

Public Governance, Performance and Accountability Amendment (Consultancy and Non‑Consultancy Contract Expenditure Reporting) Rules 2020

I, Mathias Cormann, Minister for Finance, make the following rules.

Dated 25 May 2020

Mathias Cormann

Minister for Finance

Contents

1 Name 1

2 Commencement 1

3 Authority 1

4 Schedules 1

Schedule 1—Amendments 2

Public Governance, Performance and Accountability Rule 2014 2

1 Name

This instrument is the *Public Governance, Performance and Accountability Amendment (Consultancy and Non-Consultancy Contract Expenditure Reporting) Rules 2020*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 4 June 2020 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Public Governance, Performance and Accountability Act 2013.*

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Public Governance, Performance and Accountability Rule 2014

1 Section 4

Insert:

***Commonwealth Procurement Rules*** means the instrument of that name made under subsection 105B(1) of the Act, as in force on 20 April 2019.

Note: The *Commonwealth Procurement Rules* could in 2020 be viewed on the Department’s website (www.finance.gov.au).

***reportable consultancy contract*** means an arrangement that is published in AusTender as a consultancy.

Note: AusTender could in 2020 be viewed on AusTender’s website (www.tenders.gov.au).

***reportable non‑consultancy contract*** means an arrangement that:

(a) is published in AusTender; and

(b) is not a reportable consultancy contract.

Note: AusTender could in 2020 be viewed on AusTender’s website (www.tenders.gov.au).

2 After paragraph 17AD(d)

Insert:

(daa) additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non‑consultancy contracts;

3 Subsection 17AG(6)

Omit “*Commonwealth Procurement Rules*”, substitute “Commonwealth Procurement Rules”.

4 Subsection 17AG(7) (heading)

Repeal the heading, substitute:

Reportable consultancy contracts

5 Subparagraphs 17AG(7)(a)(i) and (iii)

Omit “contracts engaging consultants”, substitute “reportable consultancy contracts”.

6 Paragraph 17AG(7)(b)

Before “consultancy” (wherever occurring), insert “reportable”.

7 Paragraph 17AG(7)(d)

Omit “contracts for consultancies”, substitute “reportable consultancy contracts”.

8 Paragraph 17AG(7)(d)

Omit “contracts and consultancies”, substitute “reportable consultancy contracts”.

9 After subsection 17AG(7)

Insert:

Reportable non‑consultancy contracts

(7A) The annual report must include the following:

(a) a summary statement of the following:

(i) the number of new reportable non‑consultancy contracts that were entered into during the period;

(ii) the total actual expenditure during the period on all such contracts (inclusive of GST);

(iii) the number of ongoing reportable non‑consultancy contracts that were entered into during a previous reporting period;

(iv) the total actual expenditure during the period on those ongoing contracts (inclusive of GST);

(b) a statement that “Annual reports contain information about actual expenditure on reportable non‑consultancy contracts. Information on the value of reportable non‑consultancy contracts is available on the AusTender website.”.

10 Subsection 17AG(10) (note)

Omit “Paragraph 5.4 of the *Commonwealth Procurement Rules* deals with”, substitute “Paragraphs 5.5 to 5.7 of the Commonwealth Procurement Rules deal with”.

11 After section 17AG

Insert:

17AGA Additional information about organisations receiving amounts under reportable consultancy or reportable non‑consultancy contracts

(1) For the purposes of paragraph 17AD(daa), this section sets out additional information for the period that is to be included in the annual report about:

(a) reportable consultancy contracts; and

(b) reportable non‑consultancy contracts.

Additional information about organisations receiving amounts under reportable consultancy contracts

(2) The annual report must include:

(a) if 5 or more organisations received amounts under reportable consultancy contracts during the period—both of the following:

(i) the names of the organisations who received the 5 largest shares of the entity’s total expenditure on such contracts during the period, and the total amounts they received;

(ii) the name of any organisation that, during the period, received one or more amounts under one or more such contracts equal in total to at least 5% of the entity’s total expenditure on such contracts during the period, and the total amount the organisation received; or

(b) otherwise—the name of any organisation that, during the period, received one or more amounts under one or more reportable consultancy contracts, and the total amount the organisation received.

Additional information about organisations receiving amounts under reportable non‑consultancy contracts

(3) The annual report must include:

(a) if 5 or more organisations received amounts under reportable non‑consultancy contracts during the period—both of the following:

(i) the names of the organisations who received the 5 largest shares of the entity’s total expenditure on such contracts during the period, and the total amounts they received;

(ii) the name of any organisation that, during the period, received one or more amounts under one or more such contracts equal in total to at least 5% of the entity’s total expenditure on such contracts during the period, and the total amount the organisation received; or

(b) otherwise—the name of any organisation that, during the period, received one or more amounts under one or more reportable non‑consultancy contracts, and the total amount the organisation received.

12 Section 29AA

Omit “the *Commonwealth Procurement Rules* for”, substitute “the Commonwealth Procurement Rules for”.

13 Section 29AA

Omit “the *Commonwealth Procurement Rules* apply”, substitute “the Commonwealth Procurement Rules apply”.

14 Subsection 29AA(2)

Omit “*Commonwealth Procurement Rules* (as in force from time to time for the purposes of section 105B of the Act)”, substitute “Commonwealth Procurement Rules”.

15 Paragraph 29AA(3)(a)

Omit “rules 4.7 and 4.8” (wherever occurring), substitute “rules 4.9 and 4.10”.

16 Paragraph 29AA(3)(b)

Omit “rules 4.9 and 4.10”, substitute “rules 4.11 and 4.12”.

17 In the appropriate position in Chapter 5

Insert:

Part 8—Amendments made by the Public Governance, Performance and Accountability Amendment (Consultancy and Non‑Consultancy Contract Expenditure Reporting) Rules 2020

39 Application of amendments made by the *Public Governance, Performance and Accountability Amendment (Consultancy and Non‑Consultancy Contract Expenditure Reporting) Rules 2020*

The amendments of this rule made by the *Public Governance, Performance and Accountability Amendment (Consultancy and Non‑Consultancy Contract Expenditure Reporting) Rules 2020* apply in relation to any reporting period that begins on or after 1 July 2020.

18 Schedule 2 (table item dealing with PGPA Rule Reference 17AG(6))

Omit “*Commonwealth Procurement Rules*”, substitute “Commonwealth Procurement Rules”.

19 Schedule 2 (table items dealing with PGPA Rule Reference 17AG(7)(a), 17AG(7)(b), 17AG(7)(c) and 17AG(7)(d))

Repeal the items, substitute:

|  |  |  |  |
| --- | --- | --- | --- |
|  | *R**eportable consultancy contracts* | |  |
| 17AG(7)(a) |  | A summary statement detailing the number of new reportable consultancy contracts entered into during the period; the total actual expenditure on all such contracts (inclusive of GST); the number of ongoing reportable consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST). | Mandatory |
| 17AG(7)(b) |  | A statement that *“During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of $[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of $[specified million]”*. | Mandatory |
| 17AG(7)(c) |  | A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged. | Mandatory |
| 17AG(7)(d) |  | A statement that *“Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website.”* | Mandatory |
|  | *Reportable non‑consultancy contracts* | | |
| 17AG(7A)(a) |  | A summary statement detailing the number of new reportable non‑consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non‑consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST). | Mandatory |
| 17AG(7A)(b) |  | A statement that *“Annual reports contain information about actual expenditure on reportable non‑consultancy contracts. Information on the value of reportable non‑consultancy contracts is available on the AusTender website.”* | Mandatory |
| *17AD(daa)* | *Additional information about organisations receiving amounts under reportable consultancy contracts or reportable non‑consultancy contracts* | | |
| 17AGA |  | Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable non‑consultancy contracts. | Mandatory |