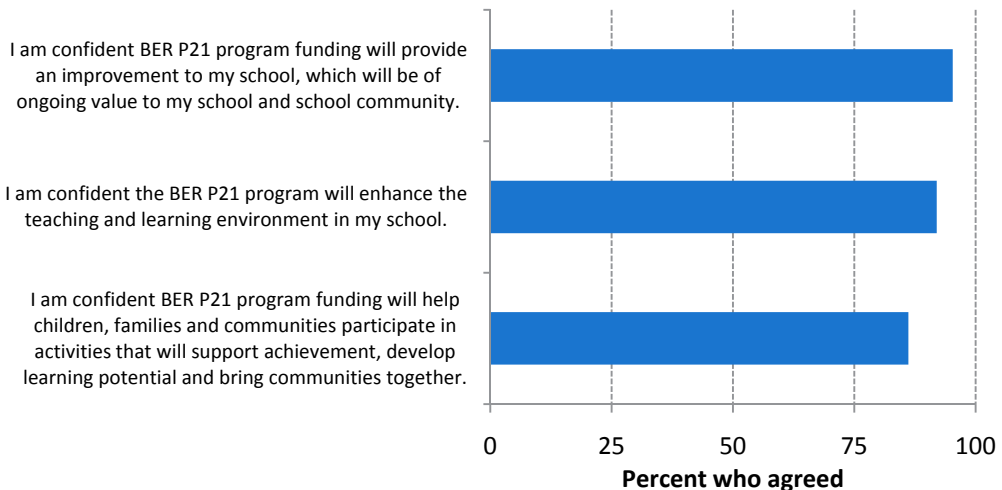
design of projects, consultation about design considerations, and the suitability of the design to the school's needs.

Program effects on teaching and learning outcomes

7.33 The ANAO's survey results reflect strong support for the program, and confidence in its outcomes. Over 95 per cent of principals were confident the BER program would provide their school with an improvement of ongoing value to their school and school community, while over 80 per cent of principals were confident the program would achieve its education and community benefit outcome (see Figure 7.11).

Figure 7.11

Response to Principal Survey: Perspective of school principals on BER program outcomes



Source: ANAO survey of school principals

7.34 The generally positive reaction of stakeholders was also evident in the reaction to the program from Education Authorities, as was highlighted by the Victorian Catholic Education Authority in its recent submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into BER P21:

In recent years Catholic primary schools in Victoria have found it difficult to keep pace with necessary improvements in infrastructure because without adequate government assistance it has been impossible for the Catholic Community to provide for these from its own local resources.

Therefore the P21 program and the significant funding available through it are of considerable assistance in enabling Victorian Catholic Schools to further meet the expectations of education in the 21st Century. The assistance will ensure that the quality of education in Catholic schools continues to improve. The impact of the improved resources in terms of qualitative improvement will be seen over the next few years but the immediate impact in terms of improved morale is already most evident. The response of administrators, principals, teachers, parents, students and the wider community to the P21 program has been extremely positive.²²⁴

7.35 The program has also received support from all the primary school principals associations.²²⁵

7.36 Overall, there are some positive early indicators that the program is making progress toward achieving its intended outcomes, despite the slower than expected implementation of the program. Lead economic indicators, including construction approvals, indicate that the introduction of BER P21 has contributed to a reversal in the decline in non-residential construction activity that resulted from the global financial crisis. Education industry stakeholders, including peak bodies, Education Authorities and a substantial majority of school principals have also been positive about the improvement in primary school facilities that will result from the program.



Ian McPhee
Auditor-General

Canberra ACT
5 May 2010

²²⁴ Victorian Catholic Education Authority 2009, 'Submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into the P21 program,' p. 1, available from <<https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=f7c07e4a-1fea-471a-8d10-f1830ceb1631>> [accessed 18 December 2009].

²²⁵ As is outlined in the submission from the Australian Primary Schools Principals Association's submission, which summarises responses from the Independent Primary School Heads of Australia, the Australian Government Primary Principals Association, the President of the Australian Catholic Primary Principals Association. Australian Primary Schools Principals Association, 2009, *Submission to the Senate Education, Employment and Workplace Relations Committee Inquiry into the P21 program*, p. 7, available from <<https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=6038f108-64e0-4825-b6fe-7997617f1ed8>> [accessed 18 December 2009].

Appendices

Appendix 1: Comments on the proposed report

To assist the reader, the ANAO has included footnotes to specific sections of the report that relate to matters raised by respondents in their comments on the proposed report.

Department of Education, Employment and Workplace Relations

The ANAO has acknowledged in its report the major role the Building the Education Revolution (BER) Program has played in the Australian Government's response to the global economic crisis.

In its report, the ANAO notes that the P21 element has doubled recent levels of capital investment in Australian Primary Schools. The ANAO indicates that there are signs that the Program is achieving its intended outcomes of supporting jobs and improving school infrastructure. Indeed, the ANAO's survey of school principals highlights that over 95 per cent of respondents were confident BER P21 would deliver ongoing value to their school and community. As at 28 February 2010, 97 per cent of P21 projects had commenced.

The ANAO has identified that the lead economic indicators demonstrate that the BER Program has contributed significantly to the reversal in the decline in non-residential construction activity that resulted from the global financial crisis. In fact, the BER Program has so far contributed \$12.3 billion to the original and seasonally adjusted values of ABS Building Approvals over the eight months to February 2010. This is 76 per cent of the total allocation of \$16.2 billion to the program. The BER program represents 31.3 per cent of the total value of non-residential building approvals (in seasonally adjusted terms) over the year to February 2010.

In its report, the ANAO concludes that education industry stakeholders, including peak bodies, education authorities, and a "substantial majority" of school principals (more than 95 per cent) were confident BER P21 would deliver ongoing value to their school and community.

In the report, the ANAO recognises that the Department effectively delivered three funding rounds within a six month period with the result that around 10 500 projects are being undertaken in around 7900 schools across Australia. The Department notes the report's reference to the strong feedback from schools that the improved facilities resulting from the P21 funding will enhance the learning and teaching environment for primary school students.

The Department has a different view on some of the issues considered by the ANAO.

Complaints²²⁶

The Department has concerns about the validity of the design of the question contained in the survey pertaining to “concerns or complaints”, because these two concepts are not defined and could encompass a range of issues that simply are not in the nature of a complaint.

As at 15 April 2010, there were 59 complaints to the BER National Coordinator relating to P21.

As the ANAO has said, state and territory education authorities have the front line responsibility for dealing with complaints. Information collected from state and territory education authorities in December 2009 indicated that there were approximately 30 complaints across all jurisdictions. The combined number of these complaints at both the Commonwealth and state and territory level represents less than one per cent of P21 projects.

DEEWR will continue to support education authorities as the appropriate front line for receiving and investigating complaints. In addition, the capacity to respond to complaints is being enhanced through the creation of a BER Implementation Taskforce which was announced on 12 April 2010.

Measurement of Jobs

The Government has determined that Treasury has responsibility for monitoring and reporting on the stimulatory impact on the economy of the Plan. This is appropriate given that a wide range of factors need to be considered such as the flow of spending through the economy and the displacement or substitution of other activity which would have occurred in the absence of the Plan. The Department notes that pursuant to that determination it is not its role to calculate the impact on the economy of individual programs under the Economic Stimulus Plan.²²⁷

The Commonwealth and state coordinators-general, as part of developing the reporting regime to be applied to the Nation Building and Jobs Plan, agreed to collect project level jobs data across each element of the Plan, including the P21 Program. This information serves a different purpose from that collected by the Treasury: it provides an estimate of the number of jobs supported by each project at the local level. It is useful for schools and communities involved in the project and enables builders to quantify the impact of each project on the local labour-market.

²²⁶ This relates to paragraphs 43 and 6.77 – 6.80.

²²⁷ This relates to paragraph 6.13.

The Department notes that the mechanism chosen to measure jobs and the definition used by DEEWR and by the Department of Families, Housing, Community Services and Indigenous Affairs was determined by the Coordinator-General in agreement with his state colleagues. It is a valid measure and the most appropriate measure for a program like BER.²²⁸

Implementation Progress

The Department notes that the ANAO seeks, in part, to assess DEEWR's and education authorities' performance against a superseded performance measure when looking at the progress of projects. The correct measure of progress is that which is contained in the BER Guidelines. The Program guidelines, approved by the Minister for Education, required that all projects should commence by 1 December 2009. As at 28 February 2010, 97 per cent of P21 projects had commenced. There is a formal project variations process which enables the Department to consider and approve requests from education authorities for delayed commencement. As at 28 February 2010, 592 approvals had been granted to extend the timeframe within which to complete the project.

The ANAO relies on statements by education authorities as to the impact of the project variations process introduced by the Department. The ANAO has not provided any evidence that the variations process has caused any delay.²²⁹ The Department notes that project variations are now processed, on average, within 5 working days of receipt.

Federal financial relations framework

The ANAO's analysis of the application of the federal financial relations framework as set out in the Intergovernmental Agreement on Federal Financial Relations does not reflect its capacity to accommodate a wide range of initiatives.

Each national partnership is signed by First Ministers and contains a unique set of performance measures along with (as relevant) timeframes, milestones and responsibilities. It is the specific requirements in the particular National Partnership which determine the obligations of implementing agencies. With BER, the Government clearly stipulated the funding bands per school, based on enrolments, and the types of projects which would be supported in the National Partnership Agreement on the Nation Building and Jobs Plan (NPA).

²²⁸ This relates to paragraphs 42 and 6.39 – 6.45.

²²⁹ This relates to paragraphs 4.39 – 4.41.

The Department considers the ANAO could have drawn more on the requirements of the NPA in setting out the full context for BER. The ANAO has quoted selectively from Education Authorities in regard to the inter-governmental agreement on federal financial relations. The Department is of the view that it has implemented the program in accordance with Government's policy and the NPA, which required unprecedented speed of construction in every community in Australia.²³⁰

Impact on education authorities

The ANAO has considered how the Department's rules bear on the education authorities' capacity to take account of their own priorities in the allocation of funding. The rules are consistent with the policy decisions articulated in the SPBC decision and the NPA that:

- every eligible school to receive funding
- funding amounts determined by enrolment numbers
- specified priority projects as libraries, multi-purpose halls, classrooms and major refurbishments
- funding over and under the determined amounts was permissible in exceptional circumstances.

It was the Government's intention for education authorities to be able to apply for funding facilities for schools within a set list of priorities. The Department is of the view that it has implemented the program in accordance with Government's policy and the NPA, which required unprecedented speed of construction in every community in Australia.²³¹

*Funding for the program*²³²

In the executive summary of the report the ANAO states that the members of SPBC were aware from the outset that the Program funding envelope represented only 90 per cent of possible expenditure and that, depending upon the response of schools, a budget estimates variation may be required. As Education Authorities proceeded to implement BER successfully, an estimates variation was required. This supported the Government's intention that funding be available to all eligible schools to maximise the stimulatory impact of the Program.

²³⁰ This relates to paragraphs 19 – 25 and 2.8 – 2.12.

²³¹ This relates to paragraphs 21, 2.8 – 2.12 and 4.31 – 4.35.

²³² This relates to Chapter 5.

The composition of the 90% assumption was irrelevant in the context of the Government's intention for BER to be a centrepiece response to the global recession.

Use of previous program rules

As the ANAO has noted, the Department has a long history of managing school infrastructure programs. The rules for each program are designed to meet the Government's objectives for the delivery of that program. This is no different for the BER Program. From the Capital Grants Program, which provides capital funding for non-government education authorities, the Department used the following rules:

- use of Block Grant Authorities to administer the funding for non-government schools;
- requirement that non-government schools seeking funding were a participant of the BGA;
- requirement that the non-government school was in receipt of general recurrent grant funding;
- provision of an administration fee to fund the administrative services provided by the education authority (although the basis for this is different in the BER Program); and
- requirement for the involvement of principals in determining the funding priority for the school.

The Department did not adopt the following rules, as they were not suited to the stimulatory nature of the BER Program:

- timeframes—for commencement and completion of the projects. The timeframes within the Capital Grants Program were not appropriate in the context of achieving rapid stimulus activity. For instance under the Capital Grants Program, the completion of projects is not time critical. For projects completed in 2008, with a value of over \$850 000, the average timeframe for a school from the date of approval, to design, undertake procurement, construct and complete the project was three and a half years. For Capital Grants Program projects under \$850 000 the average timeframe from approval of funding to building completion, was three years. In sharp contrast, under P21, education authorities had, from the date of approval, 18 months to design, undertake procurement, construct and complete the project for schools with a population of over 150 students, and seven months to complete projects for schools with 150 or fewer students;

- project variations process—under the Capital Grants Program project variations only require approval by DEEWR for a significant change to the scope of the project or the funding being sought. For example, funds could have been concentrated in particular regions. This was not appropriate for the BER Program which is to reach every Australian community. The Government had set deadlines and priorities for projects, aimed to deliver projects that would stimulate the economy. The rules developed for the BER Program supported this intent; and
- reporting regime. Under the Capital Grants Program, BGAs are required to report yearly on financial and performance information. The level of detail and timing of the reports were inappropriate in the context of a program requiring rapid implementation and close monitoring. For instance, the performance information would not have provided any information to the Commonwealth of how projects were progressing or allow the Coordinators-General to identify any issues within particular jurisdictions or regions.

The Department notes that it drew on its experience, and that of its staff, with capital programs and this is in part described above.

Cost to the Department in responding to the audit

The cost to the Department in responding to the ANAO audit is estimated at more than \$400 000.

Department of the Prime Minister and Cabinet

Thank you for your letter of 13 April 2010, providing an amended version of the proposed Performance Audit Report on the Building the Education Revolution (BER)—Primary Schools for the 21st Century (P21) under Section 19 of the Auditor-General Act 1997 (the Report). Your letter acknowledges the preliminary comments of the Department of the Prime Minister and Cabinet (the Department). The Department is now taking this opportunity to provide formal comments in accordance with Section 19 of the Act.

The context in which the P21 program, and other stimulus measures were developed and delivered was unique. The delivery required new arrangements and a scale of program management and delivery not seen before.

At its 19 to 20 April 2010 meeting, the Council of Australian Governments (COAG) also acknowledged in relation to the overall stimulus Plan *“that it had been a remarkable job to get over 13,000 projects from conception to completion so rapidly, with many more thousands of projects underway. This had been achieved through high levels of cooperation and collaboration between the Commonwealth and*

the States. Overall, the Plan has helped Australia to have one of the strongest performing economies in the developed world."

The Department has noted the ANAO's positive comments about the BER program, in making progress towards achieving its intended outcomes. The P21 program has significantly contributed to a reversal in the decline in non-residential construction activity that resulted from the global financial crisis.

The respective roles and responsibilities of the jurisdictions and the Commonwealth were clear from the outset. Delivery of agreed projects to agreed milestones is clearly the responsibility of states and territories and the Australian Government is responsible for supporting implementation through coordination at the national level. This is demonstrated throughout the documentation.

The Communiqué from COAG on the announcement of the stimulus plan noted that COAG had *"resolved to introduce new implementation and monitoring arrangements to maximise the timely and effective delivery of economic stimulus to reduce the impact on Australia of the global economic recession. These arrangements mean that an early start can be made in implementing key Commonwealth stimulus measures in social housing, building better schools and transport to be delivered by the States and Territories."*

The National Partnership Agreement (NPA) further set out that the State and Territory Governments are responsible for implementation of the key stimulus measures that they are funded to deliver (Clause 10), with the Commonwealth responsible for providing funding (Clause 9) and coordination and oversight, including the establishment of the Coordinator General network to support and monitor the implementation of key infrastructure and stimulus measures (Clause A4).

The respective roles of the Commonwealth, jurisdictions and education authorities, were reinforced by the administrative funding that the Commonwealth provided to education authorities to manage the implementation of the P21 program. More than \$200 million is being provided to state and territory governments and education authorities for that purpose. In contrast the responsible Commonwealth Department is receiving about 15 per cent of that amount for the administration of all of the BER programs over three years.

Whilst the ANAO has acknowledged the special nature of the NPA, the Report states that the administration of the NPA has been overly prescriptive and

implies that it has not been in the spirit of federal financial relations policy. It is hard to see the merit in such statements.²³³

Our view is that given the extraordinary circumstances and the Commonwealth funding provided to the P21 program (\$14.1 billion), it was imperative that the Commonwealth had appropriate monitoring and oversight arrangements in place. The arrangements that COAG outlined in the NPA were deliberate and agreed with jurisdictions. The Report should acknowledge that the NPA was not a 'business as usual' agreement.

The Department notes additional comments made in the Report about performance monitoring and reporting (paragraphs 39–43). The Report appears to criticise the collection of project-level employment data and asserts that the data is not able to be aggregated in any meaningful way to complement the macroeconomic modelling undertaken by the Treasury. But this was never the intent of collecting this information, rather it was collected precisely to be used at the local level to give an indication of the average daily number of people working on a particular site or local area. Indeed, the simple summation of project level data cannot approximate the complex and difficult analysis required to estimate the macroeconomic benefits of the stimulus measures. I am sure that the Treasury could provide a more detailed briefing on these issues should it be of benefit to the ANAO.²³⁴

The observation that the monthly reporting arrangements that were put in place are prescriptive needs to be balanced by the existence of a large degree of variety and flexibility in the contracting and management models implemented by the different jurisdictions and independent educational authorities.

The Report asserts both DEEWR and the Coordinator-General have not specifically assessed performance against measures established under the NPA. Various reports from both agencies have dealt at length with the timing and quantum of funds injected into the economy, the consequent economic effects including international comparisons, the delivery of projects under the NPA, and support for jobs. Our view is that the information collected and analysed by DEEWR and the Department specifically meets the reporting and performance requirements of the NPA.

In particular, the key performance indicator under the BER schedule of the NPA is the number of new or refurbished facilities, including libraries and multipurpose halls in primary schools and science and language laboratories

²³³ This relates to paragraphs 19 – 25, 2.8 – 2.12 and 2.40 – 2.48.

²³⁴ This relates to paragraphs 42 and 6.39 – 6.45.

in secondary schools. Performance against this key indicator is being tracked and reported on a regular basis.²³⁵

Other progress measures outlined in the NPA have also been addressed in reports and analysis by DEEWR or the Department. Specifically, the outcome of the BER funding rounds that were undertaken were announced and are publicly available on the DEEWR website. There has been significant reporting against construction milestones and payments made by the Commonwealth. The progress of programs and projects has been specifically outlined in reports by the Department and DEEWR including how projects and programs are tracking against completion timeframes, much of which is publicly available. In addition the impact of the stimulus on employment has been estimated by the Treasury and publicly reported.²³⁶

Former Commonwealth Coordinator-General

Thank you for the opportunity to provide comments from the perspective of my role as the initial Commonwealth co-ordinator General on the draft Performance Audit Report for the Building the Education Revolution (BER)—Primary Schools for the 21st Century (P21).

As we have discussed, the governance arrangements for the Nation Building and Jobs Plan, including the establishment of the Coordinator General network to improve inter-governmental arrangements, were put in place to ensure there was a delivery mechanism that could address the extraordinary circumstances that all Australian governments faced in late 2008 and early 2009 with the emerging global financial crisis. Accordingly, first Ministers at COAG clearly discussed and resolved a very much more prescriptive approach to program design, establishment and reporting progress than the IGA on Federal Financial Relations.

However, the overall findings of the draft report do not in my view fully reflect the different nature of the NPA agreed by First Ministers and the objectives and implementation arrangements clearly specified within it. The report suggests that overly prescriptive administration of the P21 was at odds with Australian Government objectives. This is not the case. Nor is it at odds with other jurisdictions objectives for the BER program. In my view the program framework and the reporting requirements are consistent with the COAG discussions in February 2009 and agreements reached by first Ministers on the program. The NPA, as signed by COAG, sets out clear stimulus

²³⁵ This relates to paragraphs 43 and 6.73 – 6.76.

²³⁶ *ibid.*

objectives, detailed implementation arrangements and the need for tight project management of key performance indicators. The Report needs to acknowledge the balance sought in reporting requirements in ensuring that these stimulus objectives were being met without unduly imposing additional burdens on the jurisdictions project and program management arrangements.²³⁷

I am concerned that in Chapter 2 of the draft Report the ANAO has formed the view that the administration of the program was too prescriptive and not done in partnership with the jurisdictions. My Office of the Co-ordinator General was involved in establishing the overarching co-ordination mechanisms for the programs. The bilateral and funding agreements for the program were worked through in detail with the states and considerable time was spent determining the appropriate reporting requirements. It needs to be recognised that the key parameters for the program design and the flexibility available to Education Authorities were settled by the Australian Government and then agreed at the February 2009 COAG meeting with the imperative for rapid implementation.²³⁸

I am also concerned that the Report somewhat uncritically supports the comments of some states that the NPA and administrative arrangements for the program resulted in less than optimal delivery outcomes and administrative burden.²³⁹ The NPA is clear that there is significant scope for states to determine the mechanisms for delivering agreed projects including procurement arrangements, and the processes for managing this. In fact this remained their responsibility. The report suggests that more flexibility could have provided superior outcomes. However, in the context of the NPA, which set details such as funding caps for individual schools, it is very difficult to see how such greater flexibility could have been provided, without being outside the agreed outcomes set out in the NPA.²⁴⁰

In Chapter 6 the draft report outlines the requirements in reporting for Education Authorities to provide estimates of numbers of jobs supported by individual projects. This was the subject of extensive discussions and finally agreement with the jurisdictions on the definitions and approaches to be used. I would agree that this data has limitations and DEEWR has been very clear in its advice to states and publicly as the Report sets out that the data can only

²³⁷ This relates to paragraphs 25 and 2.8 – 2.12.

²³⁸ This relates to paragraphs 19 – 25 and 2.47 – 2.48.

²³⁹ The audit methodology is provided at paragraph 1.37.

²⁴⁰ This relates to paragraphs 32 and 4.25 – 4.30.

provide an at time snapshot estimate for individual projects based on information provided to the Education Authority. Accordingly, Australian Government Ministers and agencies have been very careful in the presentation and discussion of such data in public reporting of the program progress.

Appendix 2: ANAO survey of primary school principals

Survey method

As part of the audit, the ANAO undertook a survey of primary school principals to gauge their views on the administration of the 'Primary Schools for the 21st Century' (P21) element of the Building the Education Revolution (BER) program. The survey was designed following extensive consultations with 30 school principals, as well as principal peak bodies, Education Authorities and DEEWR. The survey was sent to all 7951 primary school principals in Australia. This provided an opportunity for every principal to give their views.

The ANAO engaged an independent professional market research organisation to conduct the survey.

To minimise non-response bias²⁴¹ and ensure adequate coverage of schools from all 22 Education Authorities,²⁴² the ANAO also selected a stratified random sample of 985 schools, which it actively followed up to ensure an adequate response rate and representative results.²⁴³ Table A1 shows that of these 985 schools, 622 completed the ANAO survey—an overall response rate of 63 per cent. The response rate ranged from 62 per cent of independent non-government schools to 65 per cent of Catholic non-government schools and non-government schools from joint Education Authorities.²⁴⁴ The survey

²⁴¹ 'Non-response bias' occurs where there is a systematic difference in those who do and do not respond to a survey, which means that survey results will be biased toward describing the sample rather than the underlying population it seeks to make inferences about. A low response rate increases the risk of such non-response bias.

²⁴² There are significant differences in the sizes of Education Authorities, with the number of member schools ranging from 27 to 1784. The ANAO audit sample (n = 985) was stratified to ensure adequate coverage of the smaller Education Authorities.

²⁴³ The market research organisation contacted (by telephone) non-respondents within this sample of 985 schools to determine whether they were aware of the survey and to offer an electronic link to the online survey where required. Active follow-up of the ANAO audit sample (n = 985) raised the response rate from 45 per cent to 63 per cent.

²⁴⁴ The 'joint non-government' sector comprises the 68 non-government (Catholic and independent) primary schools in the ACT and NT, for which BER P21 payments are administered through joint Education Authorities (the ACT Block Grant Authority Incorporated and the Catholic Church of the Diocese of Darwin Property Trust).

results from the ANAO audit sample were used to produce the all-school and sectoral estimates of school principal opinions cited in the report.²⁴⁵

Table A 1

School principal survey response rates by sector, ANAO audit sample versus schools not actively followed up

Sector		Number of Schools	ANAO Audit Sample (used for statistical inference)			Not in ANAO Audit Sample (used for issues identification only)		
			Schools	Completed survey	Response rate	Schools	Completed survey	Response rate
Government		5659	415	258	62%	5244	2361	45%
Non-Government	Catholic	1332	255	167	65%	1077	457	42%
	Independent	892	255	158	62%	637	338	53%
	Joint	68	60	39	65%	8	3	38%
Total		7951	985	622	63%	6966	3159	45%

The ANAO audit sample was designed to produce statistically reliable estimates for each Education Authority, and for the government, non-government (Catholic), and non-government (independent) school sectors (with over 200 schools from each of these sectors included in the ANAO audit sample). The 95 per cent confidence intervals for the estimates are no more than $\pm 5\frac{1}{2}$ percentage points for the all-schools estimates and generally no more than $\pm 7\frac{1}{2}$ percentage points on the sectoral estimates.²⁴⁶

Of the 6966 schools not actively followed up by the ANAO, 3158 completed the survey—a lower response rate of 45 per cent (see Table A1). The responses from these schools to the open-ended questions in the ANAO survey were used to identify common themes.

All other results included in the report, including those detailed below, are derived from the more statistically robust stratified random sample of schools.

²⁴⁵ This estimation process involves re-weighting the audit survey data to reflect their probability of selection.

²⁴⁶ The report does not cite results for the joint Education Authority sector for which the ANAO audit sample generally produces estimates with 95 per cent confidence intervals no more than $\pm 10\frac{1}{2}$ percentage points.

Survey results

The following tables show the results of the ANAO survey of principals. In calculating the following all-school percentage estimates, the ANAO has:

- excluded respondents who indicated that the question was not applicable to them or did not answer the question. The number of respondents to each question is indicated in brackets following the question (for example, if all 622 principals responded to a question this would be indicated in brackets [n = 622]); and
- has re-weighted the survey data to produce statistically unbiased estimates.

Consultation

Which of the following stakeholders (if any) did you consult with in reaching a decision about how your school's BER P21 funding allocation should be used? [n = 621]

(Multiple responses allowed)	Per cent
Parents	68.9
Teachers	91.8
School council/board	56.5
Parents and citizens' organisation	55.2
Students	27.6
Other	13.7
None of the above	2.8

Please indicate the extent to which you agree or disagree with each of the following statements about the consultation under the BER P21 program:

... It was made clear to me what level of consultation I was expected to undertake with my school community about how our BER P21 funding should be used. [n = 618]

... My school community was appropriately consulted as part of the decision-making process under the BER P21 program. [n = 619]

	Per cent		Per cent
Strongly Agree	9.9	Strongly Agree	11.4
Agree	55.3	Agree	63.0
Neither Agree nor Disagree	16.7	Neither Agree nor Disagree	12.0
Disagree	13.8	Disagree	10.0
Strongly Disagree	3.9	Strongly Disagree	2.8
Don't Know/Can't Say	0.3	Don't Know/Can't Say	0.8

... I had sufficient time to consult with my school community about how its BER P21 funding allocation should be used.

[n = 620]

	Per cent
Strongly Agree	6.0
Agree	39.0
Neither Agree nor Disagree	9.3
Disagree	33.2
Strongly Disagree	11.9
Don't Know/Can't Say	0.6

Please indicate the extent to which you agree or disagree with each of the following statements about the consultation under the BER P21 program:

... Consultation with my school community enabled a consensus to be reached about how our BER P21 funding should be used.
[n = 617]

... The preferences of my school community were appropriately taken into account in the decision that was made about how its BER P21 funding allocation will be used. [n = 617]

	Per cent		Per cent
Strongly Agree	13.2	Strongly Agree	15.9
Agree	59.6	Agree	60.7
Neither Agree nor Disagree	15.6	Neither Agree nor Disagree	9.8
Disagree	7.7	Disagree	7.5
Strongly Disagree	3.3	Strongly Disagree	5.6
Don't Know/Can't Say	0.7	Don't Know/Can't Say	0.6

Was the funding allocated to your school under the BER P21 program less than the indicative funding cap established in the program guidelines as applicable to a school of your size? [n = 618]

	Per cent
Yes	10.3
No	77.4
Don't know	12.4

If funding allocated to your school under the BER P21 program was less than the indicative funding cap established in the program guidelines as applicable to a school of your size, please indicate the extent to which you agree or disagree with each of the following statements:

... I was consulted about the decision to allocate my school less than the indicative funding levels set out in the BER program guidelines. [n = 55]

	Per cent
Strongly Agree	16.1
Agree	12.1
Neither Agree nor Disagree	21.2
Disagree	19.5
Strongly Disagree	31.1

... I understand the basis for the decision to allocate my school less than the indicative funding levels set out in the BER program guidelines. [n = 54]

	Per cent
Strongly Agree	16.5
Agree	24.1
Neither Agree nor Disagree	29.3
Disagree	3.3
Strongly Disagree	26.8

... The decision to allocate my school less than the indicative funding levels set out in the BER program guidelines was reasonable. [n = 54]

	Per cent
Strongly Agree	9.5
Agree	32.3
Neither Agree nor Disagree	30.6
Disagree	3.5
Strongly Disagree	24.1

The application process

Please rate your level of satisfaction with the following aspects of the application process:

... The clarity of the guidance you received about the BER P21 application process. [n = 616]

	Per cent
Very Satisfied	8.8
Satisfied	53.5
Neither Satisfied nor	
Dissatisfied	17.3
Dissatisfied	16.7
Very Dissatisfied	3.7

... The time-frame for submission of your school's application for BER P21 funding. [n = 614]

	Per cent
Very Satisfied	4.5
Satisfied	32.4
Neither Satisfied nor	
Dissatisfied	19.5
Dissatisfied	33.8
Very Dissatisfied	9.8

... Alignment of the options for funding under the BER P21 program guidelines with the priorities of your school. [n = 614]

	Per cent
Very Satisfied	14.0
Satisfied	49.9
Neither Satisfied nor	
Dissatisfied	12.1
Dissatisfied	17.0
Very Dissatisfied	6.9

... Your school's ability to choose the option or mix of options most appropriate to its needs. [n = 614]

	Per cent
Very Satisfied	14.6
Satisfied	46.5
Neither Satisfied nor	
Dissatisfied	9.8
Dissatisfied	19.2
Very Dissatisfied	9.9

... The outcome of your school's application for BER P21 funding. [n = 613]

	Per cent
Very Satisfied	32.6
Satisfied	44.5
Neither Satisfied nor	
Dissatisfied	12.8
Dissatisfied	7.0
Very Dissatisfied	3.1

The design of your school's BER P21 project or projects

Has a design for your school's project or projects been completed? [n = 617]

	Per cent
Yes	72.5
No	27.5

If a design for your school's project or projects has been completed, what was the design of the BER P21 program option provided to your school based on? [n = 505]

(Multiple responses allowed)	Per cent
A template provided by the education authority	51.7
A design my school already had prior to the establishment of the BER P21 program	10.8
A new design (not from a template) developed specifically for my school for the purposes of the BER P21 program	43.8

Who commissioned the design for your school's BER P21 project? [n = 503]

	Per cent
My school	32.9
My school system	13.8
My education authority	53.3

Please indicate the extent to which you agree or disagree with each of the following statements about the design of your school's BER P21 project or projects:

... I understand what is included in the design of my school's BER P21 project or projects. [n = 503]

	Per cent
Strongly Agree	30.0
Agree	50.4
Neither Agree nor Disagree	7.7
Disagree	9.6
Strongly Disagree	2.3

... The design of my school's BER P21 project or projects is appropriate to its needs. [n = 503]

	Per cent
Strongly Agree	32.7
Agree	46.5
Neither Agree nor Disagree	8.4
Disagree	7.6
Strongly Disagree	3.3
Don't Know/ Can't Say	1.5

... I am satisfied with the opportunity I have had to provide input into the design of my school's BER P21 project or projects. [n = 502]

	Per cent
Strongly Agree	29.8
Agree	34.9
Neither Agree nor Disagree	11.8
Disagree	16.1
Strongly Disagree	7.5

... I have been appropriately consulted about important design considerations as they arose. [n = 501]

	Per cent
Strongly Agree	30.8
Agree	36.7
Neither Agree nor Disagree	11.7
Disagree	13.1
Strongly Disagree	5.8
Don't Know/Can't Say	1.9

... if the schools project design is based on a template, there is a large degree of flexibility and customization possible in using the template(s) on which the design of my school's BER P21 project or projects is based. [n = 127]

	Per cent
Strongly Agree	4.5
Agree	15.5
Neither Agree nor Disagree	8.0
Disagree	29.7
Strongly Disagree	40.2
Don't Know/Can't Say	2.2

Construction of your school's BER P21 project or projects

Who built (or will build) your school's BER P21 project? [n = 610]

	Per cent
A contractor or contractors engaged directly by my school	20.1
A contractor or contractors engaged by my school system	17.3
A contractor or contractors engaged by my education authority	56.3
Other	6.3

Has construction of your school's BER P21 project commenced [by commencement, we mean has there been any physical work on the school site, beyond, for example, erection of the site fence]? [n = 611]

	Per cent
Yes	34.1
No	65.9

If construction has commenced, please indicate the extent to which you agree or disagree with the following statements:

... The contractor or contractors appointed to manage BER P21 construction activity at my school has been responsive to the school's needs. [n = 267]

	Per cent
Strongly Agree	44.2
Agree	50.5
Neither Agree nor Disagree	2.9
Disagree	1.6
Strongly Disagree	0.7

... BER P21 construction activity is being managed in such a way as to minimise disruption to my school. [n = 267]

	Per cent
Strongly Agree	48.4
Agree	45.3
Neither Agree nor Disagree	3.0
Disagree	2.7
Strongly Disagree	0.5

... BER P21 construction activity is being managed in such a way as to minimise health and safety risks to students, staff and parents, and members of the public. [n = 267]

	Per cent
Strongly Agree	56.0
Agree	40.0
Neither Agree nor Disagree	3.4
Disagree	0.4
Strongly Disagree	0.2

Reporting

Are you required to provide information on a regular basis to your education authority, to enable them to fulfil their reporting obligations under the BER P21 program? [n = 605]

	Per cent
Yes	41.9
No	58.1

If you are required to provide regular reports to your Education Authority, please indicate the extent to which you agree or disagree with the following statements:

... BER P21 reporting requirements are clear. [n = 382]

	Per cent
Strongly Agree	13.4
Agree	53.9
Neither Agree nor Disagree	21.9
Disagree	10.4
Strongly Disagree	0.4

... BER P21 reporting requirements have been consistent. [n = 382]

	Per cent
Strongly Agree	13.4
Agree	53.0
Neither Agree nor Disagree	22.9
Disagree	9.6
Strongly Disagree	1.1

... BER P21 reporting requirements are manageable. [n = 380]

... The reports that I provide will give program managers a meaningful understanding of our school's progress in implementing the BER P21 program and of work completed to date. [n = 382]

	Per cent		Per cent
Strongly Agree	11.8	Strongly Agree	12.9
Agree	54.0	Agree	50.3
Neither Agree nor Disagree	26.5	Neither Agree nor Disagree	32.0
Disagree	7.3	Disagree	4.9
Strongly Disagree	0.3	Strongly Disagree	0.0

Opportunity to communicate concerns about BER decisions

Have you, or anyone in your school community communicated a concern or complaint about the BER P21 program? [n = 609]

	Per cent
Yes	33.4
No	66.6

Are you aware of the Commonwealth Department of Education, Employment and Workplace Relations' role in resolving implementation issues with the BER P21 program? [n = 610]

	Per cent
Yes	30.7
No	69.3

If you are aware of the Commonwealth Department of Education, Employment and Workplace Relations' role in resolving implementation issues with the BER P21 program, have you or anyone in your school community taken any concern or complaint to the Commonwealth Department of Education, Employment and Workplace Relations about the BER P21 program? [n = 223]

	Per cent
Yes	3.6
No	96.4

If you or anyone in your school community taken any concern or complaint to the Commonwealth Department of Education, Employment and Workplace Relations about the BER P21 program, were you satisfied with the way in which the concern or complaint was dealt with? [n = 9]

	Per cent
Yes	13.0
No	87.0

Progress and outcomes

Please indicate the extent to which you agree or disagree with the following statements

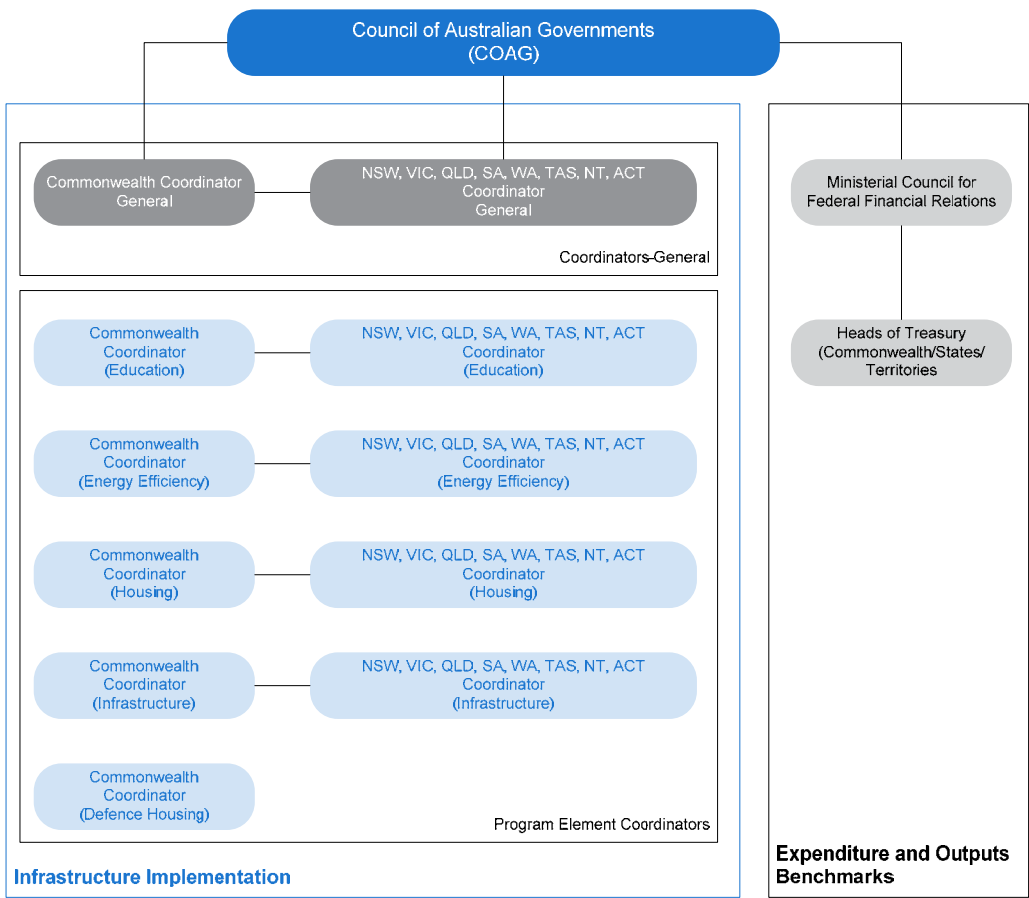
... My school's BER P21 project is supporting local employment. [n = 611]		... I am confident my school's BER P21 project will be completed within the required timeframe. [n = 610]	
	Per cent		Per cent
Strongly Agree	23.5	Strongly Agree	14.9
Agree	34.9	Agree	30.6
Neither Agree nor Disagree	14.4	Neither Agree nor Disagree	23.6
Disagree	4.7	Disagree	12.4
Strongly Disagree	6.2	Strongly Disagree	6.4
Don't Know/Can't Say	16.2	Don't Know/Can't Say	12.0
... The use of BER P21 money for my school represents value for money. [n = 610]		... I am confident BER P21 program funding will help children, families and communities participate in activities that will support achievement, develop learning potential and bring communities together. [n = 612]	
	Per cent		Per cent
Strongly Agree	20.6	Strongly Agree	41.4
Agree	27.8	Agree	44.8
Neither Agree nor Disagree	16.8	Neither Agree nor Disagree	9.1
Disagree	16.1	Disagree	0.9
Strongly Disagree	12.8	Strongly Disagree	2.7
Don't Know/Can't Say	5.7	Don't Know/Can't Say	1.2

... I am confident the BER P21 program will enhance the teaching and learning environment in my school. [n = 612]		... I am confident BER P21 program funding will provide an improvement to my school, which will be of ongoing value to my school and school community. [n = 613]	
	Per cent		Per cent
Strongly Agree	55.0	Strongly Agree	60.8
Agree	37.0	Agree	34.5
Neither Agree nor Disagree	5.2	Neither Agree nor Disagree	2.5
Disagree	0.9	Disagree	1.0
Strongly Disagree	1.4	Strongly Disagree	0.7
Don't Know/Can't Say	0.5	Don't Know/Can't Say	0.5

Appendix 3: Coordination arrangements for the Nation Building and Jobs Plan

The structure for coordinating the deliver of the Nation Building and Jobs Plan is shown at Figure 1.

Figure 1
Structure for delivering the Nation Building and Jobs Plan



Source: Coordinator-General

Ministerial Council for Federal Financial Relations

The Australian Government considered that the success of the Nation Building and Jobs Plan on ameliorating the impact of the global financial crisis on the Australian economy was dependent upon the measures under the plan being genuinely additional to existing activities being undertaken and/or planned in the states, territories and non-government school sector. To this end, state and

territory governments were to ensure that their capital investment commitments were maintained in the areas covered by the plan.

The NPA, therefore, established a requirement on state and territory governments to report against expenditure and output benchmarks under the plan. The Heads of Treasuries hold responsibility for monitoring the maintenance of effort by state and territory governments, with this work reported to COAG through the Ministerial Council for Federal Financial Relations.²⁴⁷

While the Treasury is responsible for monitoring the maintenance of effort by state and territory governments, DEEWR holds responsibility for monitoring the non-government school sector. The NPA provides for Australian Government sanctions to be applied where a state or territory fails to meet agreed funding benchmarks, including halting BER program payments and reductions in future Australian Government payments. The agreement is silent on sanctions for the non-government education sector.

Coordinators-General

To support and monitor the implementation of key infrastructure and stimulus measures under the Nation Building and Jobs Plan, the Australian Government established an Oversight Group within the Department of the Prime Minister and Cabinet, which is chaired by a Coordinator-General. The Oversight Group is responsible for working with administering agencies at the Federal and state/territory level to develop project plans, including mechanisms to reduce lead times on projects and project oversight and monitoring arrangements for each of the key infrastructure and stimulus measures.

The Coordinators-General are required to report to COAG quarterly on the implementation of the Nation Building and Jobs Plan. Their reports are to include an analysis of economic indicators relating to the impact of the plan in stimulating the economy by supporting employment and growth.

In addition to the Commonwealth Coordinator-General, COAG agreed that national coordinators would be established for each element of the plan, that is education, energy efficiency, housing and infrastructure. Each state and

²⁴⁷ The Heads of Treasury comprises the Secretaries and Under Treasurers of each of the Commonwealth, state and territory treasury departments.

territory would also appoint a Coordinator-General and program element coordinators to ensure: 'a coordinated project management approach to delivery'. In the case of the BER program, there is a BER National Coordinator and an education coordinator located within the relevant education department in each state and territory.

BER National Coordinator

The NPA provides that the BER National Coordinator is to be located within DEEWR and is responsible for ensuring that milestones for the education element of the Nation Building and Jobs Plan are achieved and that any implementation issues are addressed as a matter of urgency. DEEWR subsequently decided this role would also include the task of resolving 'concerns' and (in subsequent versions of the guidelines released in August and September 2009) 'complaints' from schools about administration of the BER program. This role was publicised to schools in the *Building the Education Revolution Guidelines* (the Guidelines).

Series Titles

ANAO Audit Report No.1 2009–10

Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance

Department of the Treasury

Department of the Prime Minister and Cabinet

ANAO Report No.2 2009–10

Campaign Advertising Review 2008–09

ANAO Audit Report No.3 2009–10

Administration of Parliamentarians' Entitlements by the Department of Finance and Deregulation

ANAO Audit Report No.4 2009–10

The Management and Processing of Annual Leave

ANAO Audit Report No.5 2009–10

Protection of Residential Aged Care Bonds

Department of Health and Ageing

ANAO Audit Report No.6 2009–10

Confidentiality in Government Contracts – Senate order for Departmental and Agency Contracts (Calendar Year 2008 Compliance)

ANAO Audit Report No.7 2009–10

Administration of Grants by the National Health and Medical Research Council

ANAO Audit Report No.8 2009–10

The Australian Taxation Office's Implementation of the Change Program: a strategic overview

ANAO Audit Report No.9 2009–10

Airservices Australia's Upper Airspace Management Contracts with the Solomon Islands Government

Airservices Australia

Department of Infrastructure, Transport, Regional Development and Local Government

ANAO Audit Report No.10 2009–10

Processing of Incoming International Air Passengers

Australian Customs and Border Protection Service

ANAO Audit Report No.11 2009–10

Garrison Support Services
Department of Defence

ANAO Audit Report No.12 2009–10

Administration of Youth Allowance
Department of Education, Employment and Workplace Relations
Centrelink

ANAO Audit Report No.13 2009–10

Major Projects Report 2008–09
Defence Materiel Organisation

ANAO Audit Report No.14 2009–10

Agencies' Contract Management
Australian Federal Police
Austrade
Department of Foreign Affairs and Trade

ANAO Audit Report No.15 2009–10

AusAID's Management of the Expanding Australian Aid Program
AusAID

ANAO Audit Report No.16 2009–10

Do Not Call Register
Australian Communications and Media Authority

ANAO Audit Report No.17 2009–10

Audits of the Financial Statements of Australian Government Entities for the Period Ended 30 June 2009

ANAO Audit Report No.18 2009–10

LPG Vehicle Scheme

ANAO Audit Report No.19 2009–10

Child Support Reforms: Stage One of the Child Support Scheme Reforms and Improving Compliance

ANAO Audit Report No.20 2009–10

The National Broadband Network Request for Proposal Process
Department of Broadband, Communications and the Digital Economy

ANAO Audit Report No.21 2009–10

Administration of the Water Smart Australia Program
Department of the Environment, Water, Heritage and the Arts
National Water Commission

ANAO Audit Report No.22 2009–10

Geoscience Australia

ANAO Audit Report No.23 2009–10

Illegal Foreign Fishing in Australia's Northern Waters
Australian Customs and Border Protection Service

ANAO Audit Report No.24 2009–10

Procurement of Explosive Ordnance for the Australian Defence Force
Department of Defence

ANAO Audit Report No.25 2009–10

Security Awareness and Training

ANAO Audit Report No.26 2009–10

Administration of Climate Change Programs
Department of the Environment, Water, Heritage and the Arts
Department of Climate Change and Energy Efficiency
Department of Resources, Energy and Tourism

ANAO Audit Report No.27 2009–10

Coordination and Reporting Australia's Climate Change Measures
Department of Climate Change and Energy Efficiency
Department of Innovation, Industry, Science and Research

ANAO Audit Report No.28 2009–10

The Australian Electoral Commission's Preparation for and Conduct of the 2007 Federal General Election

ANAO Audit Report No.29 2009–10

Attorney-General's Department Arrangements for the National Identity Security Strategy

ANAO Audit Report No.30 2009–10

Management of the Strategic Regional Program/Off-Network Program
Department of Infrastructure, Transport, Regional Development and Local Government

ANAO Audit Report No.31 2009–10

Management of the AusLink Roads to Recovery Program
Department of Infrastructure, Transport, Regional Development and Local Government

ANAO Audit Report No.32 2009–10

Management of the Overseas Owned Estate
Department of Foreign Affairs and Trade

Current Better Practice Guides

The following Better Practice Guides are available on the Australian National Audit Office website.

Innovation in the Public Sector

Enabling Better Performance, Driving New Directions Dec 2009

SAP ECC 6.0

Security and Control June 2009

Preparation of Financial Statements by Public Sector Entities June 2009

Business Continuity Management

Building resilience in public sector entities June 2009

Developing and Managing Internal Budgets June 2008

Agency Management of Parliamentary Workflow May 2008

Public Sector Internal Audit

An Investment in Assurance and Business Improvement Sep 2007

Fairness and Transparency in Purchasing Decisions

Probity in Australian Government Procurement Aug 2007

Administering Regulation Mar 2007

Developing and Managing Contracts

Getting the Right Outcome, Paying the Right Price Feb 2007

Implementation of Programme and Policy Initiatives:

Making implementation matter Oct 2006

Legal Services Arrangements in Australian Government Agencies Aug 2006

Administration of Fringe Benefits Tax Feb 2006

User-Friendly Forms

Key Principles and Practices to Effectively Design
and Communicate Australian Government Forms Jan 2006

Public Sector Audit Committees Feb 2005

Fraud Control in Australian Government Agencies Aug 2004

Better Practice in Annual Performance Reporting Apr 2004

Management of Scientific Research and Development

Projects in Commonwealth Agencies Dec 2003

Public Sector Governance	July 2003
Goods and Services Tax (GST) Administration	May 2003
Building Capability—A framework for managing learning and development in the APS	Apr 2003
Administration of Grants	May 2002
Performance Information in Portfolio Budget Statements	May 2002
Some Better Practice Principles for Developing Policy Advice	Nov 2001
Rehabilitation: Managing Return to Work	June 2001
Building a Better Financial Management Framework	Nov 1999
Building Better Financial Management Support	Nov 1999
Commonwealth Agency Energy Management	June 1999
Controlling Performance and Outcomes	Dec 1997
Protective Security Principles (in Audit Report No.21 1997–98)	Dec 1997

