

# **Managing Conflicts of Interest in FMA Agencies**

Across Agencies

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Canberra ACT  
23 June 2014

Dear Mr President  
Dear Madam Speaker

The Australian National Audit Office has undertaken an independent performance audit across agencies titled *Managing Conflicts of Interest in FMA Agencies*. The audit was conducted in accordance with the authority contained in the Auditor General Act 1997. I present the report of this audit to the Parliament.

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

Yours sincerely

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

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, financial statement audits and assurance reviews 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.

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# Contents

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Abbreviations .....	8
Glossary .....	9
<b>Summary and Recommendations .....</b>	<b>11</b>
Summary .....	13
Introduction .....	13
Audit objective and scope .....	14
Overall conclusion .....	15
Key findings by chapter .....	16
Summary of agencies' responses .....	19
Recommendations .....	22
<b>Audit Findings .....</b>	<b>23</b>
1. Introduction .....	25
Conflicts of interest—the public sector context .....	25
Audit objective, scope and criteria .....	31
Report structure .....	32
2. Agencies' Conflict of Interest Policies and Procedures .....	33
Introduction .....	33
Conflict of interest arrangements in the Australian Public Service .....	33
Sound policies and guidelines .....	35
Strategies to promote awareness and integration of good practice .....	40
Declaration of personal interest procedures—APS employees .....	42
Selected case studies .....	46
Conclusion .....	47
3. Advisory Committees .....	49
Introduction—Committees in the APS .....	49
Legislation and policy considerations .....	50
The extent of committee guidance .....	51
Implementing conflicts of interests arrangements .....	53
Conclusion .....	59
4. Peer Review Grant Selection .....	61
Introduction—peer reviewed grants in the APS .....	61
Approaches taken to manage conflicts of interest .....	63
Implementation of conflict of interest management approaches .....	68
Conclusion .....	74

<b>Appendices .....</b>	<b>77</b>
Appendix 1: Agencies' Responses .....	79
Appendix 2: Agencies included in the audit.....	94
Appendix 3: Conflict of interest definitions and terminology.....	95
Appendix 4: Conflict of interest reference list .....	98
Appendix 5: Summary of overall scores against quality and content criteria – 25 agencies .....	100
Index.....	101
Series Titles.....	102
Better Practice Guides .....	108

## Tables

Table 1.1: Examples of potential conflicts of interest .....	28
Table 1.2: Legal and policy framework for conflicts of interest .....	30
Table 1.3: Report structure .....	32
Table 2.1: Findings from the ANAO's assessment of agency conflict of interest policies and practices .....	37
Table 2.2: Agencies' key conflict of interest information .....	40
Table 2.3: Communication methods used to inform staff about identifying and managing conflict of interest.....	42
Table 2.4: ANAO assessment of the annual SES declaration of interests process .....	44
Table 2.5: Selected case studies.....	46
Table 3.1: Summary of agency responses to the ANAO survey.....	52
Table 3.2: Nomination and appointment of members .....	55
Table 3.3: Case study: Improving committee proceedings .....	56
Table 3.4: Management of conflicts for committee meetings .....	58
Table 3.5: Case study: Reviewing conflicts of interest practice in committees .....	59
Table 4.1: Legislative and policy requirements .....	62
Table 4.2: Summary of agency responses to the ANAO survey.....	65
Table 4.3: Strengthening key elements for conflicts of interest management.....	66
Table 4.4: Case study: Guidance to assist grant selection and conflict of interest management.....	67
Table 4.5: ANAO assessment of the management of conflict of interest for peer review grant selection.....	69
Table 4.6: Case study: Identifying and mitigating typical conflicts .....	73
Table 4.7: Examples of weaker conflict of interest administrative arrangements .....	74
Table A.1: Conflict of interest definitions.....	95
Table A.2: Related conflict of interest terminology .....	96

**Figures**

Figure 1.1      The legal and policy context for conflict of interest management agencies ..... 27

Figure 1.2      Key steps to manage conflicts of interest..... 29

Figure 2.1      An approach for conflict of interest management..... 35

Figure 2.2      ANAO analysis of agency policies and procedures ..... 36

Figure 3.1      Key processes to manage conflicts of interest (Col) risks ..... 54

Figure 3.2      Committee proceedings and conflicts of interest ..... 57

Figure 4.1      Typical process for peer review grant selection ..... 64

# Abbreviations

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ANAO	Australian National Audit Office
APS	Australian Public Service
APSC	Australian Public Service Commission
Departments	Commonwealth Departments of State
CoI	Conflict of interest
CGGs	Commonwealth Grant Guidelines
FMA Act	<i>Financial Management and Accountability Act 1997</i>
Finance	Department of Finance
ICAC	Independent Commission Against Corruption
NSW	New South Wales
PS Act	<i>The Public Service Act 1999</i>
PGPA	<i>Public Governance, Performance and Accountability Act 2013</i>
SES	Senior Executive Service



# Glossary

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Advisory committee	An advisory committee provides advice to an agency head or minister in respect to a particular matter and generally would include external members.
Agencies	Commonwealth Departments of State and statutory agencies under the <i>Financial Accountability and Management Act 1997</i> .
Actual conflict of interest	Also often referred to as a 'real' conflict, an actual conflict of interest is a situation which occurs when a person's private interests conflict with their public duties. The significance of an actual conflict of interest (in terms of relevance, materiality and possible impact) and how and when it is managed, will affect the impact that the conflict has on an individual's or agency's performance of public duties and consequential reputational risk.
Assessors	Individuals who assess grant applications against set selection criteria. Assessors can be internal staff or external to an agency depending on the specific grant round and type of selection process used.
Code of Conduct	The Public Service Code of Conduct, s. 13 of the <i>Public Service Act 1999</i> .
Conflict of interest	A situation in which an official's private interests influence their public duties, or when an official has conflicting roles.
Declaration of personal/private interests	Usually in the form of a signed statement, this is a record of an officer's disclosure of relevant personal (private) interests that may come into conflict with their duty to act in the public interest.

Grant	An arrangement for the provision of financial assistance by the Commonwealth, which is intended to help the recipient achieve its goals as well as promote Australian Government policy objectives.
Grant selection panel	A panel of individuals with relevant expertise, appointed to select or reject grant applications based on their assessment, scoring and often ranking of applications against set selection criteria.
Perceived conflict of interest	A situation that is seen (or perceived) by a third party or parties to present a conflict of interest, even if the reality of the conflict has not, or cannot, be established.
Potential conflict of interest	A situation in which a personal interest could, in the future, lead to a conflict of interest.
Private interests	An individual's own personal, professional or business interests or those of individuals or groups with whom they are closely associated. This includes relatives, friends or other affiliations, regardless of the positive or negative nature of the relationship.
Statutory committee	A committee that is established under legislation.

## **Summary and Recommendations**



# Summary

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## Introduction

1. The success of Australian Government agencies in achieving their objectives is strongly influenced by the effectiveness of governance arrangements, the proficiency and integrity of staff at all levels and the robustness of decisions. As an institution, the Australian Public Service (APS) depends on its integrity to look after the public interest and maintain public trust.<sup>1</sup> To this end, public officials must ensure that decisions or advice are not adversely affected by 'conflicts of interest', which can result from self-interest, private affiliations, or the likelihood of personal gain or loss.
2. The management of conflicts of interest is an issue of significance nationally and internationally, in both the public and private sectors. In view of the billions of dollars in programs and services that APS agencies deliver each year, ensuring that significant or material conflicts are dealt with appropriately can be critical to the probity of government spending and decisions.
3. Over the last two decades, collaborative partnerships, co-production, and stakeholder engagement, have become more central to government decision making processes. Ministerial advisory committees, for example, draw together expertise from industry, academia, state governments, or community groups to provide advice that is integral to policy design and strategic priority setting. Subject specialists from outside the APS also provide essential knowledge and integrity to support grant selection and procurement activities. While these practices offer many benefits, conflicts of interest are an inherent risk, and can commonly arise.
4. Whether advice is provided from within the public sector or from external sources, it is essential that individuals meet accepted APS values and behaviours when advising government or conducting business on its behalf. Risks must be managed to meet government's business objectives, while maintaining beneficial stakeholder relationships and public accountability.

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1 Australian Public Service Commission (APSC), *State of the Service Report 2012–13, Chapter 3*; and APSC, *Strengthening a values based culture—A plan for integrating the APS Values into the way we work*, 2013.

5. Australia, as with many other countries, has generally drawn on overseas studies<sup>2</sup> in establishing suitable approaches to limit the impact of conflicts of interest on public duties. Recent Australian National Audit Office (ANAO) reports<sup>3</sup> indicate that effective management of conflicts of interest remains an important aspect of accountability in the public sector, and agencies should maintain vigilance in this regard.

6. Within the APS, chief executives have a responsibility to establish governance arrangements, including policies and procedures to promote awareness of conflict of interest obligations and encourage appropriate declaration of personal interests.<sup>4</sup> While the nature and extent of these arrangements will depend on the type of business undertaken and the associated risks, each agency should set out key principles and pathways to identify and manage conflicts of interest consistent with government requirements.

7. Timely implementation of suitable procedures within an agency can assist in the early identification of potential and actual conflicts of interest and allow these to be handled appropriately, before they give rise to allegations of misconduct or undermine the reputation of the agency or the government.

## Audit objective and scope

8. The audit objective was to determine whether Australian Government agencies were implementing appropriate policies and processes to identify and manage conflicts of interest. To form a conclusion against the audit objective, the ANAO adopted the following high level criteria:

- agencies have appropriate policies and procedures to manage potential or actual conflicts of interest and the risks these may pose; and

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2 Organisation for Economic Co-operation and Development (OECD) *Conflict of Interest Policies and Practices in nine EU Member States—A comparative review*, Sigma Paper No.26, 2007; OECD Toolkit for Managing Conflict of Interests in the Public Service, 2005; and OECD *Managing Conflict of Interest in the Public Service—OECD Guidelines and Country Experiences*, 2003. [Internet] available from <<http://www.oecd.org/gov/ethics/managingconflictinterestinthepublicservice.htm>> [accessed May 2014]. Also refer to Appendix 4 for further reference materials.

3 Conflict of interest issues have been raised in recent ANAO audits reports, for example: ANAO Audit Report No.11 *Delivery of the Filling the Research Gap under the Carbon Farming Futures Program* 2012–13; No.29 *Regulation of Commonwealth Radiation and Nuclear Activities* 2013–14.

4 Refer to the *Financial Management and Accountability Act 1997 Act*, the *Commonwealth Procurement Rules* (CPRs) and the *Commonwealth Grant Guidelines* (CGGs). The *Public Governance, Performance and Accountability Act 2013* (PGPA Act 2013) will come into force on 1 July 2014, and also contains conflict of interest requirements.

- agencies implement and monitor conflict of interest processes consistent with their own policies.

9. The audit consisted of 2 main phases. Phase 1 focused on an assessment of the conflict of interest policies and processes in place across 25 agencies, including the completion of a survey, and the provision of supporting documentation to the ANAO for assessment. Phase 2 included fieldwork in eight of the 25 agencies to assess their implementation of conflict of interest policies and practices. The audit included only *Financial Management and Accountability Act 1997* agencies (19 Departments of State and six statutory agencies—see Appendix 2). It did not cover bodies subject to the *Commonwealth Authorities and Companies Act 1997*.

## Overall conclusion

10. The Australian Government spends billions of dollars on programs and services each year, and has established requirements for the ethical conduct of public officials, including probity and accountability. Conflicts of interest are recognised through the APS ethical framework as a significant public sector risk, potentially leading to misunderstandings or misconduct, and undermining probity and reputation. Even a perception that a conflict exists can be damaging and is best dealt with promptly and effectively.

11. Implementing appropriate policies and processes at the agency level and for key program activities helps to promote a consistent understanding of conflict of interest obligations and responsibilities. It also allows agency staff and stakeholders to become familiar with the key requirements to identify, declare and mitigate conflict of interest risks.

12. Many public sector agencies were active in promoting conflict of interest obligations, using well-established over-arching policies or ethical conduct manuals that incorporated comprehensive conflict management provisions. However, considerable variability in the quality, scope and usefulness of high level policy documents was evident across the 25 audited agencies, particularly in relation to approaches for promoting, implementing and monitoring key aspects of conflict of interest provisions. Such variability can undermine assurance that conflict of interest provisions are being met to an acceptable standard across the APS.

13. To better focus conflict of interest arrangements on key risks, approximately half of the audited agencies would benefit from: tailoring their

high level policies to specific agency business; incorporating clearer definitions and responsibilities; a more systematic approach to determining the severity of conflicts and appropriate mitigation strategies; use of management plans and registers to assist in monitoring activities; and generally strengthening records of potential or actual conflicts of interest and mitigation actions taken.

14. The involvement of external advisors or experts in government decisions, program design and delivery, requires careful management of conflicts of interest. Of the committees and grants examined as part of the audit, implementation of conflict of interest provisions was generally acceptable in most agencies. Some larger agencies and those with well-established grant programs exhibited substantially more developed management arrangements, providing a higher level of confidence in the probity and integrity of decisions and advice.

15. However, there were several instances of inconsistency in the application of agency policies and a lack of transparency in procedures undertaken and records maintained. Accordingly, some agencies need to pay more attention to key aspects of their business activities, in particular the application of conflict of interest provisions to committee processes and grant rounds.

16. The ANAO has made one general recommendation, to encourage APS agencies to focus on the risks of conflicts of interest as part of agencies' regular review of risks. This should include consideration of key agency risks and appropriate tailoring of policies and processes to achieve better performance against government legislation and policy.

## Key findings by chapter

### **Agencies' Conflict of Interest Policies and Procedures (Chapter 2)**

17. Agency chief executives have a responsibility to promote ethical behaviour across the agency, including the establishment of policies and guidelines to facilitate effective management of conflicts of interest among APS employees. Policies and procedures should: be tailored to key business and specific risks to the agency; provide consistent and relevant messages; prompt declarations of conflict of interest for all relevant staff; encourage the use of registers of private interests and include monitoring of compliance with mandatory requirements.



18. In the 25 audited agencies, approaches to conflict of interest management varied in terms of quality, coverage and diligence. Several agencies demonstrated a high level of awareness, with top-down approaches encouraging a sound culture to manage conflicts of interest. A structured and proactive approach to conflict of interest declaration and mitigation was often supported by usefully constructed agency policies, usually providing succinct principles and pathways for identifying, managing and monitoring compliance with APS requirements.<sup>5</sup>

19. However, many agencies showed weakness in one or more key aspects of policy coverage or practice. Areas for attention included: developing tailored top level conflict of interest policies and other guidance materials to better support awareness and compliance; including a clear method to determine the severity of conflicts, linked to specific management strategies; better use of management plans and registers to record mitigation action for declared conflicts of interest; and improving the visibility of outcomes. Strengthening these areas would provide more assurance that APS conflict of interest provisions were being consistently and adequately promoted, and specific agency risks addressed.

20. The Australian Public Service Commission (APSC) issues mandatory requirements for the annual disclosure of interests for senior executive service (SES) and other personnel in sensitive positions. In a sample of eight agencies, compliance rates varied, with only four agencies demonstrating full compliance with the annual disclosure requirement. Monitoring in some agencies was of a very high standard, with use of electronic or well organised manual systems in place. Disclosure for non-SES personnel, where relevant, was an area where agencies could generally improve. Key matters included: unclear procedures, delegation to Branch level without clear monitoring in place, and a lack of mechanisms to determine compliance in some agencies. Central coordination, automated systems, and requiring all staff to submit a disclosure statement at least annually, were among the strategies used by some agencies to improve performance in relation to the annual disclosure requirement. Several agencies also employed effective follow-up processes to obtain a higher level of compliance.

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5 Section 13 of the *Public Service Act 1999* provides the APS Code of Conduct and specifically section 13(7) states that 'an APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment.' Guidance provided by the Australian Public Service Commission (APSC) supporting the Code of Conduct includes: the *APSC Circular 2007/1; In whose interest 2008*; and *APSC Values and Code of Conduct in practice: guide* (under review).

21. Greater clarity around the mandatory and non-mandatory requirements for the SES disclosure of interest and other officials would assist to achieve better compliance, strengthening confidence in public sector integrity. In this respect the APSC's guidance material could be made more succinct and focused.

### **Advisory Committees (Chapter 3)**

22. Advisory committees play an important role in shaping policy and programs through the advice they provide to agencies and ministers. Even where these committees do not exercise decision making power, they can influence policy directions and government priorities.<sup>6</sup> Committees providing high level advice to ministers or chief executives must maintain an acceptable level of impartiality and transparency. In many respects, this can be difficult and sensitive, as the expertise a member brings to the committee is frequently a potential source of conflict of interest.

23. Most of the agencies examined demonstrated suitable conflict of interest practices. Particularly effective approaches included well-balanced committee membership, and reliable support through: clear terms of reference; comprehensive induction packages; and meeting processes that reinforced conflict of interest principles early and throughout the committee proceedings.

24. Some agencies would benefit from strengthening these controls, keeping in mind that committee members may influence policy directions and government priorities, even in the absence of decision-making powers. In addition, strengthening the nomination and appointment processes, and ensuring transparency of interests prior to appointment, would enhance probity.

### **Peer Review Grant Selection (Chapter 4)**

25. The Australian Government provides substantial funding each year for grants across a broad range of research, industry and community sectors. Some of these grant programs use subject specialists (peers from within a particular or similar field of knowledge) to assess and select grants for funding. The probity and impartiality of recommendations and decisions of grant selection panels is one of the key principles for equitable grant selection under the Commonwealth Grant Guidelines (CGGs).

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6 *APS Values and Code of Conduct in Practice: a guide to official conduct for APS employees and Agency Heads*, Chapter 4.11 Conflicts of Interest, p. 11.

26. The risk of conflict of interest is inherently high for peer review processes as research professionals or industry experts employed to assess and select grant applications often have professional affiliations with applicants, and/or may also be competing for funding from the agency or other granting bodies. The ANAO examined six agencies' approaches to peer review through a sample of grant selection processes, collectively involving \$776 million in grants. Each of these agencies had generally sound guidance material and conflict of interest controls in place for assessors and selection panels. Agencies implementing high value grant programs and/or agencies with longer-term grant programs generally demonstrated a higher level of awareness of conflict of interest obligations and risks. These agencies often had more established mechanisms to instruct and monitor external assessors and selection panel members in making appropriate declaration of conflicts and complying with mitigation action when required.

27. There are opportunities for some agencies to adopt a more structured approach to managing conflicts of interest in peer review grants. In particular, smaller agencies or those with lesser or infrequent granting responsibilities should ensure that their processes are consistent with government expectations. In this respect agencies could strengthen their approaches so that the level of risk that different conflicts can pose to an agency or program is defined, recognised and dealt with appropriately as part of grant program design and establishment, and throughout the granting process.

## Summary of agencies' responses

28. The responses from the agencies audited in Phase 2 of the audit and from the Australian Public Service Commission (APSC) are presented in summary form below, and in full at Appendix 1.<sup>7</sup>

### Australian Institute of Criminology

29. The Australian Institute of Criminology (AIC) acknowledges the role of the ANAO in ensuring that agencies establish sound governance arrangements, promote awareness and encourage public officials to declare real and perceived conflicts of interest.

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7 There were eight agencies included in Phase 2 of the audit, however the Department of Resources, Energy and Tourism was abolished due to Machinery of Government changes on 18 September 2013, and responsibility for its functions were moved to the Industry portfolio. Due to its policy responsibilities the APSC included a formal response to the audit.

30. The feedback and advice received from the ANAO on the AIC's current framework for managing conflicts of interest has been appreciated and the AIC will work to enhance its procedures and practices accordingly. The AIC agrees with the ANAO recommendation.

### **Australian Public Service Commission**

31. The Commission supports the recommendation in the proposed audit report. Managing risks to the integrity of the APS as part of the normal enterprise-wide risk review process, including risks arising from poor management of conflicts of interests, is good business practice.

32. The proposed audit report considers that greater clarity is needed around the mandatory and non-mandatory requirements for APS employees to disclose conflicts of interest, and that the Commission's guidance could be made more succinct and focused. The report also suggests that some terms used in the Commission's guidelines could be more clearly defined to promote a more consistent understanding of the requirements across APS agencies.

33. The Commission's guidance on official conduct (*APS Values and Code of Conduct in Practice: A guide to official conduct for APS employees and Agency Heads*), including conduct relating to conflicts of interest, is currently under review. The report's conclusions are sensible and will be drawn on as part of that review.

### **Australian Research Council**

34. The Australian Research Council (ARC) agrees with the recommendation and acknowledges the importance of identifying and managing conflicts of interest, particularly in the peer review process. The ARC remains committed to minimising risks relating to conflicts of interest and ensuring its processes are transparent. The ARC regularly reviews its conflict of interest framework to ensure the effectiveness of relevant policies and processes and will continue to monitor compliance with conflict of interest provisions.

### **Department of the Environment**

35. The Department of the Environment agrees with the recommendation. The finding of the report largely relates to processes and practices covered in the Department's management of conflict of interest. The Department acknowledges the positive outcomes of this audit and will use them to further strengthen its approach to its management of conflict of interest.

## Department of Health

36. The Department of Health notes the audit report and agrees with the recommendation.

## Department of Industry

37. The Department of Industry acknowledges the contribution the ANAO makes to ensure that agencies establish sound governance arrangements, promote awareness and encourage public officials to declare real and perceived conflicts of interest.

38. The positive feedback on the Department's framework to address conflict of interest and declaration of interest matters has been appreciated. The Department agrees with the recommendation.

## Department of Social Services

39. The Department of Social Services (DSS) welcomes the findings of the audit report on Managing Conflicts of Interest in Financial Management and Accountability (FMA) Agencies. DSS notes the recommendation that agencies give specific attention to potential conflicts of interest as part of enterprise-wide risk reviews.

40. As part of its ongoing commitment to improving internal risk management practices, DSS is currently reviewing its strategic and operational risks to ensure alignment with the Department's strategic direction. The review will include key business risks and changes in governance practices, including compliance with the *Public Governance, Performance and Accountability Act 2013* which will come into effect on 1 July 2014.

## National Health and Medical Research Council

41. The National Health and Medical Research Council agrees with the recommendation in the proposed report and already has mechanisms in place to implement the recommendation.

# Recommendations

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*The recommendation is based on findings from fieldwork at the audited agencies and is likely to be relevant to other Australian Government agencies. Therefore, all Australian Government agencies are encouraged to assess the benefits of implementing this recommendation in light of their own circumstances, including the extent to which the recommendation, or part thereof, is addressed by practices already in place.*

## **Recommendation No. 1**

### **Paragraph 2.31**

To reduce the risks posed by conflicts of interest, the ANAO recommends that APS agencies as part of their normal enterprise wide risk reviews, give specific attention to conflicts of interest matters. In particular, such reviews should carefully consider the agency's key business risks, changes in APS governance practices and cooperative obligations to stakeholders.

**Australian Institute of Criminology:** *Agreed.*

**Australian Public Service Commission:** *Agreed.*

**Australian Research Council:** *Agreed.*

**Department of the Environment:** *Agreed.*

**Department of Health:** *Agreed.*

**Department of Industry:** *Agreed.*

**Department of Social Services:** *Supported.*

**National Health and Medical Research Council:** *Agreed.*

## **Audit Findings**





# 1. Introduction

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*This chapter provides an overview of the context and legal and policy framework which underpins the management of conflicts of interest in APS agencies. It also includes the audit objective, criteria and scope.*

## Conflicts of interest—the public sector context

**1.1** The success of Australian Government agencies in achieving their objectives is strongly influenced by the effectiveness of governance arrangements, the proficiency and integrity of staff at all levels and the robustness of decision-making processes. As an institution, the Australian Public Service (APS) depends on its integrity to look after the public interest and maintain public trust.<sup>8</sup> To this end, public officials must ensure that decisions or advice are not adversely affected by ‘conflicts of interest’, which are generally regarded as situations in which a person’s private interests<sup>9</sup> influence, or may influence, their public duties. A conflict of interest can also arise from conflicting roles.<sup>10</sup>

**1.2** The appropriate management of conflicts of interest is an issue of significance in the context of the billions of dollars in programs and services that APS agencies deliver each year. Dealing with significant or material conflicts can be critical to the probity of government spending and decisions. At their worst, conflicts of interest can lead to misconduct or fraud.

**1.3** Over the last two decades, collaborative partnerships, co-production, and stakeholder engagement, have become more central to the government’s decision making process. Committees appointed by ministers, for example, draw together expertise from industry, academia, state governments, or community groups to provide advice that is integral to policy design and strategic priority setting. Subject specialists from outside the APS also provide essential knowledge and integrity to support grant selection and procurement activities. While these practices offer many benefits, conflicts of interest are an inherent risk, and can commonly arise.

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8 Australian Public Service Commission (APSC) *State of the Service Report 2012–13, Chapter 3*; and APSC, *Strengthening a values based culture—A plan for integrating the APS Values into the way we work*, 2013.

9 Private interests that conflict with public duties can result from self-interest, private affiliations, or the likelihood of personal gain or loss.

10 Australian Government Solicitor, *Fact Sheet No. 26 Conflict of Interest for tenders, funding programs and other government initiatives*, April 2013. [Internet] available from <[http://www.ags.gov.au/publications/fact-sheets/Fact\\_sheet\\_No\\_26.pdf](http://www.ags.gov.au/publications/fact-sheets/Fact_sheet_No_26.pdf)> [accessed May 2014].

**1.4** Australia, as with many other countries, has generally drawn on international research including through the Organisation for Economic Co-operation and Development (OECD)<sup>11</sup>, to establish suitable approaches to limit the impact of conflicts of interest on public duties. Recent ANAO activity indicates that effective management of conflicts of interest remains an important aspect of accountability in the public sector, and agencies should maintain their vigilance in this regard.

**1.5** A conflict between a person's private interest and their public duty is at times unavoidable, but once a conflict arises, the action taken to resolve the matter is important to reduce its impact.<sup>12</sup> Some conflicts will be simple to resolve; for others, rigorous measures may be necessary to provide assurance that risks are effectively managed. While agencies may choose different approaches to mitigate conflict of interest risks, sound practice includes the incorporation of appropriate policies and procedures into overall governance arrangements and key business practices.

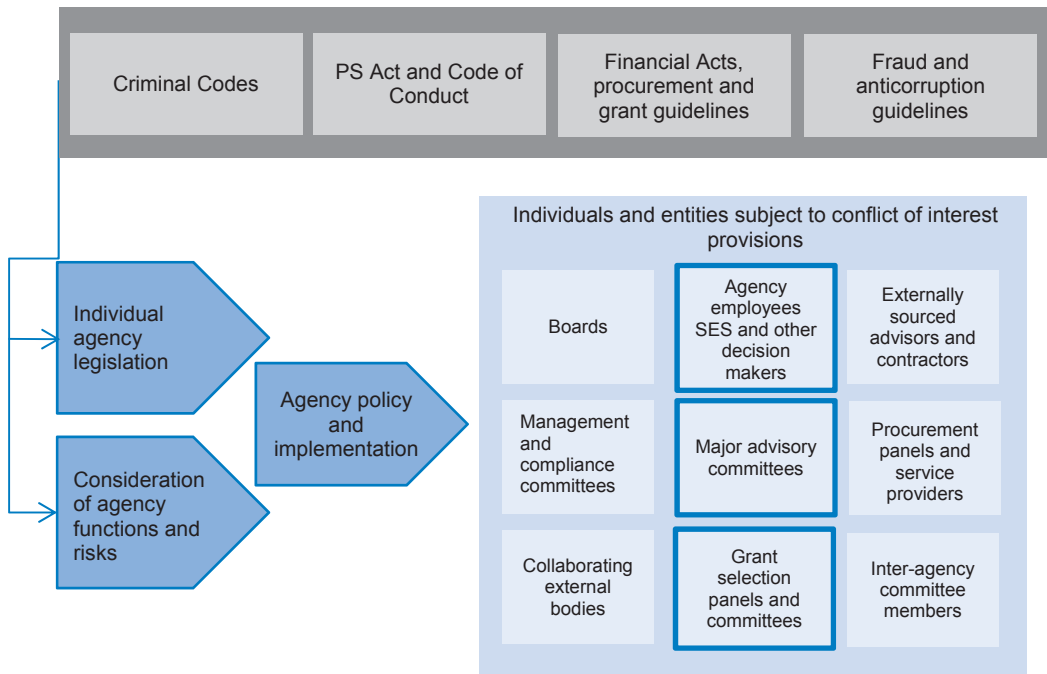
**1.6** By taking a systematic approach to identify and mitigate conflict of interest risks early, agencies can be better positioned to manage conflict of interest situations as they arise. Timely implementation of suitable conflict of interest provisions, complemented by systematic monitoring of compliance, can be particularly important when engaging in higher risk activities, such as: delegating authority to decision-makers or approvers; administering grants or appointing committees who may shape or influence major policy, advice, or financial matters in the public sector. Figure 1.1 shows the elements of the legal and policy environment that influence conflict of interest obligations in the APS.

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11 Publications regarding conflict of interest matters by the Organisation for Economic Co-operation and Development (OECD) include: *Conflict of Interest Policies and Practices in nine EU Member States—A comparative review*, Sigma Paper No.26, 2007; OECD Toolkit for Managing Conflict of Interests in the Public Service, 2005; and *OECD Managing Conflict of Interest in the Public Service—OECD Guidelines and Country Experiences*, 2003, <[http://www.oecd.org/gov/ethics/managing\\_conflict\\_of\\_interest\\_in\\_the\\_public\\_service.htm](http://www.oecd.org/gov/ethics/managing_conflict_of_interest_in_the_public_service.htm)> [accessed May 2014]. Also refer to Appendix 4 for further Australian reference materials.

12 New South Wales Independent Commission Against Corruption (ICAC) *Identifying and managing Conflicts of Interest in the Public Sector*, 2012, p.2.

**Figure 1.1 The legal and policy context for conflict of interest management agencies**



Source: ANAO.

Note: Boxes with heavier blue borders indicate aspects of agency governance and business covered in this audit.

## Identifying and managing conflict of interest

**1.7** There are many commonly used definitions of conflicts of interest in use (see Appendix 3). Generally, conflicts of interest fall into two categories: a conflict of interest or a conflict of role.<sup>13</sup>

- Conflict of private (personal) interest:** a situation in which the impartiality of an officer in discharging their public duties could be called into question because of the influence of personal considerations, financial or other. The conflict in question is between official duties and obligations, on the one hand, and private interests on the other. Conflicts of interest may be:

<sup>13</sup> In this audit report the term 'conflict/s of interest' encompasses conflicts of private (personal) interest and conflict of role.

- *Actual*: a real conflict between an officer's public duties and their private interests or other professional responsibilities.
  - *Potential*: a situation in which an officer has a private or professional interest that, in the future, could conflict with their public duties.
  - *Perceived*: exists where a third party has the view that an officer's private interests could improperly influence the performance of their duties.
- **Conflict of role**: arises when an officer is required to fulfil multiple roles that may be in conflict with each other to some degree. Unless properly handled, such conflicts can impair the quality of working relationships across government organisations and lead to a loss of credibility and effectiveness.

**1.8** Many common public sector processes can themselves present situations that constitute or can give rise to potential or actual conflicts of interest and conflicts of interest cannot always be avoided or prohibited. The type of conflict and the severity of risk it poses to an agency's business or reputation normally influences the extent of action to be taken.

**1.9** It is important for each agency to identify possible sources of conflicts of interest (see Table 1.1), to provide guidance on practices that are acceptable and unacceptable for the agency's particular situation, and implement suitable processes to manage the expected level of risk.

**Table 1.1: Examples of potential conflicts of interest**

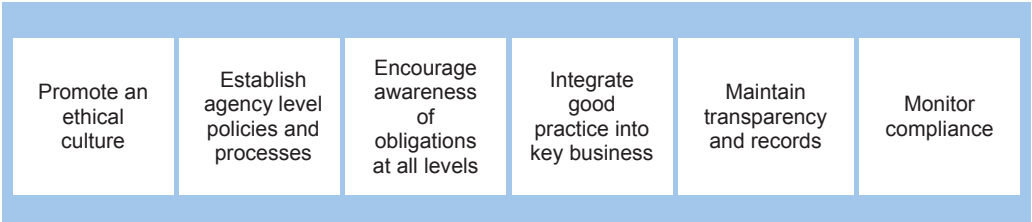
- financial and economic interests, such as debt, assets;
- family or private businesses;
- secondary employment commitments;
- affiliations with for profit or non-profit organisations, and other personal interests;
- obligations to professional, community, ethnic, family or religious groups in a personal or professional capacity;
- enmity towards or competition with another individual or group;
- significant family or other relationships with clients, contractors or other staff working in the same (or related) organisation;
- highly specialised skills in an area where demand for the skills frequently exceeds supply; and
- specific future employment prospects or plans.

Source: New South Wales Independent Commission Against Corruption (ICAC) *Identifying and Managing Conflicts of Interest in the Public Sector*, 2012, p. 2.

**1.10** Effective management of conflicts of interest generally entails implementing principles and procedures designed to give an appropriate level of assurance that decision-making will not be, nor perceived to be, compromised by a lack of impartiality. Significant conflicts of personal interest and role need to be identified, declared and considered within the APS’s ethical framework, which requires officers to act with integrity and impartiality as well as in good faith and in the best interests of the organisation they serve.

**1.11** At the agency level, a structured approach to managing conflicts of interest assists officers to understand and fulfil their obligations (see Figure 1.2). Monitoring compliance with conflict of interest provisions, and regular review to determine the effectiveness of an agency’s policies and processes, can provide additional assurance that risks are being minimised through appropriate governance strategies and actions across the agency.

**Figure 1.2 Key steps to manage conflicts of interest**



Source: ANAO.

**The legal and policy framework**

**1.12** Conflict of interest provisions in the APS are a combination of legislation, policy and administrative guidelines and processes as shown in Table 1.2.

**Table 1.2: Legal and policy framework for conflicts of interest**

**Criminal codes**

Under s. 137.1 of the *Criminal Code Act 1995*, it is an offence to knowingly provide false or misleading information to a Commonwealth agency.

**Public sector legislation and policy**

Provisions concerning conflict of personal interest and public officials can be found in:

- core legislation such as the *Public Service Act 1999*, particularly s.13 Code of Conduct, which sets out responsibilities for ethical behaviour which all public service employees are expected to meet:
  - behave honestly and with integrity in connection with their employment in the APS;
  - disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their employment in the APS;
  - use Commonwealth resources in a proper manner;
  - not make improper use of inside information or the employee's duties, status, power or authority in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person; and
  - at all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS.
- Australian Public Service Commission circulars and guides (currently under review) supporting the APS Code of Conduct with regard to conflicts of interest;
- Commonwealth financial acts, individual statutes that establish organisations, and in the governance protocols of government organisations;
- financial policy and guidance including, the Commonwealth Procurement Rules and the Commonwealth Grant Guidelines; and
- individual agency legislation, which may prescribe conflict of interest requirements, for example, for a chief executive, board or committee members.

**1.13** The *Public Service Act 1999* (PS Act) applies to all 103 APS agencies.<sup>14</sup> The PS Act establishes APS values and behaviours, giving explicit legislative force to the Parliament's expectations in relation to the performance and accountability of public servants in general, and of agency heads in particular. Within this overall framework, agencies develop and implement their own agency-specific policies to manage conflict of interest. Timely implementation of suitable procedures within an agency can assist in the early identification of conflicts of interest and allow these to be handled appropriately, before they give rise to allegations of misconduct or undermine the reputation of the agency.

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14 APSC, *State of the Service Report 2012–13*, p. xvi.

## Audit objective, scope and criteria

**1.14** The audit objective was to determine whether Australian Government agencies were implementing appropriate policies and processes to identify and manage conflicts of interest. To form a conclusion against the audit objective, the ANAO adopted the following high level criteria:

- agencies have appropriate policies and procedures to manage potential or actual conflicts of interest and the risks these may pose; and
- agencies implement and monitor conflict of interest processes consistent with their own policies.

**1.15** In particular, the audit focused on identifying elements of better practice, with a view to improving guidance and practices across APS agencies. The audit included all Departments of State and six statutory agencies.<sup>15</sup> The audit was conducted in two main phases:

- Phase 1—focused on an assessment of the conflict of interest policies and processes in place in 25 agencies. This included completion of a survey by each agency and provision of supporting documents to ANAO for assessment.
- Phase 2—included fieldwork in eight of the 25 agencies to assess the implementation of conflict of interest policies and practices in two common elements of APS business:
  - major advisory committees; and
  - peer reviewed grant selection.

**1.16** The audit process included: an examination of reference material and agency documents and records; interviews with agency executives, operational staff and committee chairs; and observation of grant selection panel proceedings in two large granting agencies. It also examined conflict of interest registers and the declaration process for SES officers.

**1.17** The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of some \$560 000.

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<sup>15</sup> The audit did not cover *Commonwealth Authorities and Companies Act 1997* bodies or include procurement activities or contracts. Audit fieldwork was conducted in the period prior to the introduction of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The PGPA Act will be supported by rules which are expected to be implemented in the second half of 2014.

## Report structure

1.18 The structure of the report is outlined in Table 1.3.

**Table 1.3: Report structure**

Chapter	Description
Chapter 2 – Agencies' Conflicts of Interest Policies and Procedures.	This chapter examines agencies' policies and processes for maintaining awareness of and managing conflicts of interests.
Chapter 3 – Advisory Committees.	This chapter examines practices relating to the management of conflicts of interest for APS advisory committees.
Chapter 4 – Peer Review Grant Selection.	This chapter examines agencies' practices to minimise the occurrence and impact of conflicts of interest in the selection of competitive peer reviewed grants.



## 2. Agencies' Conflict of Interest Policies and Procedures

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*This chapter examines agencies' policies and processes for maintaining awareness of and managing conflicts of interests.*

### Introduction

**2.1** Conflicts of interest can occur across a broad range of public sector operations. Whether conflicts involve personal or professional, financial or non-financial, or real or perceived matters, they are best dealt with as early as possible. Conflicts need to be identified, declared and considered within the Australian Public Service's (APS) ethical framework, which requires officers to act: with integrity and impartiality; in good faith; and in the best interests of the organisation they serve.<sup>16</sup>

**2.2** The precise course of action an agency takes to resolve a conflict of interest will depend on the nature and severity of the situation and its likely impact. However, taking a systematic approach to the identification and management of conflicts of interest can better position an agency to mitigate business and reputational risks. In this respect, timely implementation of suitable conflict of interest policies and procedures, positions agencies to identify conflicts early and put in place appropriate management actions.

**2.3** This chapter examines the extent to which agencies have established suitable conflict of interest policies and procedures. It reviews: mechanisms used by agencies to promote awareness of conflict of interest obligations; and implementation of declaration of personal interest requirements, particularly for the Senior Executive Service (SES).

### Conflict of interest arrangements in the Australian Public Service

**2.4** For APS employees, conflict of interest requirements sit within the broader framework of ethical conduct established by the *Public Service Act 1999*

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16 Sections 10 and 13 of the *Public Service Act 1999* refer to the APS Values and the APS Code of Conduct. These messages are reinforced through APSC guidance such as *In Whose Interest*, 2008, which is currently being reviewed.

(PS Act) and Code of Conduct. The Code is mandatory for all APS employees and carries sanctions that can be imposed for non-compliance:

The APS Values and Code are not simply aspirational statements of intent. They are mandatory. A breach of the Code of Conduct can result in sanctions, ranging from a reprimand to termination of employment. All APS employees are required to uphold the Values and comply with the Code. Failure to do so may attract sanctions. Agency heads (and the Senior Executive Service) are required also to promote the Values. The Public Service Commissioner is empowered to evaluate the extent to which agencies incorporate and uphold the Values and the adequacy of systems and procedures to ensure compliance with the Code.<sup>17</sup>

**2.5** Agency heads and senior executives have a key role in ensuring that all governance arrangements, including those which involve external advisors (for instance, committees, boards and selection panels), operate in a manner that would not bring disrepute upon a government agency. In discharging their responsibilities<sup>18</sup>, agency heads are expected to establish an ethical culture and good management practices at all levels of the agency. Normally this includes incorporating conflict of interest provisions into key governance arrangements and providing relevant officials access to information that is appropriately tailored to address specific agency needs where necessary.

**2.6** The Australian Public Service Commission (APSC) has produced guidance material to assist agency heads in promoting good management of conflicts of interest.<sup>19</sup> When developing agency conflict of interest policies, guidelines or procedures, it is important that agencies are also consistent with key government legislation such as the PS Act, the *Privacy Act 1988*, and other guidance where required such as the Commonwealth Grant Guidelines. Effective arrangements generally incorporate sufficient controls to give an appropriate level of assurance that decision-making or advice are not compromised by a lack of impartiality. Good practice also includes applying a level of rigour commensurate with an agency's strategic and operational risks.

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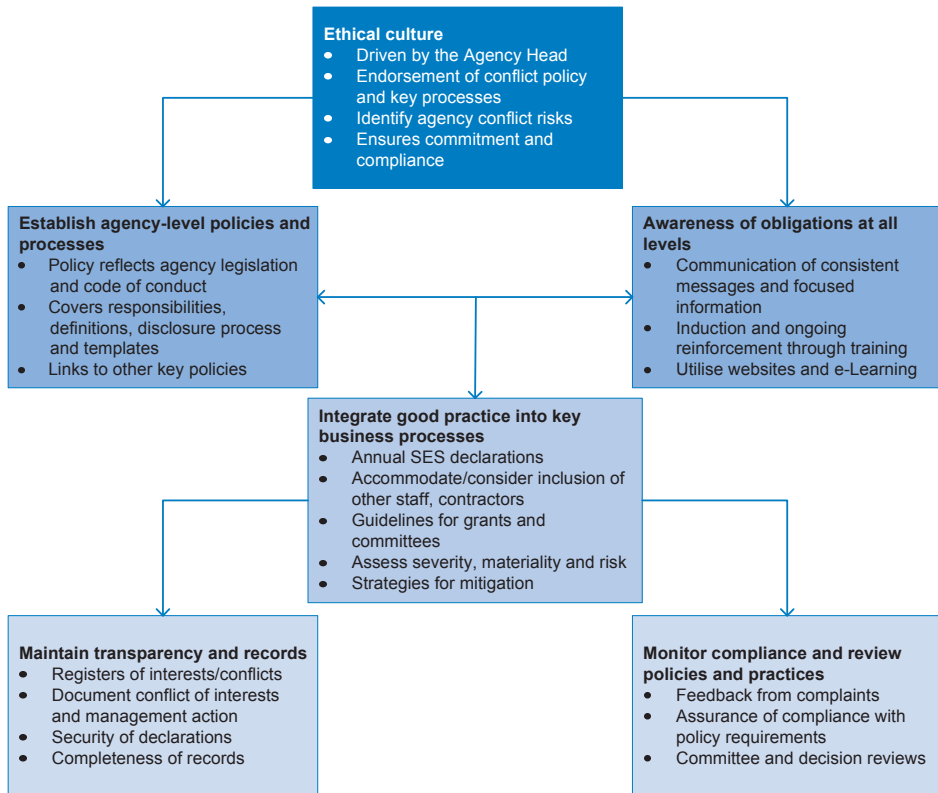
17 APSC, *APS Values and Code in practice, Section 1.1, The APS—Defined by Values*. [Internet] available from <<http://www.apsc.gov.au/aps-employment-policy-and-advice/aps-values-and-code-of-conduct/aps-values-and-code-of-conduct-in-practice/the-apsdefined-by-values>> [accessed May 2014].

18 Refer to Part 7 of the *Financial Management and Accountability Act 1997* and section 102(c) of the PGPA Act.

19 Refer to Appendix 4 for a list of reference materials.

2.7 Figure 2.1 illustrates a model for managing conflicts of interest which incorporates key elements of legislation and policy, APSC guidance on conflict of interest management and general good governance practice. This approach was observed in several agencies during the audit.

**Figure 2.1 An approach for conflict of interest management**



Source: ANAO.

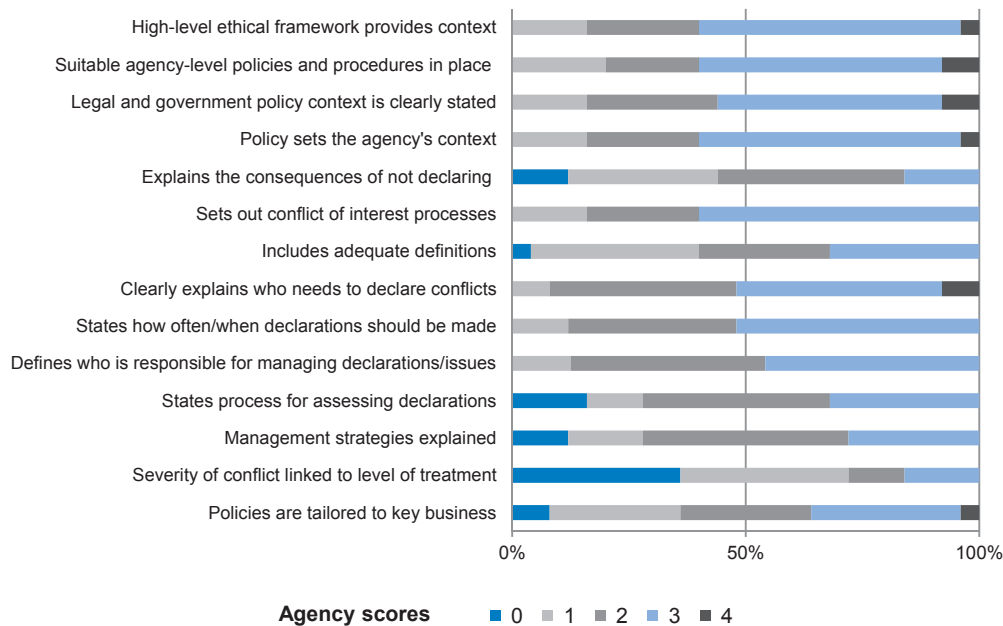
## Sound policies and guidelines

2.8 Ideally, an agency's conflict of interest policy is part of its broader governance and risk management arrangements, and is endorsed by the agency head. A suitable policy clearly sets out how core APS values and specific agency needs can be effectively integrated to provide transparent and accountable decisions and support a culture of integrity. Well-documented roles and responsibilities, and protocols for effective operation are also important. Effective disclosure and management of conflict of interest can be supported by communicating: clear definitions of the different types and

sources of conflicts of interest; disclosure principles; and the process for risk mitigation and ongoing management of conflicts of interest.

**2.9** The ANAO assessed high-level policy and procedures in terms of clarity and quality of content in 25 agencies. Figure 2.2 shows a compilation of agency scores for 14 criteria used during the assessment.

**Figure 2.2 ANAO analysis of agency policies and procedures**



Source: ANAO assessment of policies and procedural documents provided by agencies. Also see Appendix 5.

Key: 0 = nothing in place or criterion not met;  
1 = below acceptable standard, for example little or no policy element in place or many key elements lacking;  
2 = generally acceptable, although the agency could strengthen some key areas;  
3 = generally good practice; and  
4 = higher level of practice—demonstrated good practice against a specific criterion.

**2.10** Policies examined in the 25 agencies were diverse in terms of quality, structure, content and focus. The more informative and well-structured approaches tended to incorporate an overarching ethical conduct manual or framework document, with specific conflict policies, guidelines and protocols at the operational level (for example, for grant rounds). Some agencies had successfully developed agency-level ethical conduct policies inclusive of conflict of interest chapters, or a suite of policies and guidelines covering several key aspects of conflict of interest management. These provided a sound

framework for the management of conflict of interest issues. In many instances, policies had been tailored to fit the business and risk profile of an agency, promoting a fit-for-purpose approach. Table 2.1 provides a more detailed summary of findings from the assessment with regards to key elements of agencies' policies and practices.

**Table 2.1: Findings from the ANAO's assessment of agency conflict of interest policies and practices**

Key element	ANAO findings and comments
<b>Clear purpose</b> Policy provides a clear focus of intent, overall expectations and outcomes.	In the majority of cases the intent of policies was clear, although coverage of all employee levels or types (for example, contractors) was not always specified. Expectations were often clearer in agencies that had an overarching conflict of interest policy in place, as this provided a stronger focus to link to other policies related to conflicts of interest and ethical behaviour.
<b>Agency context</b> Helps to promote awareness of the ethical, legal and policy basis of conflict of interest arrangements; emphasises the agency perspective and key risks.	Agencies were relatively consistent in conveying the legislative and policy basis of conflict of interest provisions. However, a significant number of policies lacked tailoring to capture the agency perspective, or identified key risks or key business focus. The generic nature of some policies provided little real benefit in addition to general APSC guidance.
<b>Roles and responsibilities</b> Gives clarity and direction for those who must declare, manage, monitor and review conflicts of interest.	Overall the core responsibilities of SES and other APS staff to declare conflicts were conveyed through agency policies. Processes for the declaration and monitoring of general staff were less apparent; responsibility often delegated to local level and with monitoring roles not well defined.
<b>Definitions</b> Contributes to consistent understanding of conflict of interest issues.	Definitions varied between agencies and were not always included. This may have been a reflection of the variability of definitions and terminology in APS guidance material. Better clarity of definitions across the APS could be useful in improving consistency of guidance material and general understanding of concepts such as 'material', 'severity', and 'apparent' and 'potential'.
<b>Process for disclosure (declaration of interests)</b> Reinforces obligations and encourages consistent implementation of the policy and appropriate management of conflicts.	All agencies outlined a process for SES annual disclosure of interests. For several agencies non-SES procedures were less apparent. While disclosure obligations for SES officers were usually clearly defined, in several agencies, the process for identifying non-SES officers who should declare interests (those in sensitive positions for example) were less clear. Declaration templates were often self-explanatory, but could have been strengthened in most instances by the inclusion of a management plan for significant conflicts.
<b>Assessment and management strategies</b> Relates materiality and significance to the level of action required to mitigate risk in different situations.	Overall, this is an area which most agencies could strengthen. There were good examples, including: strong approaches by granting bodies, who identified low, medium and high risks for different types of conflicts; linking of severity to mitigation strategies; and in one agency, a traffic light system to flag significant SES conflicts of interest.

Key element	ANAO findings and comments
<b>Use of examples</b> Assist in interpretation of the policy and its objectives.	The clarity and interpretation of conflict of interest policies is significantly enhanced when agencies use suitable examples. Less than one third of agencies used examples, suggesting that this is a potential area for improvement.

Source: ANAO analysis.

**2.11** In general, the most usefully structured and easily interpreted policies were those which:

- aligned with the requirements of the APS code of conduct and sat within the agency's broader ethical conduct policy;
- defined conflict of interest responsibilities for all staff, and in particular: obligations and procedures for annual SES disclosure of financial and private interests and how these would be assessed and managed;
- included disclosure arrangements for individuals working on behalf of the agency, including external advisors, committee and panel members and contractors;
- contained, or linked to, high quality guidance material and templates (forms), normally including clear definitions, responsibilities and instructions to assist individuals in the identification, declaration and management of conflicts of interest;
- took account of the specific business and risks of the agency, setting the context and policy for integration of conflict of interest management process into key business practices;
- incorporated guidance for determining the severity and materiality of conflicts of interest and options for managing low to high risk situations;
- used examples to help emphasise acceptable and unacceptable practice; and
- outlined key requirements for good record keeping, monitoring and review of conflict of interest provisions and processes, including compliance.

**2.12** At the other end of the spectrum, a number of agencies<sup>20</sup> demonstrated comparatively less informative conflict of interest policies and procedures, lacking many of the aforementioned characteristics. These agencies would find benefit in strengthening their approach to focus more on the essential elements and to present information in a more organised or consolidated way. Areas most frequently requiring improvement included:

- ensuring that the conflict of interest policy emphasised the agency context (including risks) and expectations for all employees, as well as external advisors/bodies who have the potential to influence recommendations or decisions;
- greater clarity and control of the disclosure requirements and process for non-SES officials, including clearly identifying those who should make annual declarations, the extent of disclosure required, and arrangements for monitoring and updating of non-SES declarations;<sup>21</sup>
- explaining concepts such as the severity and materiality of conflicts and the process for assessing conflicts;
- incorporating into policies a range of management strategies, clearly indicating the circumstances in which they are likely to be initiated;
- ensuring that the consequences of not declaring personal interests or conflicts of interest are stated to all officials and particularly to committee members and grant assessors; and
- providing adequate definitions and using consistent terminology across each of the agency's conflict of interest documents, to ensure a consistent understanding by staff or committee members.<sup>22</sup>

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20 Based on the ANAO's examination of policies. This finding was irrespective of the size of the agency and did not appear to be consistently related to high or low risk agencies.

21 Some agencies had addressed this weakness by collecting annual declarations from all agency staff, using electronic systems to monitor compliance.

22 The majority of agencies had either directly applied or slightly adapted commonly used definitions, including concepts of actual, potential and perceived conflicts of interest. Terms less consistently used and defined included: significance; severity; and materiality. Adequately defining key terminology can be important, particularly in the context of managing the agency's risks and applying appropriately scaled conflict mitigation strategies.

# Strategies to promote awareness and integration of good practice

**2.13** Policies and guidelines, together with strategies to communicate clear and consistent messages must be accessible to employees and other individuals who have an advisory role, conduct business on behalf of the agency or government, or who may work on particular matters with departmental staff. It is important in this respect to achieve awareness of conflict of interest issues and reduce risks to the agency and individuals by providing an environment and framework conducive to managing conflicts effectively and cooperatively.

**2.14** Agencies reported a range of communication strategies to help employees and other individuals to understand their obligations and comply with conflict of interest disclosure requirements (see Tables 2.2 and 2.3).<sup>23</sup> While all agencies provided some level of conflict of interest information on their intranets, a few also had placed conflict of interest policies (sometimes including committee or grant conflict of interest guidelines or manuals) on their public websites. This not only added to public transparency, but allowed other agencies to access and share information.

**Table 2.2: Agencies’ key conflict of interest information**

The agency has:	Percentage of agencies	ANAO comment based on document review
An agency-level conflict of interest policy	84	Quality ranged from excellent through to very minimal approach.
Chief Executive’s Instructions concerning conflict of interest policies or issues	88	These usually contained very little information on conflict of interest.
A documented process for reporting conflict of interest in the agency	100	Present in all agencies, although often less clear for non-SES than SES.
Forms/templates for declaring potential or actual conflicts of interest	96	Adequate to very good quality forms were present in most agencies. Several agencies had added to the APSC template, usefully tailoring it to agency specifications and requirements, or to improve collection of relevant information.

23 The effectiveness of such strategies was further examined in audit Phase 2 (additional fieldwork), and is discussed in Chapters 3 and 4.



The agency has:	Percentage of agencies	ANAO comment based on document review
Definitions of what constitutes a conflict of interest in the agency	96	Some agencies did this well, but there is considerable variation in terminology, and definitions were not always included in key agency documents.
Case studies and examples	64	When included, examples and case studies were generally useful in providing context, generating a better understanding of agency policies and processes.
Conflicts of interest checklist/s	40	While these agencies reported using checklists, documentation supported this in only a few agencies. No consistent use of checklists was evident across the agencies.
Conflict of interest policies, procedures or other guidance for advisory committee members or Council members	76	Many agencies submitted committee handbooks or other guidance material. The quality of these ranged from highly to less informative. Refer to Chapter 3 for further discussion.
Conflict of interest policies, procedures or other guidance for grant selection committees	76	Quality and content was variable but functional in the majority of cases examined. Refer to Chapter 4 for further discussion.

Source: ANAO survey and document review.

**2.15** According to survey responses (Table 2.3), around half of the 25 agencies conducted formal training courses and/or used e-learning. Both of these can be particularly valuable as part of the normal induction process for new staff members. In some cases, agencies required, or encouraged, officials to complete e-learning modules annually, to reinforce awareness of conflict of interest obligations in conjunctions with the annual declaration processes.

**Table 2.3: Communication methods used to inform staff about identifying and managing conflict of interest**

Methods used	Reported use (percentage of agencies)
Documents are located on the agency's intranet	100
Staff supervisors or program managers	72
Staff circulars or newsletters	56
Formal training courses (internally or externally run)	56
Refer staff to externally produced information (for example APSC guidelines)	52
e-learning	48
Ad hoc workshops	36

Source: ANAO survey responses, June 2013.

## Declaration of personal interest procedures—APS employees

**2.16** The PS Act section 13 (Code of Conduct) requires all APS employees ‘to be aware of and to avoid or manage real and perceived conflicts of interest’. The APSC Circular (2007/1) provides a framework for the annual declaration of personal interests by APS employees, and specifically by all SES officers. APSC Circular 2007/1 states that agencies should have procedures in place that:

- help all employees to understand the importance of avoiding real or apparent conflicts of interest in public employment;
- require all employees to notify managers about private interests, both financial and personal, where they could present real or apparent conflicts with their official duties; and
- provide guidance to managers and employees on strategies and good practice in avoiding or managing conflicts of interest...

Because of their leadership and decision-making roles, all agency heads and all SES, employees, including those acting in SES jobs for longer than three months, are covered by the declarations of interests policy...

The policy covers non-SES ‘whose responsibilities also require them to be particularly transparent about their private financial and personal interest...’

The extent to which the policy is applied to non SES employees in each agency will depend on assessments of the sensitivity of the work, the administrative and resource implications and the risks involved. It is important to remember that all employees are required to identify and manage conflicts of interest, irrespective of whether they are required to make a declaration

**2.17** The ANAO assessed policies and procedures for 25 agencies and examined implementation and compliance with annual SES disclosure requirements in eight of the agencies (see Table 2.4).<sup>24</sup>

### **Implementation of disclosure of private interests policy**

**2.18** Of the 25 agencies, all had some form of SES declaration process in place. Policies generally: indicated how declarations should be made; provided staff with self-explanatory templates to encourage consistency; followed the APSC template format and content; and included a list of the types of conflicts to disclose, consistent with that found in the APSC guidelines.<sup>25</sup> Responsibilities and the process for submitting declarations were generally well articulated, although mechanisms for the assessment and review of declarations were at times ambiguous. Management plans and registers were incorporated into some agencies' practices, to ensure ongoing consideration and monitoring of significant conflicts. These assisted in appropriate recording of conflict issues and any mitigation action undertaken.

**2.19** Importantly, the APSC policy covers non-SES officers 'whose responsibilities also require them to be particularly transparent about their private, financial and personal interest'. Declaration practices for non-SES officials were, in several agencies, less defined than for SES. In some cases, it was not apparent how agencies identified or managed conflicts for these officials, with less clarity around the mechanism for disclosure and its documentation and review. While several agencies had effectively implemented central coordination and secure storage for SES declarations, non-SES arrangements were more variable, frequently delegated to local (for example branch) level. While such delegation is useful and appropriate, it can create inconsistency of practice and make compliance with policy requirements more difficult to monitor.

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24 The assessment included a review of procedural documents from all agencies, staff interviews, and a demonstration of electronic systems (where they were in use) in selected agencies.

25 APSC Circular 2007/1.

## Compliance with mandatory disclosure of interest provisions

**2.20** As previously stated, SES declarations (and those for other staff where indicated) must be revised annually, and should also be updated when situations (personal or agency) change. Agencies had implemented a range of measures to improve compliance in this respect, including:

- inclusion of all staff (SES and non-SES) in the annual reminder for disclosure of private interests;
- revision of SES declarations following agency re-structures and Machinery of Government changes;
- designating a particular date (or month) in which SES declarations were due, to help improve compliance;
- maintaining a register of senior executives statements of private interest; and
- inclusion of a management plan in conjunction with the declaration of private interests, and regular monitoring of this.

**2.21** Agencies also reported that simple measures such as sending out regular reminders to staff and rigorous follow up on individuals who failed to make an annual declaration, had helped to improve performance and assure compliance. Those agencies using electronic declaration systems also demonstrated improved capacity to monitor conflicts of interest and report on compliance issues.

**Table 2.4: ANAO assessment of the annual SES declaration of interests process**

Criteria	Consolidated results
SES declaration process is transparent	All eight agencies clearly explained the processes, either in policies or as explanatory notes and declaration templates, and/or in annual reminder emails. Most had information available on intranet and in general agency policies.
Compliance with annual declaration requirement (approximate per cent)	Four agencies achieved around 100 per cent compliance, two achieved 80 per cent and one 70 per cent. Two did not submit sufficient evidence to confirm the level of compliance. Half of the agencies commented that pursuing staff to make annual declarations could be a lengthy process. Agency persistence, particularly though centralised coordination of declarations, was a key factor in achieving a higher level of compliance.

Criteria	Consolidated results
Central register maintained	Most agencies maintained a central register of some form. Three agencies had electronic systems which provided useful monitoring capacity. The rest were paper-based, but provided adequate to good mechanisms for storage of declarations.
Secure storage of declarations	Most agencies demonstrated centralised, suitably secure storage of declarations. Not all agencies had an appropriate security rating on the declaration forms.
Monitoring and reminders are in place	All agencies could demonstrate an annual reminder to SES. Not all had sent out a general reminder to all staff.
Extension of the declaration process to non-SES staff	Three agencies collected declarations from all staff. Three others confirmed that non-SES with particular roles were asked to declare their interests, which were entered on the register.

Source: ANAO analysis.

## Revision of APS conflict of interest publications

**2.22** Agencies have drawn on APSC Circular 2007/1 and a range of guidance material in developing their conflict of interest policies and procedures, including for SES.<sup>26</sup> These are intended for general reference and use, with agencies encouraged to make refinements to meet their particular circumstances.

**2.23** ANAO observations and agency comments during the audit indicated some ambiguities across various APSC publications, which could be reduced by: less variance in terminology; clearer discussion of mandatory and non-mandatory aspects of the government's conflict of interest policy; and/or consolidation of information.

**2.24** The APSC advised that its conflict of interest guidelines were due to be revised, and this would be undertaken as part of a wider revision of APSC ethical framework publications in 2014. In undertaking their revision, the APSC indicated that it could take into consideration some existing gaps and ambiguities in its current suite of information, to ensure that agencies have consistent and sufficient information to assist them in establishing agency policies. Useful improvements would include:

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26 The APSC website provides general guidance and declaration proformas available from [www.apsc.gov.au/publications-and-media/](http://www.apsc.gov.au/publications-and-media/).

- making the mandatory nature of the code of conduct and requirements for SES annual declarations more apparent;
- consolidating policy regarding conflict of interest to improve accessibility;
- reviewing terminology to provide greater consistency and clearer definitions; and
- expanding information on conflict of interest requirements for externally sourced advisors and committee members, in the context of the PS Act and Code of Conduct.

### Selected case studies

**2.25** The following examples in Table 2.5 demonstrate approaches taken by agencies to encourage timely annual conflict of interest declarations, and improve overall monitoring and compliance.

**Table 2.5: Selected case studies**

Improving agency compliance
Austrade’s conflict of interest policy requires all staff (SES and non-SES) to make an annual declaration of private interests, and to update this in the event that personal interests or situations change. The agency operates an electronic system for the submission and storage of declarations, and actively pursues staff to provide annual updates. They are able to generate regular reports from the system to alert them to new starters, so that conflicts of interest requirements can be explained and met.
Flagging of significant conflicts
The Department of Environment maintains an electronic register for SES and staff in other sensitive or high risk positions, and a ‘traffic light’ approach to alert the Secretary to significant conflicts of interest or high risk private interests. SES officer’s declarations are provided to the Secretary in hard copy, with a printout of the register and highlighted red, orange and green lights, so that significant conflicts are brought to their attention and appropriate action can be discussed and monitored.
Use of a management plan and regular updating of declarations
The Department of Health includes a management plan as part of their declaration of interest template. Officers with significant personal interests are required to include a written mitigation plan (management plan) which is discussed with the designated senior executive. The department actively pursues officers to review and update declarations. Agency policy is also to check and update declarations after agency reorganisations, after moving to a new position, or with machinery of government changes.

Source: ANAO analysis.

## Conclusion

**2.26** To uphold the reputation and integrity of the APS, all employees are expected to maintain ethical behaviours consistent with the Public Service Code of Conduct. However, it is not always possible to avoid situations where private interests may, or are perceived to, influence public duties. In these instances, timely identification and mitigation of conflicts of interest risks can help to prevent misunderstandings, misinterpretation or misconduct from occurring.

**2.27** Government legislation and policy give agency chief executives responsibility for promoting ethical behaviour among APS employees, including establishing policies and guidelines concerning the management of conflicts of interest. Of the 25 agencies assessed, most demonstrated an acceptable to good level of awareness of conflict of interest policy and issues, and a structured approach to conflict of interest declaration and mitigation. Most agencies had policies and procedures in place, and while several were of a high standard, a significant number of agencies would benefit from strengthening particular areas of policy and practice. A small number required more extensive review and improvement of their conflict of interest arrangements.

**2.28** Common weaknesses included: guidance material frequently lacking key information; no top-level policy in place or little or no tailoring to agency needs; unclear guidance for determining the severity of conflicts or specific management strategies. Greater use of management plans and registers to record conflicts and the mitigation applied to declare conflicts of interest, could help some agencies improve the visibility of outcomes.

**2.29** Government policy specifies mandatory requirements for the annual disclosure of interests for Senior Executive Service (SES) and other officers in sensitive positions. In a sample of eight agencies, the number of SES officers completing annual declarations ranged from 70 to 100 per cent. Policies and processes were often ambiguous in relation to non-SES officers to whom the SES provisions might apply. Delegation to Branch level, while logistically desirable in larger agencies, made monitoring and determination of compliance difficult. Greater clarity in these areas would strengthen assurance that all decision makers and staff in sensitive positions were declaring interests, as required.

**2.30** There would be benefit (in terms of public confidence and internal accountability) if in all agencies' policies and procedures: are tailored to key business and risks of their agency; provide consistent and relevant messages; prompt declarations of conflicts of interest for all relevant staff; encourage the

best use of registers; and include monitoring of compliance with mandatory requirements and performance in line with better practice.

## **Recommendation No.1**

**2.31** To reduce the risks posed by conflicts of interest, the ANAO recommends that APS agencies as part of their normal enterprise wide risk reviews, give specific attention to conflicts of interest matters. In particular, such reviews should carefully consider the agency's key business risks, changes in APS governance practices and cooperative obligations to stakeholders.

**Australian Institute of Criminology:** *Agreed.*

**Australian Public Service Commission:** *Agreed.*

**Australian Research Council:** *Agreed.*

**Department of the Environment:** *Agreed.*

**Department of Health:** *Agreed.*

**Department of Industry:** *Agreed.*

**Department of Social Services:** *Supported.*

**National Health and Medical Research Council:** *Agreed.*



### 3. Advisory Committees

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*This chapter examines practices relating to the management of conflicts of interest for APS advisory committees.*

#### Introduction—Committees in the APS

**3.1** Committees have an extensive and important role across the APS. The number of committees varies significantly between agencies, depending on agency functions and responsibilities. Established as either statutory<sup>27</sup> or non-statutory committees, many assume high level strategic, leadership or accountability roles, providing direction and advice to ministers or agency heads on a wide range of matters. Different types of committees can include advisory committees, boards of statutory authorities, policy coordination committees, research committees, tribunals, boards of public trading enterprises, registration boards and appeal boards. The APSC specifies the four main purposes of boards and committees are:

- a) to guide and direct an organisation;
- b) to determine, monitor and regulate practices, grant licenses and investigate complaints;
- c) to coordinate policies, plans or projects across portfolios; and
- d) to advise and make recommendations to ministers and agencies about government programs and policies.<sup>28</sup>

**3.2** Members of advisory committees are generally selected for their specialist knowledge and may include stakeholders sourced from other government jurisdictions, academia, industry, the community or special interest groups. While there are obvious advantages in appointing the most qualified or highly experienced members, their expertise (or external role) can also present inherent conflict of interest risks for the agency. Effective management of these risks entails agencies and committee members working together to identify, declare and manage significant conflicts.

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27 Statutory committees are established and operate under specific legislation, which can stipulate membership and reporting requirements.

28 APSC, *Code of conduct in practice*, section 4.11 *Conflict of Interest*. [Internet] available from <<http://www.apsc.gov.au/publications-and-media/current-publications/aps-values-and-code-of-conduct-in-practice/conflict-of-interest>> [accessed May 2014].

**3.3** This chapter examines advisory committee conflict of interest arrangements drawing on information attained through: the ANAO survey and high level document review of 25 agencies; and an assessment of protocols and practices for nine advisory committees. Members of statutory committees are statutory office holders.<sup>29</sup> Non-statutory committees are usually appointed by a minister or the chief executive, and have roles and responsibilities conferred through letters of appointment. These members are usually asked to sign a confidentiality and declaration of independence and/or conflict of interest disclosure document. Of the nine committees examined by the ANAO six were statutory committees, and each of the committees had between six and 17 members. Each committee had a substantial role in advising the agency's chief executive and/or the minister on a range of policy and program matters spanning tourism, immigration, industry, health and the environment, and a broad range of research programs.

## Legislation and policy considerations

**3.4** Under the *Public Service Act 1999* (PS Act) members of statutory committees are bound by the APS Code of Conduct in the same way as APS employees.<sup>30</sup> Specific arrangements for disclosure of interests may also be embedded in the agency, program or committee-specific legislation. Legislative and policy arrangements for non-statutory committees have a less formal basis,<sup>31</sup> but are implicit through generally accepted good governance practice, and the extension of APS ethical framework to all functions undertaken in the APS. For example it was common practice in the audited committees for members and chairs to sign a statement prior to, or on, appointment agreeing to disclose significant conflicts of interest that may affect them from carrying out their public role.<sup>32</sup>

**3.5** In establishing committees, agencies should take all reasonable steps to make sure that members contribute to public roles in an ethical manner,

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29 Section 14(3) of the PS Act states that a statutory office holder means a person who holds any office or appointment under an Act, being an office or appointment that is prescribed by the regulations for the purposes of this definition.

30 PS Act, sections 13 and 14(3).

31 The APSC advised that non-statutory committee members were not covered by the PS Act, and that APSC guidance material also did not cover these committee members.

32 For example, a *Private Interests Declaration* form was used by most committees. Agencies also had developed their own declaration guidelines and forms for non-statutory members of advisory committees.

consistent with normal APS standards. The ability to identify and effectively manage conflicts of interest is vital for those involved in implementing government initiatives and performing government-appointed roles.<sup>33</sup> Committee terms of reference and operational guidelines would therefore normally reflect the Code of Conduct principles and provide specific guidance for members to disclose conflicts that could unduly influence the impartiality or reliability of the advice they provided to government.

## The extent of committee guidance

**3.6** To support good practice in disclosing conflicts of interest, agencies should establish and disseminate suitable policies and guidelines. New committee members can be assisted with information emphasising roles, responsibilities and key processes for the disclosure and management of conflicts. Secretariats and agency officials should also follow agreed protocols to support internal administration of disclosures and meeting processes.

**3.7** The ANAO surveyed 25 agencies to ascertain the extent and coverage of agency policies and procedures for declaring and managing committee members' conflicts of interest. Of these, 23 indicated having major committees with externally sourced members. Table 3.1 summarises the agencies' responses to further committee related questions, particularly in relation to activities undertaken to manage conflicts of interest.

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33 Australian Government Solicitors, *Fact Sheet No. 26, Conflicts of interest for tenders, funding programs and other government initiatives*, April 2013. Available from [www.ags.gov.au/pub:ications/fact\\_sheets /fact\\_sheet\\_No\\_26.pdf](http://www.ags.gov.au/pub:ications/fact_sheets /fact_sheet_No_26.pdf) [accessed May 2014].

**Table 3.1: Summary of agency responses to the ANAO survey**

**Policies and procedures**

In the ANAO survey 23 agencies reported having major committees in which two or more of the committee members were externally sourced. Of these 23 agencies:

- 18 had policies and procedures specifically for advisory committee members; and
- 4 reported that advisory committee policies and procedures were either under development or not in place.

**Declaring conflicts of interest**

Regarding mechanisms to encourage committee members to recognise and manage conflicts of interest matters appropriately:

- 19 agencies reported using instruction and oversight through committee chairs;
- 21 reported that declaration of conflicts of interest was a regular item on committee meeting agendas; and
- 17 agencies reported using annual reminders to update personal declarations of conflicts of interest, however:
  - 11 reported always doing an annual update;
  - 7 reported doing this task most of the time;
  - 3 reported that they annually updated disclosures less than half the time or not at all; and
  - One agency reported that annual updates of disclosures did not apply to that agency.

**Monitoring**

- 17 agencies reported that they mostly or always monitored the adherence of committees to the conflict of interest policies and procedures, while 4 reported 'not at all' or 'not sure'. One agency reported that monitoring adherence to policies and procedures did not apply to that agency.
- 15 agencies reported that they always reviewed committee members' declarations and take action where required, while 6 reported that they mostly do this task. One agency reported that they were not sure if they reviewed declarations.

Source: ANAO survey responses.

**3.8** Of the agencies that reported having major advisory committees, several provided overarching or consolidated committee guidelines outlining procedures to support the transparency and accountability of committee business. In most examples, these guidelines sufficiently explained agencies' expectations for disclosing private interests, referring to code of conduct principles. A smaller number of agencies provided significantly more comprehensive guidelines, giving greater focus to the overall risks facing the agency and emphasising public obligations and reputational risks.

**3.9** To provide a more detailed analysis of conflict of interest practices, the ANAO examined a sample of nine committees to determine the quality and suitability of committee guidelines and their application. While there was some variation in content, structure and detail, over half of the guidelines

provided a useful reference for committee members and chairs to declare their conflicts. The better examples included:

- well defined roles and responsibilities for members, chairs, observers and support staff;<sup>34</sup>
- key agency risks and examples or lists of the types of conflicts that members should declare;
- practical forms, instructions and registers for clearly recording and monitoring conflicts of interest;
- details of the process for assessing the severity of members' conflicts of interest and clear delegation of responsibility for making conflict determinations; and
- a range of appropriate mitigation strategies reflecting severity or significance of conflicts, such as withdrawing or limiting involvement with committee discussions and/or decisions.

**3.10** Well-structured and informative guidance material can help emphasise to external committee members the importance of a transparent and open dialogue with the agency to manage conflicts of interest. Areas that agencies could strengthen include clearly defining the legislative basis where applicable, and providing links to legislation and other relevant policy or guidelines. Agencies could also more clearly explain the repercussions of not declaring conflicts of interest.

## Implementing conflicts of interests arrangements

**3.11** To assist conflicts of interest being identified and managed early, guidance material to members and committee secretariats should focus on disclosure of significant private interests at key stages of:

- the selection of committee members; and
- managing conflicts prior to and during committee meetings.

**3.12** The selection of committee members can involve multiple steps, including nomination and appointment. When compiling a shortlist of potential committee members for nomination, agencies generally give consideration to the

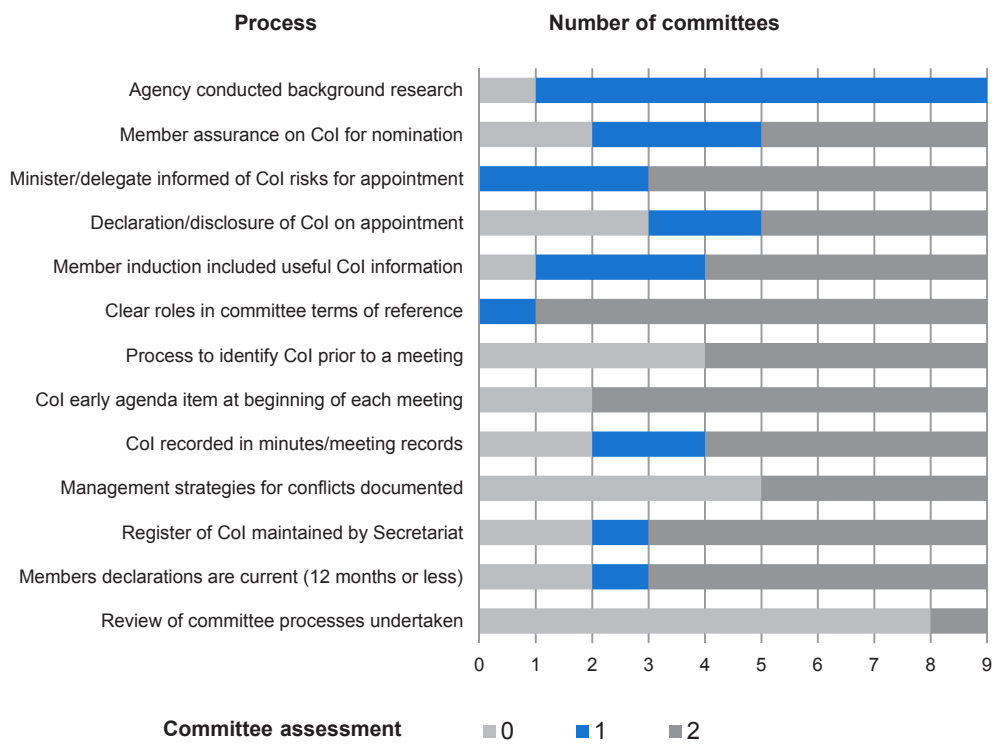
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34 The terms of reference usually define roles and responsibilities for the committee and its members. All of the committees, except one, had clear roles and responsibilities set out in their terms of reference.

type and level of expertise required, gender and geographical balance, confidentiality requirements, as well as possible conflicts of interest. The information gathered during the nomination stage can then be provided to the delegate for appointment of the selected members.

**3.13** As previously mentioned, the ANAO assessed agency approaches to managing conflicts of interest risks in a sample of nine committees (both statutory and non-statutory). The key processes for managing risks and ANAO’s assessment of agency performance against these processes are shown in Figure 3.1.

**Figure 3.1 Key processes to manage conflicts of interest (Col) risks**



Source: ANAO analysis

Note: 0 = nothing in place or criterion not met  
1 = criterion generally met, however the agency could strengthen some areas  
2 = good practice

**The selection of committee members**

**3.14** Advisory committee members are normally nominated for their experience and knowledge in a relevant field. As such there is an inherent risk that their professional affiliations, relationships or financial interests may at

times conflict with their public sector roles and responsibilities if appointed. One of the most important opportunities for mitigating conflict of interest risks is at the point of nominating potential committee members for the decision-maker, who in many cases can be the relevant minister.

**3.15** Early recognition of conflicts of interest is facilitated through comprehensive research prior to appointment and disclosure of conflicts on appointment. Identifying and managing the risks to an acceptable level affords the opportunity to reduce the incidence and severity of risks arising later during committee business. Results of the ANAO's examination of agency practices for the selection and appointment of members are shown in Table 3.2.

**Table 3.2: Nomination and appointment of members**

ANAO findings and comments	
Agency conducts background research	Most agencies collected resumes when selecting committee members; however few could provide evidence of further research or criteria to check candidate information with regard to conflicts of interest. A more comprehensive approach would strengthen assurance and awareness of possible conflicts prior to a member's nomination.
Members provide assurance regarding conflicts of interest on nomination	Most committees included a declaration of private interests and confidentiality statement when nominated. This was generally a high level document including a broad statement that a member's conflicts would not interfere with committee business. Seeking assurance from potential candidates is usual practice, indicating their willingness to cooperate with agency requirements given that they may have limited information about their impending public responsibilities.
Minute or approved process to the minister/delegate informs conflict of interest risks	All members of the nine committees were formally approved, although minutes to the Minister sometimes lacked adequate reference to potential conflict of interest issues. Supporting documents to the minister/delegate should indicate that conflicts of interest have been adequately considered, allowing any associated risks to be transparent and an informed decision to be made for the appointment.
Conflicts of interest declared on appointment	Sound evidence that member declarations were completed on appointment was provided by five committees. This stage should be included to provide assurance that risks are appropriately identified for mitigation. In some instances, forms could be better designed to prompt for relevant declarations and direct members to further assistance.
Induction includes useful conflict of interest information	Practices for induction varied across the committees. Useful strategies included briefing sessions, presentations and the provision of guidelines. Guidelines usually included useful information on conflicts of interest; however some committees could improve in this regard.

Source: ANAO analysis based on information from nine committees and documentation provided during Phase 1 of the audit.

**3.16** For each committee the respective agency was able to demonstrate the process it had followed for appointing members, with three applying particularly effective practices. Several agencies could strengthen minor aspects of their selection processes. Two of the nine would benefit from more significant improvements. The following case study is an example of weaknesses in the management of conflicts of interest once committee members are appointed.

**Table 3.3: Case study: Improving committee proceedings**

A committee's membership included a combination of Australian Government and state officials, industry and academic representatives. The committee was ministerially appointed and provided advice to the department and minister. There were no conflict of interest policies or processes in place at appointment of members or for meetings, and no completed disclosure statements were evident. The agency indicated that there was no need for conflict of interest declaration processes as the committee 'had only an advisory role'.

*ANAO Observation: In the absence of conflict of interest procedures the agency is not well positioned to provide assurance that committee members' private interests were not influencing committee business. The agency needs to improve the transparency of its committee proceedings by establishing conflict of interest policies conducive to the risks of the committee's roles and responsibilities. Its advisory role means that it had the opportunity to influence policy and spending of public monies.*

Source: ANAO analysis of committee documentation and interviews.

**3.17** Common areas of practice that agencies could give more attention to include:

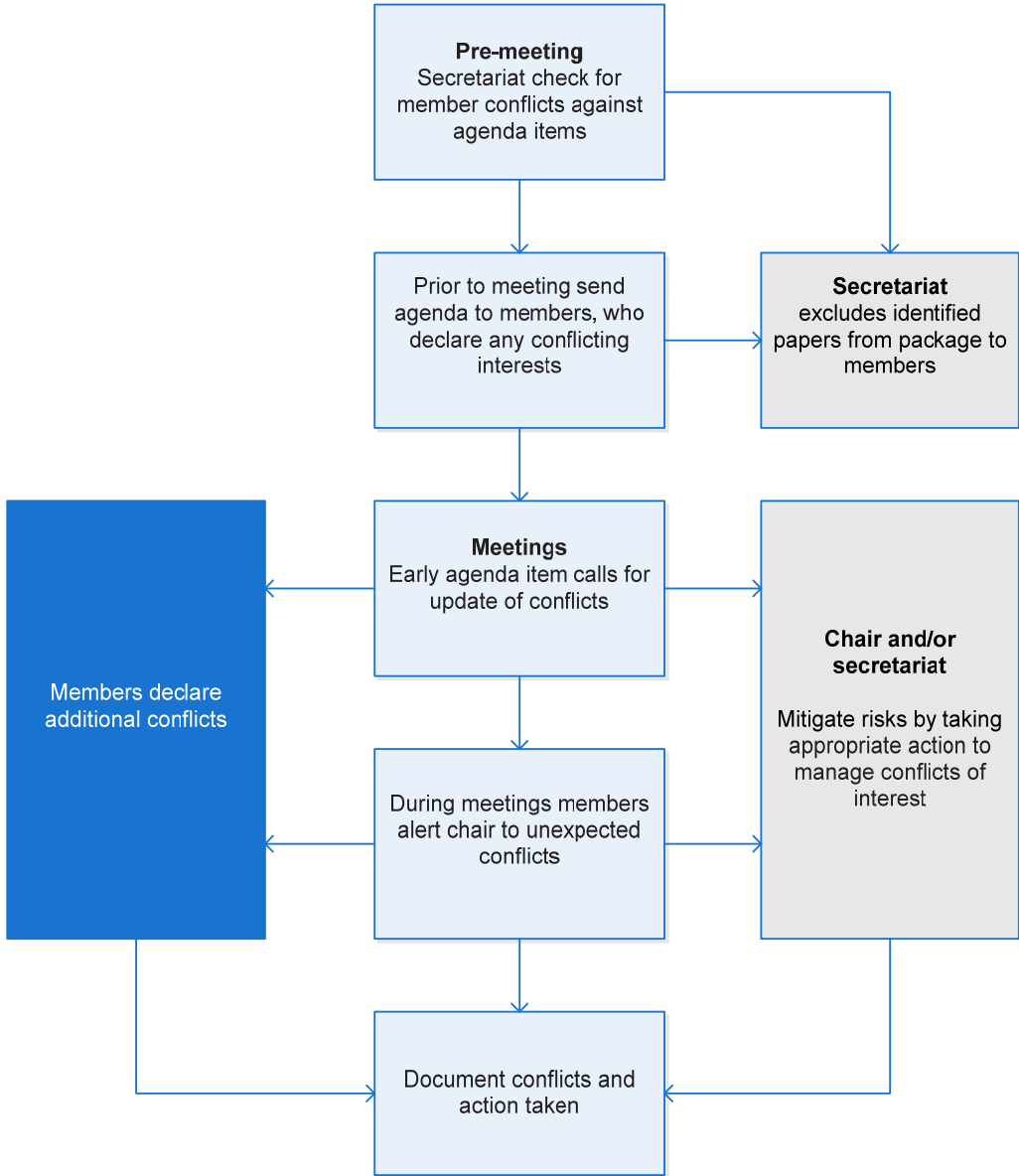
- undertaking thorough research prior to selection of prospective members to allow early recognition of potential conflicts. This practice can improve transparency of process, strengthen assurance that suitable candidates are identified, and assist in selecting suitably balanced committees in which conflicts can be more strategically managed; and
- on appointment of members, obtaining relevant declarations of significant interest and potentially conflicting roles, particularly if earlier declaration processes are not in place.

## Committee proceedings

**3.18** Committee meetings are an important mechanism for providing advice to the agency head or minister. The management of conflict of interest at this stage usually occurs by members declaring conflicts of interest prior to each meeting and during the meeting, as requested. An example of steps undertaken by some committees is provided in Figure 3.2.



**Figure 3.2     Committee proceedings and conflicts of interest**



Source: ANAO, based on practices in the Department of Environment and Department of Health.

**3.19** To assess whether agencies had implemented appropriate measures to reduce or avoid conflicts of interest the ANAO reviewed a number of standard committee activities (see Table 3.4). The assessment included the examination of committee protocols and records for the nine committees. Interviews were also held with committee secretariats and a selection of committee chairs and members.

**Table 3.4: Management of conflicts for committee meetings**

Good practice	Comments
Meeting agenda checked for conflicts prior to the meeting	This process was not part of each agency's committee process. Approximately half the committees documented assurance that conflicts with the agenda items were being identified prior to the meeting commencing.
Standing agenda item at beginning of meeting	Most committees included conflicts of interest as an early agenda item; asking members to declare conflicts that may have recently arisen. Some agencies went further, asking members' to reaffirm their conflicts before commencing discussions for specific agenda items. This was particularly useful where items involved sensitive issues or significant materiality.
Suitable records kept: <ul style="list-style-type: none"> <li>• declarations of conflicts</li> <li>• management actions</li> </ul>	Most committees documented conflicts of interest that had impacted on the agenda or arisen during the meeting, however recording of decisions or resultant management actions was less common.

Source: ANAO.

**3.20** Most committees demonstrated a good awareness of conflicts of interest obligations and practices, with a standing agenda item in place and suitable records showing the nature of the conflicts disclosed. However, documenting the actions taken to address conflicts was less consistent across the committees. Improving records of members' declared conflicts and the mitigation action taken, would provide additional robustness and accountability to committee decisions and recommendations. This also contributes to the transparency of the conflict of interest process, better preparing the agency to respond to external scrutiny.

## Monitoring and review

**3.21** Regular monitoring and review provides a mechanism to assess whether conflicts of interest are being handled according to agency requirements and/or legislation, and where improvements can be made. The following monitoring and review activities were demonstrated by one or more of the nine committees:

- most secretariats maintained an up-to-date conflicts of interest register;<sup>35</sup>

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35 A register was sometimes a large and centralised database used to manage conflicts of interest in other operational areas in the agency. In other instances the register was a list updated at each meeting, providing a historical record and helping to manage workflow.

- in most cases, members' disclosures had been completed on appointment, re-appointment or as an annual requirement, and were current (revised within the last 12 months or less);
- membership was for limited terms to allow rollover or replacement of members. This practice reduced the risk of personal views or interests influencing committee outcomes over time; and
- only one agency provided documentation regarding reviews (see Case study in Table 3.5).

**Table 3.5: Case study: Reviewing conflicts of interest practice in committees**

Agencies should regularly review procedures for handling conflicts involving internal and external stakeholders. How this is accomplished is at the discretion of the agency head.

Most agencies examined in this audit showed little evidence of regular or structured review of committee processes or performance, including the effectiveness of conflicts of interest provisions. One exception was the Department of Health (Health), which in 2011 conducted two internal audits to examine several aspects of committee process, including the management of conflicts of interest. The audits covered only 'external committees': one for statutory committees; and the other for non-statutory committees. They were conducted in recognition that a variety of approaches to managing conflicts of interest had developed over time, and that greater consistency across the agency would be beneficial. Health has been implementing recommendations from both audits, to focus the agency on a more consistent use of risk assessments, terminology and compliance with management processes.

Audits and reviews are a useful mechanism by which agencies can alert themselves to areas of high risk, inconsistent practice or non-compliance. Regular review of conflict of interest provisions and their implementation can provide valuable information to improve consistency with agency policies and provide assurance on the integrity of committee advice and recommendations.

Source: ANAO analysis and information provided by the Department of Health.

## Conclusion

**3.22** Advisory committees provide direction and advice to ministers or agency heads on a wide range of policy and program matters. Even in the absence of decision-making powers, committees can significantly influence policy directions, government priorities and spending. Ensuring the integrity and impartiality of committee members can provide stakeholders, the community and Parliament with confidence in the committee's advice or recommendations.

**3.23** Awareness of conflict of interest procedures is supported by providing members with appropriate guidance to support good practice. The majority of agencies with advisory committees, 18 of 23, indicated they had overarching committee guidelines to encourage consistency in committee management.

However, the quality and content of guidelines was inconsistent regarding expectations and processes for disclosing conflicts of interest.

**3.24** A more detailed assessment of the implementation of conflict of interest procedures in nine committees further illustrated the variation in the quality of guidance materials although alignment with ethical conduct expectations was generally acceptable to very good. The extent to which conflict of interest declarations were collected was inconsistent between committees. Several agencies had well defined responsibilities, utilised practical forms and registers to record and monitor conflicting interests, and had appropriate mitigation strategies in place. In around half of the agencies, management of conflicts was of a higher standard, more often demonstrating: better support from experienced secretariats; well-focused terms of reference to help define responsibilities; comprehensive induction packages; and meeting processes that reinforced conflict of interest principles on appointment of members and throughout the committee proceedings.

**3.25** For the most part, committee members generally adhered to the meeting disclosure processes. In the few instances where this was not the case, agencies would benefit from better definition of the roles and responsibilities of the secretariat and chairs, and strengthening records of any action or decision taken to address conflicts of interest. Some agencies could also strengthen their accountability when considering conflicts of interest for new committee members, to ensure an appropriate balance between members' expertise and the inherent risks that these may pose.

## 4. Peer Review Grant Selection

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*This chapter examines agencies' practices to minimise the occurrence and impact of conflicts of interest in the selection of competitive peer reviewed grants.*

### Introduction—peer reviewed grants in the APS

**4.1** The granting of money to private and public agencies is a core approach used to implement government programs. Each year, the government provides billions of dollars in grants to support a broad range of research, industry development, agriculture, environmental and community improvements. Some of these grants are awarded through competitive programs in which publicly sought applications are assessed by 'peer review'<sup>36</sup>, a process which uses expert assessors, selection panels or committees to assess and select the best projects for funding.<sup>37</sup>

**4.2** While peer review is a relatively common process, its very nature presents inherent conflict of interest issues. In many instances, grant assessors or panel members who have been chosen for their expertise in a particular field, may have professional or personal affiliations that conflict, or have the potential to conflict, with their official public duties.

Conflict of interest issues may require a particular focus where persons with expertise in a relevant field are involved in the grant selection process. This is due to the inherent likelihood that panel members will have existing relationships within the sector from which grant applications are being sought. The risk may be heightened where the panel is drawn from a specialist area in which there is a relatively small pool of appropriately qualified candidates, particularly where those candidates may themselves qualify for grants under the program.<sup>38</sup>

**4.3** Under the government's financial framework (see Table 4.1), the selection of grants needs to meet the requirements of the Commonwealth Grant Guidelines (CGGs). Grant selection must be an impartial process, not influenced

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36 Research professionals or industry experts employed to assess and select grant applications, which often have professional affiliations with applicants, and/or are also competing for funding from the agency or other granting bodies.

37 This audit examined peer reviewed grants, and all references to 'grants' should be taken to mean 'peer reviewed grants'. Arrangements for grant assessment and selection may be a single or multi-stepped process (see examples in Figure 4.2) using a combination of internal (agency) or external expert assessors, grant review panels or selection committees to assess, score and rank grants, and recommend the grants of highest merit for funding.

38 *Implementing Better Practice Grants Administration – Better Practice Guide* ANAO 2013, pp.22-23.

by personal views or preferences, and with each proposal judged fairly against a set of pre-set selection criteria. Open disclosure of private interest by assessors and committee members—whether these are internal officials or externally sourced experts—is important to the probity of the grant process.

**Table 4.1: Legislative and policy requirements**

Peer review grants must comply with the Commonwealth Grant Guidelines
<p>For granting activities, FMA agencies are expected to comply with both the Commonwealth Grant Guidelines (CGGs) and the APS Code of Conduct (see Table 1.2).</p> <p>The CGGs include provisions to ensure fair and equitable grant selection and overall probity of the granting process, and apply to all Commonwealth grants. In particular they require FMA agencies to ‘ensure that decisions relating to granting activities are impartial, appropriately documented and publicly defensible’.</p>
<p>Probity refers to uprightness, honesty and ethical behaviour and good process. In the context of a grant program, good process will involve:</p> <ul style="list-style-type: none"><li>a) clear decision-making procedures and criteria, consistent with the Government’s policies and legislation and the legitimate interests of stakeholders, being established understood and observed from the outset;</li><li>b) all applicants being treated consistently and equitably in accordance with these procedures; and</li><li>c) decisions being made in a transparent manner which allows them to be understood and justified.</li></ul>
<p>Agency personnel are involved in granting activities in various capacities, for example as: the secretariat; an expert assessor or panel member; a committee chair; or an official delegate for the approval of grants. All APS personnel involved in grant activities are required to declare and manage significant conflicts of interest in accordance with the APS Code of Conduct and the CGGs</p>
<p><b>A mandatory requirement of the CGGs</b></p> <p>Agency staff involved in grants administration must ensure that they:</p> <ul style="list-style-type: none"><li>a) behave in accordance with the law, government policy, agency rules (for example Chief Executive’s Instructions) and with applicable grant agreements;</li><li>b) keep commercially sensitive information secure and never use it for personal gain or to prejudice grants administration processes;</li><li>c) disclose information that the government requires to be notified; and</li><li>d) disclose to their agency any form of current or prospective personal interest that might create a conflict of interest in grants administration.</li></ul>

Source: ANAO, *Implementing Better Practice Grants Administration—Better Practice Guide*, 2013, p. vi and Commonwealth Grant Guidelines, Section 3.19.

## Approaches taken to manage conflicts of interest

**4.4** Approaches to peer review grant programs vary between and within APS agencies. Agencies with large granting functions or long-standing programs often employ substantial electronic grant management systems and multi-step or complex procedures to coordinate the assessment, selection and administration of grants. Registers of potential assessors (peers) are also frequently maintained to facilitate matching of applications to suitable assessors and the establishment of grant selection committees.<sup>39</sup>

**4.5** Where 'granting activities'<sup>40</sup> constitute a minor element of an agency's overall responsibilities, smaller scale operations may be sufficient to allow the proper assessment of grant applications—the complexities and resources being applied proportional to the size of the grant scheme and the level of associated risk. The ANAO examined the extent of agencies' conflict of interest policies and procedures in place for peer review grant selection. An assessment of agencies' implementation of conflict of interest policies and procedures was then undertaken in a sample of grant rounds (one in each of six agencies). These rounds ranged from \$160 000 to \$400 million in annual funding, collectively representing approximately 1660 awarded grants totalling some \$776 million.<sup>41</sup>

**4.6** The general steps involved in a peer review grant assessment process are illustrated in Figure 4.1. Importantly, while agencies may design grant processes to meet program, administrative and probity requirements, the effectiveness of implementing conflict of interest provisions is highly dependent on the cooperation and open disclosure of conflicts at an individual and organisational level.

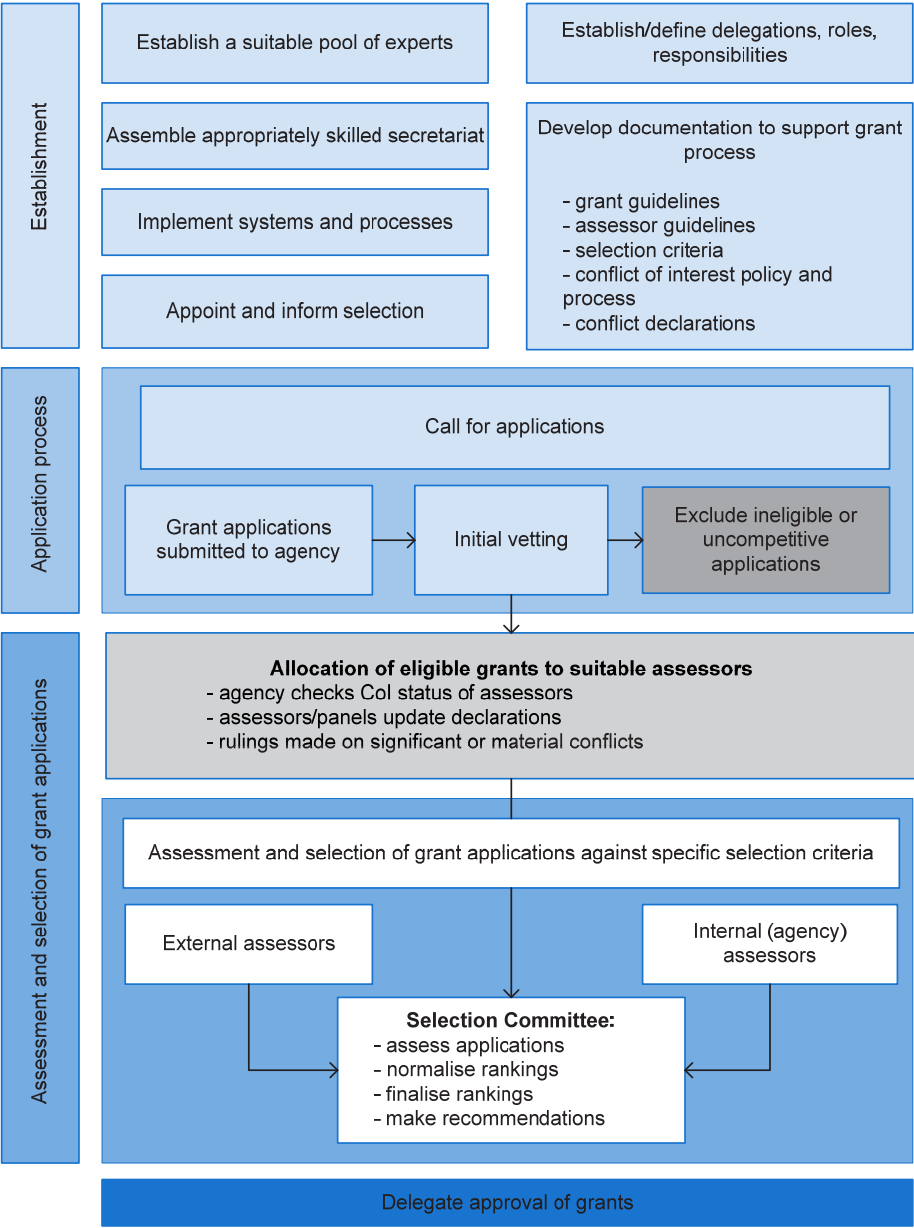
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39 For large grant programs, registers may list thousands of individuals and details of their relevant areas of expertise.

40 Specifically, the CGGs define a 'granting activity as the process of providing public money to grant recipients, whether through a grant program or other grant giving exercise.

41 Figures are from agencies' websites, annual reports and other agency documents. Grant rounds assessed were undertaken in either 2012–13 or 2013–14, depending on the agency.

**Figure 4.1      Typical process for peer review grant selection**



Source: ANAO, informed by several agencies' grant rounds.

Note: The above example is not all inclusive. It depicts elements common to many peer review grant programs, indicating where conflict of interest provisions can be usefully included. It is not intended to be a direct or complete representation of any particular grant round examined in audit.

**4.7**      The ANAO examined the extent of agencies' conflict of interest policies and procedures in place for peer review grant selection. An assessment of



agencies’ implementation of conflict of interest policies and procedures was then undertaken in a sample of grant rounds (one in each of six agencies). These rounds ranged from \$160 000 to \$400 million in annual funding, collectively representing approximately 1660 awarded grants totalling some \$776 million.<sup>42</sup>

**4.8** Responses to the ANAO survey of 25 agencies indicated that 15 agencies applied peer review processes as part of their major granting functions.<sup>43</sup> The following text box summarises responses from this group of agencies to further survey questions relating to activities undertaken to manage conflicts of interest at different stages of the grant selection process.

**Table 4.2: Summary of agency responses to the ANAO survey**

<p>In the ANAO survey 15 agencies reported that their assessment or selection of grants included the use of peer review. Of these 15 agencies, common strategies or controls used to reduce the impact of conflicts of interest included:</p> <p><b>Establishing processes and systems</b></p> <ul style="list-style-type: none"><li>• 11 agencies indicated that they use an expert or advisory panel for grant selection for one or more programs, and that these included representatives from industry or other professional or community groups; and</li><li>• 10 reported that they always identify who is responsible for ensuring that conflicts of interest are dealt with appropriately. Two agencies reported that this occurred almost always, and two 50 per cent of the time or less;</li><li>• 6 reported that they maintain a peer review register/s to select appropriate assessors for grant applications.</li></ul> <p><b>Assessors and selection panels</b></p> <ul style="list-style-type: none"><li>• 11 indicated that they always consider potential conflicts of interest of individual members before the decision is made to appoint them to a grant selection committee/panel. One reported almost always, two sometimes and one never;</li><li>• 14 indicated that they provide conflict of interest guidelines to panel and/or selection committee members, although only 11 provided guidelines to external grant assessors;</li><li>• 13 indicated that they perform an initial check of applications to ensure that peer reviewers with possible (or declared) conflicts did not receive the conflicting application for assessment.</li></ul> <p><b>Monitoring and review</b></p> <ul style="list-style-type: none"><li>• 14 reported that they always review member’s declarations and take action where necessary. One agency reported that this almost always occurred.</li><li>• 12 reported that they always monitor and review their processes to ensure that grants were not assessed by persons who (actually or potentially) have a significant conflict of interest. Two agencies reported that this occurred almost always, and one agency reported never.</li></ul>
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Source: ANAO survey responses.

42 Figures are from agencies’ websites, annual reports and other agency documents. Grant rounds assessed were undertaken in either 2012–13 or 2013–14, depending on the agency.

43 The ANAO survey of 25 agencies was conducted during May 2013 in Phase one of the audit (refer to Chapters 1 and 2) and sought information on a range of strategies and controls to manage conflicts of interest, including grants.

**4.9** Agencies’ identified that procedural controls were generally used to assist in identifying and managing conflict of interest for major and/or minor granting functions within the different agencies. Agencies’ responses also indicated that there may be benefit in strengthening common conflict of interest management practices (in some agencies) in one or more of the following key areas (see Table 4.3).

**Table 4.3: Strengthening key elements for conflicts of interest management**

Area to strengthen	ANAO comment—risks and benefits
Considering conflict of interest of members prior to their appointment to the selection committee	Omission of this step increases the risk of conflicts issues arising during the grant process. Benefits to early detection of conflicts include: more objective decision-making, better balanced committees, and less risk that conflicts will bias grant assessments or disrupt selection meetings.
Identifying who is responsible for ensuring that conflicts of interest are dealt with appropriately	Without clear delegation of responsibility, compliance with agency policies may not be assured. Inadequate oversight can lead to actual instances or perceptions that conflicts are not dealt with consistently or impartially, which can impact on agency or program reputation.
Monitoring and review of the grant process to ensure that grants were not assessed by individuals with significant conflicts of interest	Agency policies need to differentiate between minor or significant conflicts, and implement clear mitigation strategies to ensure that significant conflicts are managed appropriately. Monitoring performance in this area can provide valuable information for improving conflict of interest management and improving the probity of grant selection.
Consider use of registers	The use of registers can greatly assist the reliability of the allocation of grant applications to suitable assessors, and the secretariat’s management of documentation and exclusion arrangements for selection meetings.

Source: ANAO.

**The quality and suitability of guidelines**

**4.10** The provision of targeted information concerning conflict of interest obligations and controls to all officials involved in the grant process can assist agencies to elicit accurate and open disclosure of interests. Under the CGG’s agency chief executives have a responsibility to establish guidelines to address conflict of interest and maintain transparency of grant processes.

Chief Executives should put in place appropriate mechanisms for identifying and managing potential conflicts of interest. These mechanisms may include (inter alia): ensuring that grant guidelines clearly outline what constitutes a conflict of interest.

Agency staff should establish transparent processes which help manage misconceptions and the potential for personal or related party gain.<sup>44</sup>

**4.11** Agencies demonstrating good practice typically provide guidelines to key groups involved in each step of the grant process, particularly: assessors; selection panels or committee members; secretariats and agency personnel (see Table 4.4). Guidance material should ideally provide clear definitions, roles and responsibilities, with links to related legislation, policies and protocols, declaration templates and explanatory notes. Avenues for additional advice or assistance, such as help-lines and probity advisors can also help to ensure a clear understanding of disclosure responsibilities and avoid misunderstandings or misconduct during the grant process.<sup>45</sup>

**Table 4.4: Case study: Guidance to assist grant selection and conflict of interest management**

<p>The NHMRC administers around \$800 million in grants each year. Their largest program, Project Grants, accounts for about \$429 million of this sum. Under the NHMRC Act 1992 the assessment and selection of grants is carried out by independent external reviewers (peers) and grant review panels (GRPs). In 2013 over 7800 external assessments were performed and 516 GRPs selected 646 Project Grants from over 3917 eligible applications. While there are inherent conflicts associated with peer review of grants, the NHMRC has continued to enhance its systems, documentation and practices to reduce key risks, improve its conflict of interest culture and build its reputation among its stakeholder and the public.</p> <p>In particular, the NHMRC produces a suite of targeted guidelines to help promote a culture conducive to open and timely disclosure of private interests. Specific briefing sessions for GRP members and chairs reinforce key expectations and processes for declaring and managing conflicts of interest. A systematic approach is taken to allocate grant applications to suitable assessors and GRPs, utilising extensive information stored in electronic grants systems and registers of private interests. The development, and proactive implementation, of detailed descriptors for each of the grant selection criteria has facilitated greater impartiality and consistency during assessment and ranking of applications.</p>
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Source: ANAO from information provided by the NHMRC.

Note: In 2010, the ANAO made recommendations that the NHMRC improve the transparency and probity of its peer review process and the identification and management of conflicts of interest. ANAO Audit Report No 7 2009–10, *Administration of Grants in the National Health and Medical Research Council*, p. 25.

**4.12** For the six grant rounds examined, grant program and assessor guidelines, conflict of interest templates and other information appropriately included conflict of interest provisions. Grant-specific guidelines and declaration forms for assessors and selection panels were generally present, although the content and quality was not consistently high. Guidelines

44 CCGs 2013, pp.59–60

45 Based on observations and analysis during this and previous audits.

included basic conflict definitions, with a small number providing more comprehensive information. Key messages promoting the need to declare conflicts of interest were usually present (though to varying degrees) and consistent with the principles of the Code of Conduct and CCGs. Several agencies included detailed selection criteria, appropriately emphasising how assessment against these is more likely to result in greater impartiality and transparency when assessing and scoring applications.

**4.13** A small number of agencies also included useful risk based methods for managing conflicts of interest, categorising various conflicts as, for example, high, medium and low risk, and identifying suitably rigorous mitigation strategies at each stage of the selection process. This level of clarity facilitates objective and consistent decisions when conflicts arise, and there would be benefit in wider incorporation of such approaches by other agencies. Such an approach can provide useful information for assessors and panel members and also serve as a visible analysis of risks to assist program managers.

**4.14** In a small proportion of agencies, ambiguity in the titles of guidance material, and presentation of information across different documents (without obvious links and/or with inconsistent definitions or process descriptions) created a lack of clarity around processes and roles. Across agencies, there was also considerable variability in the design and content of declaration of interest forms (templates) and the extent of information required. Better examples contained additional instructions on disclosure requirements, and declaration forms with prompts and links to facilitate collection of appropriate information.

## **Implementation of conflict of interest management approaches**

**4.15** The development and implementation of sound conflict of interest policies can benefit an agency's management of risks for granting activities. However, even the best policies can be ineffectual if they are not communicated to the right people or at the right time, and implemented in an appropriate manner. Choosing the right balance of governance procedures, systems and controls to support a particular granting situation, while effectively managing the level of conflict and risk, and having clear responsibilities for the delivery and oversight of conflict of interest approaches, are important to support the probity of grant selection processes.

**4.16** The remainder of this chapter examines the implementation of conflict of interest provisions for six grant rounds (one in each of six agencies—three departments and three statutory agencies) and discusses where key controls and elements of better practice were being used (effectively or ineffectively). The analysis took into consideration issues such as materiality, grant numbers and size, agency and program risks. The ANAO's analysis of agencies approaches against key elements of sound practice is shown in Table 4.5.

**Table 4.5: ANAO assessment of the management of conflict of interest for peer review grant selection**

Appropriate procedures for identifying and managing conflicts of interest applied to grant selection processes.	
Key elements of sound practice	ANAO findings/comments
There is a systematic approach to inform/reinforce grant assessors and panel members of their responsibility to declare and manage personal conflicts of interest throughout the granting process.	Agency approaches ranged in complexity, and, as would be expected, were generally proportional to the size and materiality of the grant program. Guidance material varied from a few pages of information in one small agency, to a comprehensive suite of guidelines and induction activities in the larger granting bodies. This latter group also demonstrated more rigorous reinforcement of Col requirements. Briefing sessions, where evidenced, contributed constructively to conflict awareness and a more responsive culture regarding disclosure.
Agencies systematically collect, record and store conflict of interest information from assessors and panel members (including maintenance of grant management systems/registers).	For reasons of probity and impartiality, disclosure of conflicts of interest is essential prior to appointment and throughout the granting process. Large grant programs, particularly where long-standing, had substantial systems and procedures for collecting and storing Col information. Adequate to very good practices were in place for the review and management of conflicts at key points in the grant process. Processes for two smaller grant rounds were not as clearly defined or as rigorously applied, providing less assurance that conflicts were being declared. While materiality of these rounds was lower, compliance with probity and conflict declaration requirements is still necessary to maintain transparency and public confidence.
The process for allocating applications to assessors takes account of conflicts of interest and includes mechanisms to reduce/avoid these.	This was a critically important step in ensuring the probity and impartiality of grant assessment in all six agencies. Each agency had established workable mechanisms, ranging from direct allocation of applications to a small panel, to selection of up to four external assessors per application (drawing together information from complex electronic systems). <sup>(a)</sup> As expected, agencies generally considered assessor availability and subject relevance, excluding assessors with significant Cols.

**Appropriate procedures for identifying and managing conflicts of interest applied to grant selection processes.**

Key elements of sound practice	ANAO findings/comments
Clear and comprehensive guidance material/training is provided to assessors and panel members to encourage, relevant, impartial, and consistent grant assessments.	Each of the six agencies provided assessors and selection panels/committees with material, usually including selection criteria, descriptors and the scoring method, and reminders of conflict of interest responsibilities. Some agencies' materials were more consolidated and informative than others. Briefing sessions observed in two agencies were very effective in conveying conflict obligations and relating these to the impartiality required for grant assessments and selection.
Well-defined selection criteria contributed to impartial and fair assessment of applications.	Having suitable selection criteria in place assists in focusing assessors on the practice of merit-based assessments. Most agencies showed a reasonable to high level of adherence to selection criteria, and actively enforced good practice through detailed descriptors, training and/or agency oversight. Instances of insufficient records against criteria were visible in documentation from three agencies. It is important that agencies ensure the completeness and relevance of assessor comments, to provide sufficient transparency of the impartiality of advice and recommendations.
Clear mechanisms for dealing with significant conflicts of interest were implemented, with actions appropriately recorded.	Four agencies demonstrated good application of their policies/guidelines to obtain CoI declarations prior to, and during, selection meetings. Mitigation strategies were usually clearly explained and implemented during meetings. In two agencies, process and methodology for differentiating severe and minor conflicts was not as well defined. In these cases, actual mitigation strategies and the action taken was less, or not, visible in grant selection records.
Advice and recommendations from selection meetings are appropriately recorded, in accordance with the CGGs and good administrative practice.	To ensure good transparency and accountability, the reasons behind scores should always be apparent and defensible, supported by relevant written records. Agency records for selection meeting determinations and outcomes ranged from average to very good. The quality of assessment records in two agencies generally lacked sufficient information to provide adequate transparency of its decisions. In at least four agencies, panel comments indicated occasional non-adherence to criteria and inclusion of subjective comments.

Appropriate procedures for identifying and managing conflicts of interest applied to grant selection processes.	
Key elements of sound practice	ANAO findings/comments
Agencies monitor the effectiveness of Col processes, including as part of post-grant review.	<p>The panel chairs and/or secretariats usually had a monitoring role prior to and during selection meetings, checking that Col procedures were properly implemented. Some agencies used internal personnel or other external observers to provide independent feedback on the conduct of selection meetings.</p> <p>Three larger granting agencies had structured surveys or review processes in place post-grant, in which staff, panel members and/or chairs could provide formal feedback on conflict of interest processes. These mechanisms provided useful insight for improvements in subsequent rounds and other grant programs.</p>

Source: ANAO analysis.

Note (a): For large grant rounds this could involve thousands of grant applications, each being allocated to between two and four external assessors, and then further consideration through a selection panel consisting of several members.

4.17 In general, larger and/or more experienced granting agencies demonstrated more rigorous arrangements to manage conflict of interest issues and were more proficient in implementing these. In particular this was evident through: robust and systematic collection of conflict declarations; control and conduct of selection meetings; consistency of actions taken in response to late declarations of conflicts; the alignment of written assessments with the selection criteria; and the transparency of records.

4.18 Checking (and updating) of conflicts of interest prior to and during selection meetings was an area of strong focus by most agencies, with several implementing strict control of access to applications by assessors and panel members, who pre-declared conflicts. While unexpected or overlooked conflicts still arose during meetings, these appeared to be systematically handled and in most instances appropriately recorded. Agencies applied a range of strategies to identify and manage conflicts of interest throughout key steps of the grant process. Some of the strategies used by agencies to promote sound conflict of interest management included:

- provision of comprehensive conflicts of interest guidelines to assessors, grant panels and selection committee members, to promote a strong culture and framework for declaring conflicts. delivery of targeted induction package and/or seminars to enforce agency policies and program guidelines and encourage consistency of process;



- use of multidisciplinary panels to minimise possible bias and introduce internal panel scrutiny of grant selection procedures;
- allocation of two or more assessors per application to facilitate fair and balanced review of applications, and to help detect any instances of personal bias impacting on assessments or scores;
- design of appropriate criteria and descriptors to guide assessors and panel members in making impartial assessment of applications;
- inclusion of a normalisation and moderation process to provide assurance of consistent and balanced assessments, and pick up instances where personal views may have biased an assessment;
- inclusion of independent observers during selection meetings and integration of feedback and lessons learned into program design and administration;
- use of independent probity advisors and experienced officials to advise panels on contentious or difficult conflict of interest issues; and
- access to advice to help officials make appropriate declarations and make ethical decisions.

**4.19** For the most part, such measures contributed to individual agencies meeting CGGs probity and transparency requirements by promoting awareness of conflict of interest obligations and providing avenues or additional support for timely declaration and management of conflicts of interest. However, in some smaller agencies conflict of interest measures were not being implemented to the same degree, resulting in less assurance that the CGGs were being met, and potentially less confidence in the probity of grant decisions.

**4.20** Given the diversity of business undertaken by agencies and the varying size and purpose of grants, the degree of action necessary to mitigate or manage conflicts of interest will vary between agencies and programs and from case to case. It is reasonable, and often very necessary, for each agency to broadly define conflicts commensurate of the risks they may pose, and to allocate appropriate risk ratings, mitigation strategies and/or remedial action. The terms severity, significance and materiality are frequently used (often interchangeably) to indicate the degree of risk or impact associated with a particular conflict or type of conflict.



**Table 4.6: Case study: Identifying and mitigating typical conflicts**

The Australian Research Council (ARC) demonstrates a systematic approach to identify, evaluate and manage conflict of interest. ARC's Discovery Program funds over \$500 million in highly competitive peer reviewed grants each year, and relies heavily on external peer reviewers and selection committees.

Supporting the grant selection process, ARC guidelines list commonly encountered conflicts in the granting process and specify a range of actions that may be used to manage the conflicts. The ARC's electronic management system filters assessors according to the types of conflicts declared, assisting in the appropriate allocation of grants for assessment. Conflicts entered into the system are monitored and the appropriate management action applicable to an individual's conflicts is decided in consultation with the ARC.

In practice, identifying categories of conflicts helps to streamline the management of declared conflicts, facilitating consistency in the application of appropriate mitigation actions. The provision of clear methods and processes to all parties involved in grant selection has enabled the ARC to strengthen awareness of individual obligations and agency requirements.

Source: ANAO analysis.

## Examples of conflicts encountered during the audit

**4.21** Although awareness of conflict of interest management was well established in most agencies, there were still instances where aspects of the declaration process for granting activities had not been properly implemented. Often, this was due to misconceptions or ambiguity in roles and obligations; others resulted from gaps in monitoring or oversight of processes.

**4.22** No system will necessarily pick up all conflicts. There was, however, an observable difference in the effectiveness of approaches taken by agencies to manage conflicts of interest in terms of transparency, rigour and consistency of implementing agencies' policies and procedures.

**4.23** Agencies that issued well-structured induction packages to assessors and panel members and reinforced processes through the chair or experienced secretariats generally seemed to achieve better compliance in the submission of declarations of interest. Some agencies achieved a higher level of control by incorporating declarations into electronic systems, including specific checkpoints to prevent assessors with conflicts from progressing through the process, and referring the conflict for a 'ruling' or appropriate action.

**4.24** In setting up grant processes, agencies need to be mindful that: all grants must meet CGG requirements, and all public officials are expected to practice the same high standards of conduct (refer to Table 4.1). The different administrative arrangements for each grant round revealed areas in which conflict practices were not ideal. Regular monitoring and review of grant processes and selection outcomes can often alert an agency to weaknesses,

either systemic or intermittent, and how these can best be addressed. Table 4.7 provides some examples of weaker practice observed during the audit.

**Table 4.7: Examples of weaker conflict of interest administrative arrangements**

<b>Example 1</b>
An agency provided an assessors package including several guidance documents and criteria to support impartial assessments and provide greater confidence to the process. Assessors' comments were also able to be used for feedback to applicants. A selection of records showed that assessors' comments were sometimes brief, and in one case the comments provided for a successful application consisted of three lines. This approach provides little transparency and the agency is therefore not well positioned to support its decisions if challenged.
<b>Example 2</b>
A selection committee consisted of agency officials, state government representatives and an independent subject expert. Conflict of interest was not identified as a risk and the processes for declaring conflicts were not included in any of the supporting documentation provided to committee members. No record of completed conflict of interest declarations could be located, other than a declaration signed as part of a security clearance arrangement on entering the agency's premises.
<b>Example 3</b>
In a small grant program, selection of grants was performed by a panel of three experts (two external and one internal). No substantial documentation was evident to confirm that declarations of interests were submitted prior to or on appointment of the selection committee. Members' conflicts were, however, noted on each application's assessment form. In one application examined, the assessment record sheet showed conflicts declared for two of the three members. While the agency policy required an additional external reviewer to be used in such instances, this was not done. The record did not give a clear account of events.

Source: ANAO, informed by various documentation and interviews during the audit.

## Conclusion

**4.25** The Australian Government provides substantial funding each year to fund grants across a broad range of research, industry and community sectors. The CGGs require agencies to ensure the probity of the granting process, including equity and fairness in the selection of grants for funding. Open disclosure of conflicts of interest by grant assessors and selection panels allows agencies to take appropriate measures to mitigate conflict risks and maintain the integrity of grant selection. Conflict of interest risk is inherently high for granting activities that involve peer review. Having appropriate policies and processes in place to manage conflicts of interest early is therefore particularly important.

**4.26** Of the six grant rounds examined, most had generally sound guidance material and conflict of interest controls in place to support the probity of the grant selection process. Agencies administering high value and/or longer-term grant programs generally demonstrated more elements of good practice, including: a higher level of awareness of conflict of interest obligations and risks; highly informative guidelines and systems to support assessors and panel members in making appropriate conflict declarations; and clearly defined conflicts risks and mitigation strategies.

**4.27** Proportionality is an important element of effective grant administration. Taking this into consideration, some agencies would find benefit in adopting more structured and comprehensive practices to manage conflicts of interest. In particular, smaller agencies or those with lesser or infrequent granting responsibilities should make certain that they meet government expectations.

**4.28** To strengthen conflict of interest management, agencies should ensure that:

- the level of risk that different conflicts can pose to the agency or program is defined, recognised and dealt with appropriately as part of grant program design and establishment, and throughout the granting process;
- the principles and management strategies for avoiding and reducing the impact of conflicts of interest are clearly articulated and carried out by all individuals involved in the granting process (including internal officers and externally sourced assessors/members); and
- conflict of interest arrangements are appropriately delegated, overseen and monitored, to provide assurance of compliance, and effectiveness and probity in accordance with the CCGs, the Code of Conduct and generally accepted better practice.

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Ian McPhee

Auditor-General

Canberra ACT

23 June 2014



# Appendices



## Appendix 1: Agencies' Responses



**Australian Government**  
**Australian Institute of Criminology**

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3 June 2014

Dr Andrew Pope  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Dr Pope

### **AIC RESPONSE TO MANAGING CONFLICTS OF INTEREST IN FMA AGENCIES AUDIT**

I refer to your letter of 29 April 2014 to the Australian Institute of Criminology (AIC) seeking comment on the recent Managing Conflicts of Interest in FMA Agencies audit report.

The AIC acknowledges the efforts of the Australian National Audit Office (ANAO) to ensure that agencies establish sound governance arrangements around managing real and perceived conflicts of interest.

As a small FMA agency the AIC is grateful for the advice and feedback the ANAO provided on improving existing governance arrangements in relation to the management of conflict of interest matters.

The AIC's response to Recommendation 1 is at Attachment A and a response for inclusion in the body of the report is at Attachment B.

Yours sincerely

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Dr Adam Tomison  
Director (Chief Executive)

**Australian Institute of Criminology response to ANAO Recommendation**

**Recommendation 1:**

*To reduce the risks posed by conflicts of interests, the ANAO recommends that APS agencies as part of normal enterprise wide risk reviews, give specific attention to conflicts of interest matters. In particular, such reviews should carefully consider the agency's key business risks, changes in APS governance practices and cooperative obligations to stakeholders.*

**Australian Institute of Criminology Response:** *Agreed*

The Australian Institute of Criminology agrees with Recommendation 1.



Attachment B

**Summary of the Australian Institute of Criminology's response for inclusion in the Report Summary**

The Australian Institute of Criminology acknowledges the role of the ANAO in ensuring that agencies establish sound governance arrangements, promote awareness and encourage public officials to declare real and perceived conflicts of interest.

The feedback and advice received from the ANAO on the AIC's current framework for managing conflicts of interest has been appreciated and the AIC will work to enhance its procedures and practices accordingly.

The Australian Institute of Criminology agrees with the ANAO recommendation.



Mr Ian McPhee PSM  
Auditor-General  
Australian National Audit Office  
PO Box 707  
Canberra ACT 2601

Dear Mr McPhee *Tan*

**Proposed audit report on managing conflicts of interest in FMA agencies**

I am writing in response to Dr Andrew Pope's letter of 29 April 2014 seeking comments on the proposed audit report, *Managing Conflicts of Interest in FMA Agencies*.

The Commission supports the recommendation in the proposed audit report. Managing risks to the integrity of the APS as part of the normal enterprise-wide risk review process, including risks arising from poor management of conflicts of interests, is good business practice.

The structured approach outlined in the current audit report offers an effective way to improve the understanding of employees and agency heads with respect to their obligations to avoid and manage conflicts of interest. For Australian Public Service (APS) employees, these obligations are set out in the APS Code of Conduct in section 13(7) of the *Public Service Act 1999*.

The Commission publishes guidance to assist APS employees to understand the practical application of the APS Values, Employment Principles and Code of Conduct, including in relation to conflicts of interest—in both common and unusual circumstances. The guidance also advises agency heads about establishing policies and procedures that promote the APS Values and ensure compliance with the Code.

The proposed audit report considers that greater clarity is needed around the mandatory and non-mandatory requirements for APS employees to disclose conflicts of interest, and that the Commission's guidance could be made more succinct and focused. The report also suggests that some terms used in the Commission's guidelines could be more clearly defined to promote a more consistent understanding of the requirements across APS agencies.



The Commission's guidance on official conduct (*APS Values and Code of Conduct in Practice: a Guide to Official Conduct for APS employees and Agency Heads*), including conduct relating to conflicts of interest, is currently under review. The report's conclusions are sensible and will be drawn on as part of that review.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Sedgwick', with a long horizontal stroke extending to the left.

Stephen Sedgwick AO, FIPAA  
26 May 2014



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17 May 2014

Dr Andrew Pope  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Dr Pope

**Proposed audit report on Managing Conflicts of Interest in FMA Agencies**

Thank you for your letter dated 29 April 2014 to the Australian Research Council (ARC) and for the opportunity to provide comments on the proposed report on *Managing Conflicts of Interest in FMA Agencies*, pursuant to sub-section 19 of the *Auditor-General Act 1997*.

The ARC welcomes the Australian National Audit Office's (ANAO) proposed report and acknowledges the commentary provided therein. The ARC accepts the recommendation and makes the following comment for inclusion in the report Summary:

*The ARC agrees the recommendation and acknowledges the importance of identifying and managing conflicts of interest, particularly in the peer review process. The ARC remains committed to minimising risks relating to conflict of interest and ensuring its processes are transparent. The ARC regularly reviews its conflict of interest framework to ensure the effectiveness of relevant policies and processes and will continue to monitor compliance with conflict of interest provisions.*

The ARC appreciates the opportunity to participate in the cross agency audit and values the suggestions provided by the ANAO. The ARC will continue to work towards better practice in this area, taking into consideration the report's suggested improvements when reviewing its conflict of interest policy and business processes.

I would also like to take this opportunity to thank you for acting on our concerns which we raised early on and to thank your team for their professional conduct during the course of this audit.

If you require further clarification of the ARC's response, please contact Justin Withers, Director, Policy and Integrity on (02) 6287 6662 or at [justin.withers@arc.gov.au](mailto:justin.withers@arc.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Byrne', with a long horizontal flourish extending to the right.

Professor Aidan Byrne  
Chief Executive Officer



**Australian Government**  
**Department of the Environment**

**Dr Gordon de Brouwer**  
**Secretary**

Ref: EC14-000143

Dr Andrew Pope  
Group Executive Director - Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
Canberra ACT 2601

Dear Dr Pope

I refer to your letter of 29 April 2014 seeking a response to the ANAO's proposed audit report on Managing Conflicts of Interest in FMA Agencies as it relates to this Department.

The Department's formal response to the report is provided below for inclusion in your final report.

*Formal Response:*

The Department of the Environment agrees with Recommendation Number 1 at Attachment A.

The finding of the report largely relates to processes and practices covered in the Department's management of conflict of interest. The Department acknowledges the positive outcomes of this audit and will use them to further strengthen its approach to its management of conflict of interest.

On the specifics of the recommendation, the Department has in place processes which take into account conflict of interest in the enterprise-wide review of risks. I am confident that the Department is well placed to deal with the type of matters raised in the audit.

Thank you for providing the opportunity to comment on the proposed audit report.

Yours sincerely

Gordon de Brouwer  
30 May 2014

Attachments:

*Attachment A – Response to recommendation number 1.*

**Attachment A:**

Recommendation no 1:

*To reduce the risks posed by conflicts of interest, the ANAO recommends that APS agencies as part of their normal enterprise wide risk reviews, give specific attention to conflicts of interest matters. In particular, such review should carefully consider the agency's key business risks, changes in APS governance practices and cooperative obligations to stakeholders.*

Response

Agreed.

The Department is currently working to strengthen its approach to managing risk. Its approach to the review of enterprise wide risk already takes into account conflict of interest. The recommendation will further strengthen its capacity to manage risk relating to conflict of interest.



**Australian Government**

**Department of Health**

**SECRETARY**

Dr Andrew Pope  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Dr Pope

**PERFORMANCE AUDIT ON MANAGING CONFLICTS OF INTEREST IN FMA AGENCIES**

Thank you for your letter dated 29 April 2014, providing an opportunity for the Department to comment on the proposed Australian National Audit Office (ANAO) report of the above audit. I understand an exit interview was conducted on 20 May 2014.

The Department also notes the two case studies that involve the Department and agrees for the ANAO to include these in the report. The Department's response for noting in the report summary is:

*The Department of Health notes the audit report and agrees with the recommendation.*

If you have any further questions about the Department's response, please contact Mr Colin Cronin, Assistant Secretary Audit and Fraud Control on (02) 6289 7877 in the first instance.

Yours sincerely

Jane Halton PSM  
Secretary

2 June 2014





**Australian Government**  
**Department of Industry**

Secretary

Dr Andrew Pope  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Dr Pope

I refer to your letter of 29 April 2014, seeking comment from the Department of Industry on the proposed audit report on Managing Conflicts of Interest in FMA Agencies.

The Department acknowledges the contribution the Australian National Audit Office (ANAO) makes to ensure that agencies establish sound governance arrangements, promote awareness and encourage public officials to declare real and perceived conflicts of interest.

The positive feedback provided by the ANAO on the Department's performance in relation to the management of conflict of interest matters is appreciated.

The Department's response to Recommendation 1 is at Attachment A and a response for inclusion in the body of the report at Attachment B.

I acknowledge the professional approach taken by the Australian National Audit Office team during the audit process and thank you for the opportunity to comment on the proposed audit report.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'G. A. Beauchamp', written in a cursive style.

Glenys Beauchamp

26 May 2014

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## ATTACHMENT A

### Department of Industry response to ANAO Recommendation

#### Recommendation 1:

*To reduce the risks posed by conflicts of interest, the ANAO recommends that APS agencies as part of their normal enterprise wide risk reviews, give specific attention to conflicts of interest matters. In particular, such review should carefully consider the agency's key business risks, changes in APS governance practices and cooperative obligations to stakeholders.*

#### Department of Industry Response: *Agreed*

The Department of Industry agrees with Recommendation 1.



**Australian Government**  
**Department of Social Services**

**Finn Pratt PSM**  
**Secretary**

Dr Andrew Pope  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Dr Pope

**Proposed audit report on Managing Conflicts of Interest in FMA Agencies**

Thank you for your letter of 29 April 2014 providing the opportunity to comment on the Australian National Audit Office's Section 19 Report for the Audit on Managing Conflicts of Interest in FMA Agencies.

I understand staff from the Audit Office have met with representatives from my department during an exit interview to discuss the audit's preliminary findings and proposed recommendations.

My Department welcomes the findings of the report and support the audit recommendation. A formal response for inclusion in the report Summary is attached.

Please contact the Department's Risk Advisor, Matthew Haigh on 02 6146 1736, if you have any queries on this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Finn Pratt'.

Finn Pratt

26 May 2014

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**Formal agency comments to be included in full as an appendix to the final report**

The Department of Social Services (DSS) welcomes the findings of the audit report on Managing Conflicts of Interest in FMA Agencies.

DSS notes the recommendation that agencies give specific attention to potential conflicts of interest as part of enterprise-wide risk reviews.

As part of its ongoing commitment to improving internal risk management practices, DSS is currently reviewing its strategic and operational risks to ensure alignment with the Department's strategic direction. The review will include key business risks and changes in governance practices, including compliance with the *Public Governance, Performance and Accountability Act 2013* which will come in to effect on 1 July 2014.

To ensure DSS appropriately manages the risk presented by conflicts of interest, the Executive Management Group, consisting of the Secretary and Deputy Secretaries, will have accountability for the management of the revised enterprise-level risks.



**Australian Government**  
**National Health and Medical Research Council**

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Dr Andrew Pope  
 Executive Director, Performance Audit Services Group  
 Australian National Audit Office  
 PO Box 707  
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Dear Dr Pope

**RE: Proposed audit report on Managing Conflicts of Interest in FMA Agencies**

Thank you for your letter of 29 April 2014 in relation to ANAO's proposed report on Managing Conflicts of Interest in FMA Agencies. Professor Anderson has asked me to respond on his behalf.

The effective identification, disclosure and management of interests is important to NHMRC and we have developed robust processes to ensure our work is conducted with the utmost integrity. We acknowledge the work of the ANAO, through this audit, to collect, assess and analyse the complex processes in place across FMA Agencies. We hope this work will inform the development of relevant rules and guidance under the *Public Governance, Performance and Accountability Act 2013*.

NHMRC agrees with the recommendation in the proposed report (Recommendation 1, Paragraph 2.32) and already has mechanisms in place to implement the recommendation.

As you have identified, NHMRC has well-developed procedures for the disclosure and management of interests throughout the process of peer review grant selection and in committee management. In particular, we note that you have identified our mechanisms for communicating conflict of interest requirements to peer reviewers as a good practice case study. We would be prepared to share our experience and discuss our processes with other interested agencies.

Yours sincerely

Sarah Byrne  
 Executive Director  
 Business Support Branch

27 May 2014

13 000 NHMRC

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## Appendix 2: Agencies included in the audit

The audit includes the following agencies:<sup>46</sup>

- Attorney General's Department
- Department of Agriculture\*
- Department of Communications\*
- Department of Defence
- Department of Education\*
- Department of Employment\*
- Department of Environment\*
- Department of Finance\*
- Department of Foreign Affairs and Trade
- Department of Health\*
- Department of Human Services
- Department of Immigration\*
- Department of Industry (in particular AusIndustry)\*
- Department of Infrastructure and Regional Development
- Department of Prime Minister and Cabinet
- Department of Social Services\*
- Department of the Treasury
- Department of Veteran Affairs
- Australian Institute of Criminology<sup>a</sup>
- Australian Research Council<sup>a</sup>
- Australian Trade Commission (Austrade)<sup>a</sup>
- Cancer Australia<sup>a</sup>
- Defence Materiel Organisation<sup>b</sup>
- National Health and Medical Research Council<sup>a</sup>

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46 The audit included all Departments of State, and six (statutory<sup>(a)</sup> and non-statutory<sup>(b)</sup>) agencies. \*The above list is based on the re-organised and renamed departments following machinery of government changes post-2013 Federal Election. Departments originally designated in the audit also included the then Department of Resources, Energy and Tourism (RET) and Department of Regional Australia, Local Government, Arts and Sports (RALGAS).

## Appendix 3: Conflict of interest definitions and terminology

**Table A.1: Conflict of interest definitions**

Conflict of interest definitions	Source
A conflict between the public duty and the private interest of a public official, in which the official's private-capacity interest could improperly influence the performance of their official duties and responsibilities.	Organisation for Economic Co-operation and Development
A conflict between a public official's duties and responsibilities in serving the public interest, and the public official's private interests. A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage—whether financial or otherwise.	NSW Independent Commission Against Corruption
An 'interest' in this context means anything that can have an impact on an individual or group. The term 'private interests' includes not only an employee's own personal, professional or business interests, but also the personal, professional or business interests of individuals or groups with whom they are closely associated. This can include relatives, friends or even rivals and enemies.	Victorian Public Service
<p>Personal interests may influence staff or be perceived to be influencing staff when carrying out their duties resulting in a conflict of interest. The personal interest may be, for example:</p> <ul style="list-style-type: none"> <li>• a financial or business interest;</li> <li>• some other form of interest such as voluntary work; and</li> <li>• something that may be of interest to a relative or an associate.</li> </ul> <p>A conflict of interest situation can occur when it creates a reasonable appearance to others that a staff member's objective judgment is likely to be compromised or biased.</p>	Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) <sup>(a)</sup>
A conflict of interest exists where there is a divergence between the individual interests of a person and their professional responsibilities such that an independent observer might reasonably conclude that the professional actions of that person are unduly influenced by their own interests.	NHMRC—Australian Code for the Responsible Conduct of Research
Situations where an employee has private interests which improperly influence or may improperly influence the performance of his or her public duties and responsibilities. A conflict of interest can arise from gaining personal advantage or avoiding personal loss, whether financial or otherwise.	Attorney General's Department
A situation in which someone in a position of trust has competing professional or personal interests. Such competing interests could make it difficult for an individual to fulfil his or her duties impartially, and potentially could improperly influence the performance of their official duties and responsibilities.	Australian Research Council agency level policy

Conflict of interest definitions	Source
Any conflict of interest, any risk of a conflict of interest and any apparent conflict of interest arising through a party engaging in any activity, participating in any association, holding any membership or obtaining any interest that is likely to conflict with or restrict that party participating in the Project.”	Australian Research Council, from Discovery Project guidelines
A circumstance which places an employee in a position where their personal interests (including those of their immediate family—to the extent known) could compromise their independence. Apparent (or perceived) conflicts of interest may be as important as actual conflicts.	Department of Industry, Innovation, Science, Research and Tertiary Education

Source: ANAO.

Note (a) FaHCSIA is now the Department of Social Services due to machinery of government changes as a result of the Federal Election in 2013.

**Table A.2: Related conflict of interest terminology**

Related conflict of interest terminology	Source
<p><b>Real:</b> where a direct conflict exists between current official duties and existing private interests;</p> <p><b>Apparent:</b> where it appears or could be perceived that private interests are improperly influencing the performance of official duties—whether or not that is actually the case;</p> <p><b>Potential:</b> where private interests are not but could come into direct conflict with official duties.</p>	Department of Foreign Affairs and Trade
<p>An <b>actual conflict of interest</b> is one where there is a conflict between a person’s official duties and responsibilities and their private interests.</p> <p>A <b>perceived conflict of interest</b> can exist where a third party could reasonably form the view that a person’s private interest may influence the performance of their official duties, now or in the future. This can occur whether there is a conflict or not.</p> <p>A <b>potential conflict of interest</b> arises where a person has private interests that may conflict with their official duties.</p>	Department of Defence
<p><b>Indirect propriety interests</b> which might include interests held through a nominee, agent, trustee or the like.</p> <p><b>Direct propriety interests</b> which might arise where ownership of intellectual property, entitlements, real estate or personal property is concerned.</p> <p>A <b>conflict of role</b> could arise when an official is required to fulfil multiple roles that may be in conflict with each other to some degree, for example where an official serves on a company board. Such conflicts could impair the quality of working relationships across government organisations and lead to a loss of credibility and effectiveness.</p>	Department of Broadband, Communications and the Digital Economy



Related conflict of interest terminology	Source
<p><b>Pecuniary interests</b> involve an actual, potential or perceived financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or a close associate) own property, hold shares, hold a position in a company bidding for government work, or receive benefits such as concessions, discounts, gifts or hospitality from a particular source.</p> <p><b>Non-pecuniary interests</b> do not have a financial component. They may arise from personal or family relationships, or involvement in sporting, social or cultural activities. They include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement with another person or group.</p>	Department of Defence
<p>A pecuniary interest is likely to be <b>material</b> if a direct link exists between a matter being considered and a member....</p> <p>A pecuniary interest is likely to be <b>immaterial</b> where the interest of the member is insignificant and unlikely to influence the member....</p>	AusIndustry
<p>An interest is <b>material</b> when there is a reasonable perception that it will impact on a person's official actions.</p>	Victoria Ombudsman
<p>Conflict of interests can involve pecuniary interests (e.g. financial interests or other material benefits or costs) or non-pecuniary interests. They can involve the interests of the public official, members of the official's immediate family or relatives (where these interests are known), business partners or associates, or friends. Enmity as well as friendship can give rise to an actual or perceived conflict of interests.</p>	New South Wales Ombudsman

Source: ANAO.

## Appendix 4: Conflict of interest reference list

### Legislation

*Criminal Code Act 1995*, Part 7.4, s137.1.

*Public Service Act 1999*.

*Public Governance, Performance and Accountability Act 2013*.

### Australian National Audit Office Better Practice Guides

Australian National Audit Office (ANAO), 2013, *Implementing Better Practice Grants Administration — Better Practice Guide*.

Australian National Audit Office (ANAO), 2008, *Fairness and Transparency in Purchasing Decisions: Probity in Australian Government Procurement*.

Australian National Audit Office (ANAO), 2003, *Public Sector Governance — Better Practice Guide, Guidance Paper No. 6, Conflicts of Personal Interest and Conflicts of Role*.

### Australian Public Service Commission Guidance

Australian Public Service Commission (APSC), 2013, strengthening a values-based culture: A plan for integrating the APS Values into the way we work, available from <http://www.apsc.gov.au/publications-and-media/current-publications/strengthening-values>.

Australian Public Service Commission (APSC), 2009, *In whose interest?: Preventing and managing conflicts of interest in the APS*, available from <http://www.apsc.gov.au/publications-and-media/current-publications/in-whose-interest>.

Australian Public Service Commission (APSC), 2007, APSC Circular 2007/1, *Declarations of personal interests: Revised policy guidelines*, available from <http://www.apsc.gov.au/publications-and-media/circulars-and-advises/2007/circular-20071>.

APS Values and Code of Conduct in Practice: A guide to official conduct for APS employees and agency heads.

### Organisation for Economic Co-operation and Development Guidance

Organisation for Economic Co-operation and Development, 2007, *Conflict of Interest Policies and Practices in nine EU Member States: A comparative review*, Sigma Paper No.36.

Organisation for Economic Co-operation and Development, 2005, *OECD Toolkit for Managing Conflict of Interests in the Public Service*.

Organisation for Economic Co-operation and Development, 2003, *Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences*, available from <http://www.oecd.org/gov/ethics/managingconflictinterestinthepublicservice.htm>.

## State Government Guidelines

Independent Commission Against Corruption (ICAC) (NSW), *Identifying and managing conflicts of interest in the public sector*, available from [www.icac.nsw.gov.au/files/pdf/Identifyingmanaging.pdf](http://www.icac.nsw.gov.au/files/pdf/Identifyingmanaging.pdf).

The New South Wales Independent Commission Against Corruption (ICAC) and the Queensland Crime and Misconduct Commission (CMC), *Managing Conflicts of Interest in the Public Sector*, November 2004.

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Conflict of interest policy framework, Victorian Public Service, Public sector standards commissioner (Vic) available from [www.ssa.vic.gov.au](http://www.ssa.vic.gov.au).

State Government Victoria, State Services Authority, Public Sector Standards Commissioner, *Conflict of Interest Policy Framework—Victorian Public Sector*, 2009, available from [www.ssa.vic.gov.au/images/stories/product\\_files/136\\_PSSC\\_ConflictIntFrame.pdf](http://www.ssa.vic.gov.au/images/stories/product_files/136_PSSC_ConflictIntFrame.pdf).

Ombudsman Victoria, *Conflicts of Interest in the Public Sector*, 2008, p. 14.

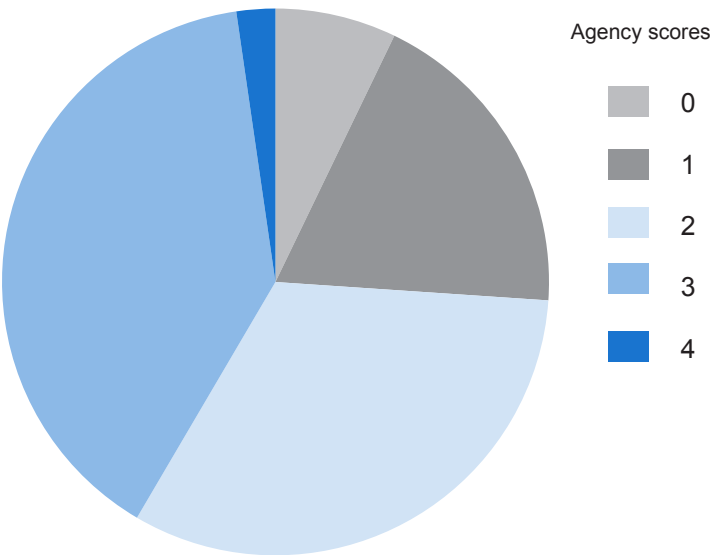
## Examples of Agency Guidelines

The National Health and Medical Research Council, *Identifying and managing conflicts of interest of prospective members and members of NHMRC committees and working groups developing guidelines*, Commonwealth of Australia 2012, available from <http://www.nhmrc.gov.au/guidelines-publications/information-guideline-developers/guideline-development-and-conflicts-interest>.

Australian Research Council (ARC), 2013, *ARC Conflict of Interest and Confidentiality Policy (version 2013.1)*, available from [www.arc.gov.au/about\\_arc/coe\\_guidelines.htm](http://www.arc.gov.au/about_arc/coe_guidelines.htm).

Department of Foreign Affairs and Trade, *Conduct and Ethics Manual, Chapter 5: Conflicts of Interest*, available from [http://www.dfat.gov.au/publications/conduct-ethics/chapter\\_five.html](http://www.dfat.gov.au/publications/conduct-ethics/chapter_five.html).

**Appendix 5: Summary of overall scores against quality and content criteria – 25 agencies**



Source: ANAO analysis.

Key: 0 = nothing in place or criterion not met;  
1 = below acceptable standard, for example little or no policy element in place or many key elements lacking;  
2 = generally acceptable, although the agency could strengthen some key areas;  
3 = generally good practice; and  
4 = higher level of practice—demonstrated good practice against a specific criterion.

Notes: The above chart should be read in conjunction with Figure 2.2, ANAO analysis of agency policies and procedures. It shows how often agencies scored 0, 1, 2, 3 or 4 against a range of audit criteria. The chart includes only results from the Phase 1 document analysis, and does not include the assessment of the SES declaration procedures discussed in the latter part of Chapter 2.

# Index

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## A

APSC Guidance, 35

## C

Code of conduct, 42, 47, 50, 51, 68

Committee, 51, 56

Commonwealth Grant Guidelines, 61

Conflict of interest, 34, 61, 63, 66, 68, 69, 72, 73, 75

## G

Grant selection process, 65, 68, 75

## L

Legislation, 29, 34, 35, 47, 50, 53, 58, 67

## M

Mandatory disclosure, 44

Materiality, 38, 39, 69, 72

## P

Peer review, 61, 63, 65, 74

Private interests, 25, 43, 44, 47, 52, 53

Probity, 62, 67, 68, 72, 74, 75

## R

Review panels, 61

## S

Selection committee, 63

SES declarations, 39, 44

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---

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*Design and Implementation of the Liveable Cities Program*

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## **ANAO Audit Report No.2 2013–14**

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Department of Health and Human Services, Tasmania

Tasmanian Health Organisation – North West

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*Determination and Collection of Financial Industry Levies*

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Administering Regulation	June 2014
Implementing Better Practice Grants Administration	Dec. 2013
Human Resource Management Information Systems: Risks and controls	June 2013
Preparation of Financial Statements by Public Sector Entities	June 2013
Public Sector Internal Audit: An investment in assurance and business improvement	Sept. 2012
Public Sector Environmental Management: Reducing the environmental impacts of public sector operations	Apr. 2012
Developing and Managing Contracts: Getting the right outcome, achieving value for money	Feb. 2012
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Innovation in the Public Sector: Enabling better performance, driving new directions	Dec. 2009
SAP ECC 6.0: Security and control	June 2009
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