

DEVELOPING NATIONAL PARTNERSHIPS UNDER THE FEDERAL FINANCIAL RELATIONS FRAMEWORK

SUMMARY

This circular has been developed by Commonwealth, state and territory agencies to provide guidance to officers on the design of National Partnership agreements (including Project Agreements, which are a type of National Partnership) under the federal financial relations framework.

National Partnership agreements support the delivery of specified projects, facilitate reforms or reward those jurisdictions that deliver on nationally significant reforms.

This circular sets out the following:

- I. When a National Partnership is required;
- II. Pre-drafting considerations;
- III. National Partnership design principles and structure;
- IV. Roles and responsibilities;
- V. Performance reporting;
- VI. Payment design and structure;
- VII. Review processes; and
- VIII. Expiring agreements

Appendix A – Table 1, the Structure of National Partnerships

Appendix B – Discussion on financial and other input controls, including the relationship between the FMA Act and Regulations, and the Intergovernmental Agreement on Federal Financial Relations

First Ministers' departments and Treasuries must be consulted on draft agreements as early as possible in their development and before negotiations between Commonwealth and state portfolio agencies commence. Portfolio agencies should also refer to the Federal Finances Circular 2011/03 on the [Processes for drafting, negotiating, finalising and varying agreements under the federal financial relations framework, and related estimates and payments processes.](#)

I. WHEN IS A NATIONAL PARTNERSHIP REQUIRED

This section provides information on:

- the [scope](#) of the Intergovernmental Agreement on Federal Financial Relations;
- the importance of [payment classification](#) by the Department of Finance and Deregulation;
- the treatment of [pre-Intergovernmental Agreement arrangements](#);
- guidance on [when a National Partnership is required](#); and
- the use of [Project Agreements](#) for low value and / or low risk initiatives.

1. 1 Scope of the Intergovernmental Agreement on Federal Financial Relations

1. COAG has agreed a framework for federal financial relations. The framework has applied since 1 January 2009 and is given effect through the *Intergovernmental Agreement on Federal Financial Relations* (the Intergovernmental Agreement). Contextual information on the framework is provided in the [Short Guide to the Intergovernmental Agreement and federal financial relations framework](#).

2. The scope of the Intergovernmental Agreement is broad. Collaborative arrangements between the Commonwealth and the States and Territories (the States) which involve financial transfers between jurisdictions are covered by the provisions of the Intergovernmental Agreement and may require implementation through National Partnership agreements (including Project Agreements which are a type of National Partnership) and Implementation Plans. *Schedule D – Payment Arrangements* of the Intergovernmental Agreement outlines that:

D3 Payments classified as Commonwealth own-purpose expenses are the only intergovernmental financial transfers which are not covered by these payment arrangements.

D4 Where Commonwealth own-purpose expenses and State own-purpose expenses directly contribute to the objectives, outcomes and outputs of a National Partnership agreement, estimates should be included in that National Partnership, even if it does not involve financial transfers between the Commonwealth and the States, for example in areas of significant policy collaboration.

3. Portfolio agencies should seek advice from central agencies on the appropriateness of having a National Partnership in areas of significant policy collaboration, where there are no financial transfers.

4. Where there are no financial transfers between the Commonwealth and the States arising from policy collaboration, agreements outside of the federal financial relations framework, such as Memoranda of Understanding or an IGA, may be more appropriate. Portfolio agencies should work with central agencies to ensure that a proposal to develop an agreement outside of the framework is appropriate.

1. 2 Classification of payments by the Department of Finance and Deregulation

5. The classification of payments as National Partnership Payments to, or through, the States (formerly known as Specific Purpose Payments) or a Commonwealth Own-Purpose Expense

determines whether a payment falls under the federal financial relations framework, and whether it requires implementation through an agreement under the framework.

6. The Department of Finance and Deregulation (Finance) is responsible for this classification process. Where payments are classified as a payment to the States and there are conditions attached to the payments, an agreement under the framework is the only existing mechanism available to make a payment to or through the States.

7. Given the importance of payment classification, Commonwealth portfolio agencies must consult with the Financial Reporting Branch in Finance for advice on whether an Australian Government payment is classified as a Commonwealth Own-Purpose Expense or a payment to or through the States or direct to local government.

8. When determining the classification of a payment, Commonwealth portfolio agencies should consider relevant program information against the criteria of contestability and the nature of transactions as described in [Finance Circular 2010/01, Classification of Payments to the States and Territories and Commonwealth Own-Purpose Expense](#). Once Commonwealth portfolio agencies have considered these issues and conducted the necessary analysis, they must consult with Finance so that their conclusions regarding the classification of the payment can be verified.

9. Further information on the treatment of Commonwealth Own-Purpose Expense under the framework is included in the [Short Guide to payments that fall within the federal financial relations framework](#). Agencies should also refer to the guidance provided on payment classification processes in Federal Finances Circular 2011/03, [Processes for Drafting, Negotiating, Finalising and Varying Agreements under the federal financial relations framework, and related Estimates and Payments processes](#).

10. Given the importance of payment classification, an agreement under the federal financial relations framework must not be drafted or negotiated before the classification of any proposed payment is verified by Finance.

1.3 Treatment of pre-Intergovernmental Agreement arrangements

11. Agreements that pre-date the framework involving payments to the States (other than for those payments which were rationalised into National Specific Purpose Payments), have been deemed to be National Partnerships.

- For these deemed agreements, where the program is continuing, a new National Partnership should be negotiated with the States before the expiration of the current agreement, or sooner at the discretion of Portfolio Ministers. A standard National Partnership template is available from the Treasury or the [Standing Council on Federal Financial Relations](#) website.
- Clauses D93 and D94 of the Intergovernmental Agreement specify that any provisions in these agreements which are inconsistent with the Intergovernmental Agreement are no longer valid. During the drafting process, modification of existing administrative arrangements may need to be considered to remove requirements that are inconsistent with the federal financial relations framework, such as financial and other input controls and to reduce reporting requirements to appropriate levels.

12. Agreements that have been developed since the commencement of the framework, but that have been drafted inconsistently with the Intergovernmental Agreement, are also deemed to be National Partnerships.

1.4 When should a National Partnership be developed

13. The Intergovernmental Agreement (Clause E21)¹ clarifies that Commonwealth involvement in reform or service delivery improvement in areas of State responsibility may be appropriate where it:

- is closely linked to a current or emerging national objective or expenditure priority of the Commonwealth — for example, addressing Indigenous disadvantage and social inclusion;
- has ‘national public good’ characteristics — where the benefits of the Commonwealth’s involvement extend nationwide;
- has ‘spill over’ benefits that extend beyond the boundaries of a single state or territory;
- has a particularly strong impact on aggregate demand or sensitivity to the economic cycle, consistent with the Commonwealth’s macro-economic responsibilities; and/or
- addresses a need for harmonisation of policy between the States to reduce barriers to the movement of capital and labour.

14. A National Partnership may be required to implement these types of reform or service improvement initiatives, including where the initiatives relate to reform directions which are described in an existing National Agreement.

15. National Partnerships are expected to cover significant policy matters. Consequently, before a National Partnership is developed, consideration should be given as to whether an existing mechanism exists to facilitate the activity or investment.

- There should be consideration of whether there is a suitable existing agreement which can encompass the objectives, outcomes and funding of the new activity, and that the prospective National Partnership is considered in terms of whether it accords with the principles set out in Clauses E19 and E21 of the Intergovernmental Agreement.

16. Where there are no conditions attached to a payment to the States — for example, where the States have fulfilled any requirements without the need for the conditions to be set out in an agreement — payment may be able to be processed without a National Partnership agreement. The terms and conditions under which financial assistance is granted would need to be documented appropriately to ensure that any requirements of the *Financial Management and Accountability Act 1997* (FMA Act), the *COAG Reform Fund Act 2008*, and the *Federal Financial Relations Act 2009* are satisfied.

17. Payments in respect of contingent liabilities (for example, when an event such as a natural disaster occurs) are not generally reform-based or time limited. Treasury will provide advice to agencies on the treatment of contingent payments as well as payments where there are no conditions attached, on a case-by-case basis.

18. An exchange of letters to facilitate a payment to the States should be avoided as a mechanism to make a payment where National Partnerships or Implementation Plans are unable to be finalised

¹ As Project Agreements are used to implement low value and/or low risk projects that are discrete in nature, some of these aspects may not apply.

and agreed between the Commonwealth and the States as it does not meet the public transparency and accountability requirements of the Intergovernmental Agreement.

1. 5 Project Agreements for low value and / or low risk initiatives

19. Where the policy proposal or payment is considered relatively low value and / or low risk, a simpler form of National Partnership called a Project Agreement may be used. Generally the principles applying to National Partnerships also apply to Project Agreements, although Project Agreements more often relate to one-off and/or smaller projects. Project Agreements will typically include less detail and lower reporting because they will generally have a focus on straightforward program or project delivery.

20. The main features of Project Agreements are:

- they are outputs focused documents and would not be expected to include aspirational objectives;
- there is an appropriate level of detail, and like existing Implementation Plans developed under omnibus National Partnerships², they contain less detail than is expected in a National Partnership;
- they are expected to have a lower level of reporting than standard National Partnerships because they will typically be for smaller, lower risk ‘business as usual’ activities, and reporting will focus on outputs, which are typically easier to measure than outcomes;
- they should constitute the entirety of the Commonwealth-State agreement due to their simple nature. Where details such as funding and performance reporting information are unable to be captured in the Project Agreement, a National Partnership would be necessary;
- they should have the same level of central agency oversight as standard National Partnerships, and Commonwealth and State central agencies must be consulted on draft Project Agreements before portfolio Ministers enter into a new Project Agreement with the States;
- they are signed by portfolio ministers rather than First Ministers; and
- cannot be developed except by agreement of Treasury, the Department of the Prime Minister and Cabinet, and Finance.

21. Project Agreements may be multilateral (although they are generally bilateral) but do not have Implementation Plans, so if the detail of the arrangements, including jurisdictional differences, cannot be captured adequately in the body of the Project Agreement, then a National Partnership is required.

22. The Treasury and the Department of Prime Minister and Cabinet can provide advice to agencies when drafting new Project Agreements. Project Agreements should not deviate from the

² Project Agreements will replace Implementation Plans developed under the three omnibus National Partnerships (Health services, Health Infrastructure and Water for the Future). Existing Implementation Plans under these agreements will continue until they expire. Implementation Plans may still be used for other National Partnerships, and will vary depending on the particular circumstances and characteristics of the relevant National Partnership – a separate Circular is being developed by the Department of Prime Minister and Cabinet that will provide guidance on Implementation Plans.

[Project Agreement template](#). Portfolio agencies should also refer to the [Project Agreement Process Map](#) and Federal Finances Circular 2011/03 on the [Processes for drafting, negotiating, finalising and varying agreements under the federal financial relations framework, and related estimates and payments processes](#), all available on the [Standing Council on Federal Financial Relations](#) website.

II. PRE-DRAFTING CONSIDERATIONS

This section provides guidance to drafters on:

- ensuring that agreements are [consistent and mutually reinforcing](#);
- establishing governance structures for [multi-element and cross-portfolio National Partnerships](#); and
- ensuring that [jurisdictional differences](#) are considered as part of the drafting process.

2.1 Agreements should be consistent and mutually reinforcing

23. All agreements under the umbrella of the Intergovernmental Agreement are intended to be consistent and mutually reinforcing. This means it is unnecessary to repeat large pieces of prose or incorporate commitments that are already provided in other agreements – a simple cross-reference to the relevant agreement will usually suffice. Drafters also need to be aware of the COAG commitments in other agreements:

- In particular, COAG has certain commitments in respect of social inclusion and closing the gap in Indigenous disadvantage. For example, under the Indigenous Economic Participation National Partnership, there is a commitment that all new major COAG reforms should incorporate Indigenous workforce strategies that contribute to Closing the Gap targets — where appropriate, these strategies should form part of the performance benchmarks and reporting in the National Partnership or Implementation Plans.

24. Establishing linkages between policy initiatives and agreements is an important consideration in developing new agreements, to ensure that a whole-of-government approach is maintained and that related agreements work together in a complementary manner towards a shared objective.

25. During the policy development phase, portfolio agencies should be alert to the need to consider linkages between related policy initiatives, and ensure that those linkages are identified to the fullest possible extent and consult with Commonwealth and State central agencies.

26. Commonwealth portfolio agencies, in consultation with central agencies, should also consider whether a new National Partnership is required to deliver the new initiative, or where the objectives, outcomes and outputs of the new initiative are sufficiently related to an existing National Agreement or National Partnership, whether it is more administratively efficient to amend the existing National Agreement or National Partnership.

2.2 Governance structures for multi-element and cross-portfolio National Partnerships

27. Under the framework, there are a number of multi-element and cross-portfolio National Partnerships. Multi-element National Partnerships (for example, Hospital and Health Workforce Reform and the Smarter Schools Package) identify and bring together related initiatives. Cross-portfolio National Partnerships (for example, Indigenous Early Childhood Development, and

Closing the Gap in the Northern Territory), are the joint responsibility of two or more portfolios, and usually contain a number of different elements.

28. Multi-element and cross-portfolio National Partnerships are important from a policy perspective, as they establish policy and program linkages with an emphasis on shared objectives for related initiatives. However, they can present administrative challenges, and coordination within and between portfolio agencies requires resources and appropriate governance structures.

29. Portfolio agencies should ensure that appropriate governance structures are established to coordinate the development and implementation of multi-element and cross-portfolio National Partnerships, and that this be done early in the life of the agreement to improve its effectiveness in supporting the achievement of agreed outcomes and/or outputs.

- For cross-portfolio National Partnerships, a lead agency should be mutually agreed by the parties and specified in the agreement where possible, with the lead agency having responsibility for ongoing oversight, coordination and implementation and monitoring of the National Partnership, including liaison with central agencies, for the duration of the National Partnership.

2.3 Consideration of jurisdictional differences

30. In general, the negotiation, implementation and administration of agreements under the Intergovernmental Agreement, falls equally on all States, requiring all jurisdictions to apply a similar minimum level of resources to carry out these functions (for example, to meet the same reporting requirements, and enact similar legislative requirements). However, the impacts of this may be felt more acutely in smaller jurisdictions, where the burden constitutes a larger proportion of available resources and funding, and in some cases may be disproportionate to the material benefit or intent of the project or reform.

31. National Partnerships should be sufficiently flexible to accommodate jurisdictional differences. Consistent with the framework's focus on the achievement of outcomes rather than prescribing how services are to be delivered, the specific delivery arrangements for National Partnerships should be left to the discretion of jurisdictions. Commonwealth and State central and portfolio agencies should ensure that during the consultation and development phase, jurisdictional differences are appropriately considered when developing agreements, to ensure that agreements are sufficiently flexible to accommodate jurisdiction specific differences, including the needs of smaller jurisdictions.

32. Under the terms of the Intergovernmental Agreement, where a National Partnership involves different characteristics between the States, jurisdiction specific Implementation Plans may form schedules to the National Partnership. Implementation Plans are not required for all National Partnerships, but may be required where there are material differences in jurisdictional context or approach, jurisdictions agree that the complexity and risks inherent in the reform or project warrant additional transparency, or there is not sufficient detail in the National Partnership specific to each jurisdiction concerning performance and reporting arrangements. In relation to this last point, it should be noted that these details should be in the National Partnership, and it is only in exceptional circumstances that they should be required in the Implementation Plan. Central agency advice should always be sought in the development of Implementation Plans.

33. Where there is agreement between the Commonwealth and States on the need for an Implementation Plan, it should be developed at the same time as the National Partnership or as soon as possible but no later than six months from the signing of the National Partnership. This will

avoid repetition and diminish the need to include information in the Implementation Plan that should be in the National Partnership (e.g. roles and responsibilities, performance monitoring and reporting and financial arrangements).

34. Where they are appropriate, Implementation Plans should be succinct high level documents that allow States to deliver against outcomes in a flexible and self-determined way, with a primary emphasis on accountability to the public. A separate Circular on [Developing Implementation Plans for National Partnerships](#) has been developed to provide guidance when developing Implementation Plans.

III. NATIONAL PARTNERSHIP DESIGN PRINCIPLES AND STRUCTURE (PROGRAM LOGIC)

This section provides guidance on National Partnership [design principles](#) and [structure](#).

3.1 National Partnership design principles

35. The Intergovernmental Agreement provides explicit direction that National Partnerships must focus on outcomes and/or outputs rather than inputs (Intergovernmental Agreement, Clauses 8, 17, C2, E1). To the fullest extent possible, payments should be aligned with the achievement of outcomes and outputs, as measured through clearly specified performance indicators in National Partnerships, and avoid the use of financial and other input controls. Care should also be taken to:

- avoid creating perverse incentives or to reduce State budget flexibility or the incentive to innovate in service delivery; and
- ensure that the administrative and compliance burdens do not outweigh the expected benefits.

36. Implicit in the Intergovernmental Agreement is that agreements between the Commonwealth and the States within the scope of the Intergovernmental Agreement are not legally enforceable. Consequently, the Intergovernmental Agreement provides that National Partnerships will be drafted in plain English prose (Intergovernmental Agreement, Clause E20).

- Agreements are not intended to create legal obligations between the Commonwealth and the States, and must not be in the form of legal contracts used to formalise agreements with the private sector.
- It is possible that some own purpose expenses (for example, where a Commonwealth or a State government authority is contracted as a provider of specific goods or services) could potentially be legally enforceable where a legal contract is in place, but these arrangements would not be in the form of a National Partnership.

37. Another key principle of National Partnerships is that, as they involve reforms, service delivery improvement or projects of national importance, generally they will be multi-lateral agreements between all governments (Intergovernmental Agreement, Clause E20). However, not all National Partnerships will be relevant to all States. States may also choose not to be a party to particular National Partnerships.

38. National Partnerships in areas within the scope of any National Agreement should link directly to the objectives, outcomes and outputs in the relevant National Agreement. Such linkages should

be explicit in the National Partnership, including stating the objectives, outcomes, outputs and reform directions that are linked. Where this happens, the annual performance reports of the COAG Reform Council in respect of National Agreements will also report on performance under National Partnerships to the extent they support the achievement of the National Agreement's objectives, outcomes and outputs.

39. National Partnerships are intended to focus on reform or service delivery improvements (including specific projects), and are therefore not generally appropriate for ongoing financial transfers between the Commonwealth and the States. National Partnerships should be time limited and contain an expiry date of generally no more than five years after commencement — noting that some reforms, such as in respect of Indigenous service delivery, can take more time to implement and, consequently, longer timeframes can be contemplated where a clear reform need can be demonstrated.

40. National Partnerships that involve payments to the States should expire once the initiative has been delivered, and therefore:

- funding would cease once the project, output or reform has been completed (including when final performance reporting and final payments are made); or
- where ongoing funding is required to maintain outcomes, the Standing Council on Federal Financial Relations can recommend to COAG the form of any ongoing funding after a Commonwealth Budget decision to continue funding has been made and is made public. See Section VIII on Expiring Agreements.

41. National Partnerships are also forward looking documents. This means that the inclusion of any policy background, contextual, historical or advocacy content should be avoided. This kind of material is not likely to be relevant in a National Partnership, since they are agreed after policy decisions have already been taken. While National Partnerships need to provide enough contextual information in the preliminaries of the National Partnership for the public to understand the rationale for the agreement without referring to other documentation, other contextual material is better suited to press releases, websites and other supporting policy documentation.

42. Performance benchmarks, milestones, funding, payment conditions and reporting arrangements agreed between signatories to an agreement should not be varied unilaterally during the term of the agreement. Where substantial elements of an agreement need to be varied, the agreement should be amended by agreement of the Parties. Guidance on the process for varying an agreement is provided in Federal Finances Circular 2011/03 on the [Processes for drafting, negotiating, finalising and varying agreements under the federal financial relations framework, and related estimates and payments processes](#).

3.2 Structure of National Partnerships

43. National Partnerships have a settled, defined structure which should be applied consistently in order to assist public transparency and comprehension. Templates for drafting National Partnerships (including Project Agreements) are available from the Commonwealth Treasury or the [Standing Council on Federal Financial Relations](#) website.

- Agreements should not deviate from the template provided.
- Detailed drafting instructions, including what should be included in particular sections of an agreement, are included within the drafting templates.

44. The components of a National Partnership are summarised in [Table 1](#) at [Appendix A](#). Guidance on some of these elements (for example, objectives, outcomes and outputs) are provided below, while detailed guidance on performance reporting and payment design and structure is outlined in [V](#) and [VI](#) respectively.

Objectives, outcomes and outputs focus

45. A clear link should be established between the overarching objective of the National Partnership, the expected outcomes and outputs, and the performance reporting framework that specifies how progress towards the objectives, outcome and outputs will be achieved.

46. National Partnerships should clearly define their purpose (that is, the reason for the agreement). Where the National Partnership is focused on reform or service delivery improvements, the objective should define the future state to which all Parties to the agreement aspire, towards which the particular reform or improvement is intended to contribute. Where the National Partnership is focused on the delivery of a project, the purpose will generally be more straightforward. Where the National Partnership relates to a National Agreement, the objective should be consistent with the National Agreement.

47. Outcomes are the measurable improvements that governments expect to observe from implementing the agreement effectively. Outcomes should be expressed as concise, realistic statements that focus on the end result being sought by governments, rather than the means for achieving it and should link to the overarching objective. Outputs will describe the projects or services being delivered to achieve the stated outcomes.

48. For example, a National Partnership that provides for Commonwealth and State collaboration on a range of natural disaster activities could have the following objective, outcome and output:

Objective - Australian communities are resilient to natural disasters.

Outcome - Reduced risk from the impact of disasters and appropriate emergency management capability and capacity, consistent with State and Territory risk profiles.

Output - Implementation of a program of natural disaster mitigation activities to address agreed priorities.

49. The relative significance of outcomes and outputs may vary between different types of agreements. For example, outcomes will have particular significance where reward payments are made as they need to articulate clearly the improvements that governments expect to achieve in implementing the reform. Where project payments are made, the outcomes may be less complex and outputs will have particular significance as the means of achieving outcomes. However, the integrity of both outcomes and outputs is important to all National Partnerships.

Avoid prescription on service delivery

50. The Intergovernmental Agreement provides for a reduction in Commonwealth prescription on service delivery by the States and Territories (clause 8(a)), and states that National Agreements will not include financial or other input controls, giving the States and Territories more flexibility in how services are provided to achieve the outcomes for which they are responsible (clauses 21, E5, E16). It also states that, to the fullest extent possible, National Partnerships will align with the principles for designing National Agreements (clause E22).

51. Rather than seeking to control how States deliver outcomes, the Intergovernmental Agreement aims to improve the quality and effectiveness of government services by reducing Commonwealth prescription, aligning payments with the achievement of outcomes and/or outputs as measured by

performance benchmarks or milestones, and giving States the incentive and flexibility to determine how to achieve those outcomes efficiently and effectively. Accordingly, National Partnerships and Project Agreements must focus on outcomes and outputs rather than inputs and should avoid specifying in detail how outcomes and outputs are to be achieved.

52. The Intergovernmental Agreement focuses on the achievement of outcomes and outputs through greater flexibility in the delivery of services, clarified Commonwealth/State responsibilities and enhanced public accountability for achieving outcomes. States are responsible for the achievement of agreed outcomes and outputs and have the budget and operational flexibility to determine how outcomes and outputs are achieved most efficiently.³ However, this flexibility must be accompanied by appropriate levels of accountability which, rather than being achieved through input controls which reduce flexibility and blur accountability, are achieved through well-designed agreements that include:

- clearly defined and articulated objectives, outcomes and outputs;
- clearly delineated, accepted and understood roles and responsibilities;
- fully disclosed estimates of Commonwealth and non-Commonwealth financial contributions, with estimated Commonwealth contributions being appropriately scrutinised to ensure that they are robust;
- good payment design, i.e. payments that are designed to create an incentive for the achievement of outcomes and/or outputs by being appropriately weighted and linked to the achievement of performance benchmarks or milestones; and
- appropriate scope and frequency of performance reporting with progress reported against performance benchmarks or milestones that are clearly linked to outcomes and/or outputs to ensure that the public accountability and transparency requirements of the Intergovernmental Agreement are met, and that Commonwealth has the information necessary to determine whether outcomes and/or outputs have been achieved and therefore whether payments can be made.

53. The financial risk management arrangements for National Partnerships whereby States retain Commonwealth funding where they deliver outcomes and/or outputs for less than the agreed estimated cost of the project and bear all risk should the final cost exceed the agreed estimated cost, also reflect the focus of the Intergovernmental Agreement on flexibility and public accountability for the achievement of outcomes.

54. For National Partnerships to operate effectively, it is essential that these design elements are implemented fully and correctly.

Input controls

55. In the context of the Intergovernmental Agreement, an input control is:

- a prescription on the manner in which an outcome and/or output is delivered, where payments or the agreement more broadly, are contingent on the prescribed method of delivery; or

³ States are also obliged to act in accordance with their own financial management and accountability, and audit requirements.

- a prescription on reporting content that is inconsistent with the Intergovernmental Agreement, such as income and expenditure reporting or reporting on staffing arrangements and costs, where payments or the agreement more broadly, are contingent on that reporting.

56. Input controls:

- undermine the outcomes focus of the Intergovernmental Agreement and proper consideration of outcomes and/or outputs and their measurement;
- limit States' flexibility to determine how to achieve outcomes and/or outputs efficiently according to the needs of their community and the nature of their service delivery systems, including through innovation and continuous improvement;
- limit States' budget flexibility in responding to community needs;
- obscure accountability as States are accountable for the achievement of outcomes and/or outputs, but through input controls, are constrained in how those outcomes and/or outputs are achieved;
- transfer risk to the Commonwealth as by imposing input controls, the Commonwealth is assuming a degree of responsibility for the achievement of outcomes and/or outputs for which States are responsible; and
- can add to administration and reporting costs.

57. Definitions of different types of input controls are provided at Appendix B.

Input controls and the FMA Act and Regulations

58. National Partnership payments are made from the Commonwealth to the States under Part 4 of the *Federal Financial Relations Act 2009* and the Intergovernmental Agreement, and are subject to the provisions of the *Financial Management and Accountability Act 1997* (FMA Act) (Subsections 44(1) and 44(3)), and Regulations (Regulations 8 and 9).

59. Commonwealth portfolio ministers are responsible for ensuring that decision making in pursuing National Partnerships accords with principles of administrative law, and that the process for developing and managing National Partnerships is consistent with the requirements of the FMA Act and Regulations.

60. Subsection 44(3) of the FMA Act defines 'proper use' as meaning 'efficient, effective and ethical use that is not inconsistent with the policies of the Commonwealth'. The Intergovernmental Agreement and the associated federal financial relations framework provide the overarching policy framework against which Commonwealth portfolio agencies discharge their obligations under the FMA Act and Regulations and Commonwealth officials are obliged to develop and manage agreements in accordance with those policies.

61. National Partnerships should comply fully with the design principles of the Intergovernmental Agreement, as discussed above, and do not require Commonwealth agencies to introduce additional layers of prescription or additional reporting requirements in order to meet their obligations under the FMA Act and Regulations.

62. At an early stage in the policy design phase for new agreements, Commonwealth portfolio agencies should seek advice from Commonwealth central agencies on the consistency of policy

design with the principles of the Intergovernmental Agreement so that the design principles are considered appropriately during the policy development and approval phase.

63. In limited circumstances, government policy decisions may lead to agreements that include particular accountability requirements that would otherwise be characterised as prescriptive and therefore contrary to the design principles of the Intergovernmental Agreement. This does not mean that the design principles are inappropriate or that they should not be applied to the maximum extent possible. Any arrangements that the Commonwealth enters into must be an efficient, effective, economical and ethical use of Commonwealth resources and not be inconsistent with the policies of the Commonwealth in accordance with section 44 of the FMA Act. If this were not the case, Chief Executives and officials of FMA Act agencies may compromise their ability to satisfy their legislative accountability obligations.

64. For further information on accountabilities, including information on the FMA Act, see Federal Finances Circular No. 2009/03 [Accountabilities under the new Federal Financial Framework](#) and Federal Finances Circular No. 2011/01 [Payment Accountabilities and Certification Arrangements](#).

Aligning payments with incentives

65. The payment structures provided for in the Intergovernmental Agreement should be used to provide the maximum incentive for the States to achieve outcomes, rather than attempting to achieve outcomes through input controls, detailed reporting or other prescriptions. Guidance on appropriate payment design under National Partnerships is provided in [Part VI – Payment design and structure](#).

Publication of National Partnerships and schedules

66. To improve public transparency, National Partnerships (including Project Agreements) and any schedules, including Implementation Plans, will be publicly available from the [Standing Council on Federal Financial Relations](#) website in the form they are agreed. All aspects of National Partnerships (including Project Agreements) and Implementation Plans should therefore be drafted in plain English, presenting with the correct content and structure, and drafted in the knowledge that they are intended to be public documents. Other websites can link to these documents to ensure consistency in publicly available information.

- Personal information — for example, individual contact officer details including telephone numbers – should not generally be included;
- Commercial-in-confidence information such as tendering information and other sensitive information should generally be avoided, or where necessary, included in a separate schedule to the agreement.

67. In limited circumstances, the content of some agreements and associated schedules may not be disclosed publicly to protect commercial-in-confidence or other sensitive information. Commonwealth Treasury should be advised as soon as possible of instances where commercial-in-confidence or other sensitive information is included in agreements, and where the publication of elements of the agreement needs to be delayed (for example, after the completion of tendering processes) or where sensitive material needs to be removed from the document and moved into an unpublished schedule.

68. Further guidance on the publication of agreements on the Standing Council on Federal Financial Relations website is available in Federal Finances Circular 2011/03 on the [Processes for](#)

[drafting, negotiating, finalising and varying agreements under the federal financial relations framework, and related estimates and payments processes.](#)

IV. ROLES AND RESPONSIBILITIES

This section provides guidance on:

- Minimising [shared roles and responsibilities](#); and
- [Accountabilities for third parties](#).

4.1 Minimising shared roles and responsibilities

69. A key objective of the framework is increased accountability of Commonwealth and State governments to the public, underpinned by clearer roles and responsibilities in respect of each jurisdiction. Clearly specified roles and responsibilities are important so that the community understands which government is responsible for delivering particular outcomes and outputs. An increased number of shared roles and responsibilities detract from transparency and accountability.

- The National Partnership template includes three standard shared roles and responsibilities between the Commonwealth and the States, including joint program evaluation and participating in consultations.
- Any additional shared roles and responsibilities must be avoided unless they are necessary for the effective operation of the agreement, in which case they should be clearly defined, accepted and understood by all parties to the agreement.

4.2 Accountabilities for third parties, including Participating Authorities

70. Different accountability arrangements apply where payments are made to local government authorities and independent government agencies under a National Partnership, and those authorities or agencies are solely responsible for the delivery of outcomes or outputs in an operational sense. While the States are ultimately accountable for both local government authorities and independent agencies that fall within the State government framework, both types of entities operate at arm's length from State governments.

71. These entities are 'Participating Authorities' and include local government authorities and independent government authorities that have budget autonomy, and that fall within State government frameworks such as ambulance services, area health services and TAFEs.

72. Commonwealth central agencies can provide advice to portfolio agencies on the appropriateness of using a Participating Authority model in new National Partnerships. Under this model:

- Project Plans (a template is available from the Commonwealth Treasury) rather than Implementation Plans should be used for Participating Authorities where projects are delivered solely by these entities, recognising the direct relationship between the Commonwealth and the project or service provider where States' responsibilities are limited to the on-passing of funding. Participating Authorities are also primarily responsible for the

development and negotiation of Project Plans in consultation with Commonwealth central and portfolio agencies.

- Where projects are delivered jointly by State governments and Participating Authorities, Implementation Plans should be used (or National Partnerships, where no overarching National Partnership exists), recognising that States are directly responsible for the delivery of those projects, and their role is not limited to the on-passing of funding.

V. PERFORMANCE REPORTING

This section provides guidance on:

- Components of a [performance reporting framework](#);
- [Balancing accountability for outcomes and outputs against administrative costs](#); and
- [Developing performance indicators, benchmarks and milestones for outcomes](#).

Further guidance is available in the [Conceptual Framework for Performance Reporting](#), available on the [Standing Council on Federal Financial Relations website](#).

5.1 Components of a performance reporting framework

73. All National Partnership Agreements will include a performance reporting framework that specifies how progress towards objectives and outcomes or the achievement of project milestones will be measured. This framework should be designed to satisfy public accountability requirements that the commitments entered into through a National Partnership are being delivered by all jurisdictions. Components of a performance reporting framework may include:

- a list of performance indicators, which may be numeric measures (that is, based on quantitative data) or non-numeric measures (that is, based on qualitative data);
- information on the data collections that will be used for quantitative indicators and the specification of measure/s for each indicator;
- the performance benchmarks or milestones on which reward or in arrears project payments are tied;
- a timetable for the delivery of performance information to Commonwealth agencies or third parties;
- a statement on whether the National Partnership would be relevant to the COAG Reform Council's reports on any of the six National Agreements.

74. The performance reporting arrangements should be set out in the National Partnership. This ensures that performance benchmarks or milestones are agreed before the implementation of reforms or the commencement of program delivery. In turn this provides jurisdictions with a clear signal of the financial incentive associated with the achievement of specific outcomes. In some cases, where there is a compelling reason for doing so, performance reporting may be set out in a schedule or an Implementation Plan. However, this should be discussed and agreed between

Commonwealth and State central agencies early on in the National Partnership development process.

75. As a general rule, performance reporting arrangements should be consistent across jurisdictions however, this may not always be the case as state specific implementation strategies may differ. This will facilitate *comparative* reporting on the achievement of outcomes or outputs to the public, which is a key objective of performance reporting under the Federal Financial Relations framework (Intergovernmental Agreement, Clause C-4).

5.2 Balancing accountability for outcomes and outputs against administrative costs

76. The frequency and scope of performance reporting should match the policy goals and the amount of funding allocated to the National Partnership. For example, for a National Partnership involving a large infrastructure project, milestones should be developed to provide assurance to the public that a project is on track and might include: evidence of public consultation, planning approval, the commencement of construction, and a certificate of completion.

77. The importance of accurate, timely and relevant performance monitoring to support public accountability needs to be balanced against administrative efficiency. Where these reporting arrangements place a high administrative burden on jurisdictions, there is a risk that resources will be diverted from frontline service delivery. The administrative costs of reporting are a function of the frequency of reporting and quantity of information to be provided back to the Commonwealth. For small jurisdictions, the administrative costs of performance reporting may be higher, relative to the funding received, where there are fixed overheads. Examples of fixed overheads include the development of new administrative forms to measure outputs or investment in computing infrastructure to store data securely.

78. Reporting cycles should generally be on a financial year basis, except for the education sector where reporting on a calendar year basis is more informative. In general, performance reporting should not be more frequent than six monthly.

79. In many circumstances, there will be a lag between the collection of performance data and the processing of in arrears project or reward payments. When developing a payment schedule, it is important to account for the time required to compile performance data and assess progress towards benchmarks or milestones. For example, reward payments contingent on improvement over the period July 2009 to June 2010 would need to be allocated to the 2010-11 financial year.

5.3 Developing performance indicators, benchmarks and milestones for outcomes

80. An objective of the Intergovernmental Agreement is enhanced accountability of governments to the public through performance reporting on outcomes. Accordingly, for National Partnerships that support improvements to service delivery or promote nationally significant reform, the identification of performance indicators to measure outcomes should be explored in the first instance. National Partnerships may still include performance indicators that measure the delivery of outputs where:

- performance reporting has a short-term focus (for example, a two year National Partnership);
- performance data are not available to support reporting against outcomes; and/or
- the objective of the National Partnership is narrow and focused on the delivery of an output (for example, a National Partnership that includes an infrastructure component).

81. There are no financial reporting requirements on agencies (other than for Treasuries) where National Partnerships have an outcome and output focus. Performance indicators that measure financial or non-financial inputs should be avoided other than where required by exceptional circumstances (for example, where they are needed for FMA purposes).

82. Practical guidance on the development of performance indicators is provided in the Conceptual Framework for Performance Reporting, available on the [Standing Council on Federal Financial Relations](#) website. The Conceptual Framework supports performance reporting under the Intergovernmental Agreement, and is of particular relevance to the development of National Agreements and reform-based National Partnerships. It provides guidance on the development of a performance reporting framework for an agreement, including for developing objectives, outcomes, outputs, performance indicators and performance benchmarks. It also provides guidance on the appropriateness and proportionality of performance reporting.

83. Milestones should be an action or event marking completion of a phase of a project. These should be clearly defined, understandable in terms of achievement or non-achievement, not open to any subjectivity and verifiable. Achievement of the milestone should trigger in-arrears project payments.

84. For National Partnerships with reward payments, performance benchmarks must represent an accelerated rate of improvement and be expressed as improvement over a specific period. The methodology used to set performance benchmarks should be clear and transparent so the public are confident that jurisdictions are rewarded fairly for the achievement of ambitious reform or accelerated improvement in service delivery. Performance benchmarks should be achievable and measureable, and also be objective so as to avoid any need for the COAG Reform Council to exercise discretion in determining if reward milestones have been achieved. For reward payments linked to the achievement of qualitative milestones, it is essential that the National Partnership or supporting Implementation Plans clearly define all milestones.

85. Drafters should consult with agencies involved in the collection or dissemination of relevant administrative or survey data. This must include the COAG Reform Council and Secretariat for the Review of Government Service Provision for National Partnerships with reward payments. Other agencies that can provide expert advice include the Australian Bureau of Statistics, the Australian Institute of Health and Welfare, the National Centre for Vocational Education Research, and the technical or data working groups supporting the Ministerial Standing Councils.

VI. PAYMENT DESIGN AND STRUCTURE

This section provides information on payment design and structure:

Payment design

- the objectives of [good payment design](#);
- guidance on the use of [project](#), [facilitation](#) and [reward](#) payments;
- recognition of [partial performance](#); and
- assignment of [project and financial management risk](#).

Payment structure and related issues

- [payments](#) under National Partnerships;
- [Commonwealth Grants Commission](#) treatment of payments;
- [disclosure](#) of Commonwealth and non-Commonwealth financial contributions;
- [delegation of project payments](#) by Commonwealth portfolio Ministers;
- requirements where the Commonwealth is making a financial contribution to [building projects](#); and
- the [application of GST](#) to payments to the States.

6.1 Reinforcing the objectives of good payment design

86. Payment design is a crucial element of good program design, and should reinforce the reform objectives of the Intergovernmental Agreement — in particular, that States are generally primarily responsible for service delivery (although in some sectors the Commonwealth is also responsible for services that impact on overall community outcomes) and that payments should be structured to encourage the achievement of ambitious milestones.

- The framework seeks to clarify where the States are responsible for service delivery — and the financing of that service delivery — and that the Commonwealth will make payments to the States to encourage them to deliver on national reforms or achieve service delivery improvements, and reward them where they do so.
- Centralised payment arrangements, with all payments paid by the Commonwealth Treasury to the State Treasuries, reinforce this objective.

87. National Partnership payment structures should be used to create an incentive to the States to achieve outcomes, rather than attempting to achieve outcomes through input controls, detailed reporting or other prescriptions.

88. To the fullest extent possible, financial arrangements and payment design should be specified in the National Partnership, and should only be detailed in Implementation Plans where there is a compelling reason to do so, for example:

- where it is impractical to foreshadow the specific financial arrangements in advance of the National Partnership being signed; or
- where the provision of Commonwealth funding is contingent upon the achievement of State-specific performance benchmarks that are detailed in Implementation Plans.

6.2 Project payments

6.2.1 Definition

89. Project payments are a financial contribution to the States to deliver specific projects, including to improve the quality or quantity of service delivery, or projects which support national objectives (for example, specific infrastructure projects that have national benefits).

- To the fullest extent possible, project payments are aligned with the achievement of project milestones and made after the States have achieved the outcomes or outputs specified in the National Partnership or Implementation Plan — these are *in-arrears* project payments.
- Project payments may be made in advance of the States achieving project specific benchmarks or milestones where there is a legitimate reason, for example, to provide States with working capital to begin a project — these are *in-advance* project payments.

6.2.2 Guide to use

90. Project payments:

- involve set funding arrangements that specifically outline the amount to be paid at certain times, subject to the satisfactory attainment of milestones by the States;
- can only be paid by the Commonwealth Treasury when the Commonwealth Minister (or authorised delegate) confirms that the related milestones have been met for in-arrears payments;
- are not designed to support the delivery of nationally significant reform (these would be facilitation or reward payments);
- will be treated according to their defining characteristics, not necessarily the terminology used in the National Partnership; and
- cannot be treated as facilitation payments where they are mislabelled in the National Partnership or Implementation Plan.

91. In-advance project payments:

- should be restricted to the minimum necessary to ensure that the Commonwealth does not bear a disproportionate amount of financial and policy risk for a project, and to ensure that sufficient funds are available to create a financial incentive for the achievement of outcomes and/or outputs in accordance with agreed timeframes;

- need to be demonstrated by the States as responding to a legitimate need in terms of the purpose and amount of funding, for example to provide States with sufficient working capital to begin a project;
- should not be made in return for States signing a National Partnership, Implementation Plan or Project Agreement as this does not constitute the achievement of an outcome or output.

6.3 Facilitation payments

6.3.1 Definition

92. Facilitation payments may be paid to the States and Territories in advance of progressing or achieving nationally significant reform, in recognition of administrative and other costs of initiating nationally significant reform or pursuing continuous improvement in service delivery. Facilitation payments may only be paid as one-off, in-advance payments.

6.3.2 Guide to use

93. Facilitation payments:

- may be paid in advance where there is a legitimate reason, in recognition of administrative and other costs of undertaking the reform or improvement in service delivery;
- need to respond to a legitimate, demonstrated need in terms of the purpose and amount of funding;
- should only be included in National Partnerships where arrangements for the achievement of reforms are clearly specified;
- are most appropriate for inclusion in a National Partnership that also has reward payments so that they can be used by the States to achieve the benchmarks that allow for reward payments to be made;
- should not be used to encourage States to become a party to a National Partnership where States are not convinced that outcomes are achievable; and
- should not constitute the majority or the entirety of the Commonwealth's contribution to the reform or improvement in service delivery as this represents an unacceptable financial risk to the Commonwealth.

94. The Treasurer will make facilitation payments specified in a National Partnership once a copy of the signed National Partnership or agreed Implementation Plan is received by the Treasury. Treasury will liaise with portfolio agencies to ensure facilitation payments are included in monthly payment advice forms provided to Treasury.

6.4 Reward payments

6.4.1 Definition

Definition

95. Reward payments are provided to States that deliver or progress nationally significant reform. They are contingent on the achievement of performance benchmarks, with achievement against performance benchmarks assessed by the COAG Reform Council.

6.4.2 Guide to use

96. Reward payments:

- must be structured in a way that encourages the achievement of ambitious performance benchmarks, continuous improvement in service delivery and provide significantly better outcomes than would be expected in the absence of reform, as detailed in National Partnerships (or Implementation Plans in some circumstances);
- must provide the maximum incentive to States to achieve outcomes, rather than attempting to achieve outcomes through input controls, detailed reporting or other prescriptions; and
- may recognise partial performance against performance benchmarks where National Partnerships can set out graduated benchmarks provided they are objective, clear, achievable and measurable, noting that recognition of partial attainment is particularly relevant to multi-element National Partnerships that consist of a number of discrete activities.

97. The Commonwealth must consider the COAG Reform Council's findings when it makes a decision on the amount of reward funding each State is entitled to under the payment model or conditions agreed in a National Partnership agreement. A decision on reward payments cannot be delegated to the COAG Reform Council under existing Commonwealth legislation and the statutory authority must remain with Commonwealth Ministers.

6.5 Recognition of partial performance

98. The payment design structure of National Partnerships should also include recognition of partial performance where this is appropriate for the individual circumstances of an agreement.

- For some reform-based National Partnerships, it may be appropriate to recognise partial progress against a performance benchmark in the design of reward payments. The conditions under which the State would be eligible for a partial reward payment and the method for calculating this payment should be included in the National Partnership (or Implementation Plans in some circumstances).
- For National Partnerships that include project funding, the appropriateness of recognising partial performance will depend on the characteristics of the agreement. For example, where the outputs are relatively straightforward, it would be inappropriate to recognise partial performance in the delivery of the project. However, where project payments are being made to the States for the delivery of more complex projects or the delivery of services, partial performance may be appropriate. Similarly, it is important for project-based National Partnerships to have clear, achievable and measurable milestones to minimise the amount of discretion that needs to be exercised in determining whether they have been achieved and how associated funding can be distributed.

99. Where it is appropriate to recognise partial performance, it is also important to design a payment structure that maximises incentives to achieve outcomes and/or outputs, rather than creating an incentive for partial attainment.

100. Commonwealth and State central agencies should be consulted early in the development of National Partnerships to provide advice on the appropriate payment design structure for agreements, including whether recognition of partial performance is appropriate.

6.6 Assignment of project and financial risk management

101. As part of the federal financial relations framework, the Commonwealth has committed to move away from prescriptions on service delivery in the form of financial or other input controls which inhibit State service delivery and priority setting. This is in recognition that the States have primary responsibility for service delivery (Intergovernmental Agreement, Clause 6).

102. Consistent with that, it is appropriate for project and financial management risk to rest with the jurisdiction with responsibility for service delivery — usually the relevant State.

103. While the standard project and financial management risk clause (as provided in the [National Partnership template](#)) applies for outcomes or outputs focused reform or project-based National Partnerships, the clause does not apply to demand-driven programs. Funding under demand-driven National Partnerships is determined by demand for services and/or subsidies, rather than linked directly to the achievement of performance benchmarks or milestones. As these programs provide a financial contribution of agreed costs based on actual demand for the service or subsidy, the standard financial risk management clause does not apply as the States bear no financial risk.

6.7 Payments under National Partnerships

104. A payment schedule should be incorporated in all National Partnerships describing the amount of payments to be made to individual States, when payments will be made, and clearly stating the performance benchmarks or project milestones that must be met to trigger payments to the States.

105. The specific payment arrangements may be detailed against project milestones or performance benchmarks set out in Implementation Plans. However the National Partnership should include the total payment envelope, i.e. the estimated maximum annual Commonwealth and non-Commonwealth financial contribution. For public transparency, it is preferable for the National Partnership to contain the State and Territory distribution of funding.

106. The National Partnership should also identify which types of payment will apply, whether facilitation, project or reward, and the exact terms under which payments will be made including recognition of partial performance where appropriate.

107. Detailed guidance on the monthly payment certification process is provided in [Federal Finances Circular 2011/01, Payment Accountabilities and Certification Arrangements](#).

6.8 Commonwealth Grants Commission (CGC) treatment of payments

108. The classification of the payment has implications for State shares of GST revenue, with arrangements for the treatment of different types of Commonwealth payment set out in the Intergovernmental Agreement. Given this, it is inappropriate for agencies at either the Commonwealth or State level to engage in discussions on treatment of specific Commonwealth payments through National Partnership negotiations, or to seek to include text in a National Partnership specifying a particular treatment.

109. Clause D66 of the Intergovernmental Agreement sets out that:

- National Partnership project payments are to be treated by ‘inclusion’⁴; and

⁴ The CGC now uses the terminology ‘impact’ or ‘no impact’ on the GST sharing relativities. ‘Impact’ can be broadly considered the same as ‘inclusion’ while ‘no impact’ is equivalent to ‘exclusion.’

- Facilitation and reward payments are to be treated by ‘exclusion.’

110. Due to the importance of correct classification, Clause D66 allows the CGC the discretion to treat payments according to their defining characteristics, *not* necessarily the nomenclature used in the National Partnership. Where National Partnerships incorrectly classify payment types, the CGC may, in consultation with Commonwealth and State Treasuries, treat the payment differently where it considers an alternative treatment is more appropriate.

111. Similarly, while local government payments and functions and Commonwealth Own-Purpose Expenses are normally out of scope of the Commission’s assessments of fiscal equalisation, it has the discretion to include such payments in its assessment if it considers it appropriate (for example, where Commonwealth expenditure displaces standard State own expenditure).

112. Appendix 2 in the *Short Guide to the Intergovernmental Agreement and the Federal Financial Relations framework* outlines the different accountabilities under the federal financial relations framework.

6.9 Disclosure of Commonwealth and non-Commonwealth financial contributions

113. As outlined in Clause D4 of the Intergovernmental Agreement, where Commonwealth Own-Purpose Expenses and non-Commonwealth financial contributions directly contribute to the objectives, outcomes and outputs of a National Partnership agreement, the estimates for these financial contributions should be disclosed in a National Partnership Agreement. Policy and payment responsibility for Commonwealth Own-Purpose Expenses rests with the relevant Portfolio Minister. As National Partnerships are expected to cover the totality of Commonwealth and non-Commonwealth involvement in the policy area covered by the agreement, it is expected that any own purpose expenditure *will* be in the agreement with the corresponding, outcomes, outputs, and roles and responsibilities included.

This will provide the public with a clearer understanding of the operation and context of the National Partnership and is less likely to result in inconsistencies in the objectives or outcomes of separate, but related agreements.

6.10 Delegation of project payments by Commonwealth portfolio ministers

114. As accountability for National Partnerships rests with portfolio ministers, portfolio ministers have the authority to determine whether to formally delegate responsibility for making a determination in respect of project payments for individual National Partnerships, but in making a decision to delegate, Commonwealth ministers should have regard to the financial and policy risk associated with those payments. Where this function is delegated to senior Commonwealth officials, this should be explicitly recorded within the National Partnership. Commonwealth Treasury can provide advice to portfolio agencies on the appropriateness of delegating this function for specific project-based National Partnerships.

115. The delegation of this function should only occur for project-based National Partnerships and must not occur for reform-based National Partnerships, with reward and/or facilitation payments. For reform-based National Partnerships, the Commonwealth portfolio minister retains responsibility for determining whether facilitation payments are made. For reward payments, Cabinet makes a decision on whether reward payments should be made (following assessment of performance benchmarks by the COAG Reform Council) and following advice from the Commonwealth Treasurer.

6.11 Commonwealth financial contributions to building projects

116. The Commonwealth has arrangements in place that seek to improve occupational health and safety standards in the building industry, specifically the:

- *Building and Construction Industry Improvement Act 2005* and Building and Construction Industry (Accreditation Scheme) Regulations 2005; and
- National Code of Practice for the Construction Industry and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry.

117. In accordance with the requirements of the *Building and Construction Industry Improvement Act 2005* and subject to financial thresholds defined under the Accreditation Scheme, the Commonwealth needs to ensure that where it is making a financial contribution to a building project or projects that only a builder or builders accredited under the Australian Government Building and Construction Occupational Health and Safety Accreditation Scheme is contracted. The Commonwealth will also ensure compliance with the National Code of Practice for the Construction Industry and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry.

118. Accordingly, the States will provide the necessary assurances to the Commonwealth that only a builder or builders accredited under the Accreditation Scheme is contracted, and that compliance with the National Code of Practice for the Construction Industry and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry is made a condition of tender for all contractors and subcontractors who tender for the work.

119. Relevant National Partnerships or their schedules should include provisions (as outlined in the National Partnership template) that outline the roles and responsibilities of the Commonwealth and the States in ensuring that these requirements are met. The Commonwealth Treasury can provide further guidance to portfolio agencies on these requirements.

6.12 Application of GST to payments to the States

120. The Australian Taxation Office ruling, *GSTR2011/2: Goods and services tax: appropriations*, outlines that GST does not generally apply to appropriations from the Commonwealth to the States, particularly where payments are made by one government-related entity to another government-related entity. The non-commercial activities of government are generally outside the scope of application of GST.

121. While GST does not apply to payments to the States, it may apply to payments through the States to non-government organisations (for example, non-government schools). In these cases, the Commonwealth will gross up the payment to include GST and provide a Recipient Created Tax Invoice from the Commonwealth holder of the appropriation to the non-government organisation.

122. As the ATO is responsible for the interpretation and administration of GST law, portfolio agencies should obtain a tax ruling from the ATO if an agency considers that payments to the States should be GST-inclusive.

Sections VII and VIII provide information on:

- [review](#) processes; and
- [expiring](#) agreements.

VII. REVIEW PROCESSES

123. To assist consideration of the appropriate treatment of expiring National Partnerships, provision for a review of the National Partnership should be incorporated in the agreement. The review should be scheduled to report no later than six to 12 months prior to the expiry date for the agreements. These reviews could be supplemented by mid-term reviews, where the National Partnership is of sufficient duration.

- A key concern of reviews will be the extent to which the objectives, including as embodied in performance benchmarks, have been met and in the case of mid-term reviews, any remedial action required to ensure that the objectives will be achieved by the expiry date for the National Partnership.
- Where possible, reviews should be conducted independently of, or jointly by, the parties to the agreement.
- Reviews should also be conducted consistently with the role of the COAG Reform Council in monitoring the aggregate pace of reform – for example, reviewers should consult with the Council, the Productivity Commission and the Secretariat for the Steering Committee for the Review of Government Service Provision, particularly in respect of reform-based National Partnerships.
- Reviews should also consider how well the National Partnership has supported the objectives of any related National Agreement.

VIII. EXPIRING AGREEMENTS

124. The Intergovernmental Agreement (clause A4) outlines the functions of the Standing Council on Federal Financial Relations, including assessing whether expiring National Partnerships should continue and if so, recommending the form of any ongoing funding to COAG. The Standing Council's role in reaching a position on whether future funding beyond the expiry date of a National Partnership should continue, and the form of possible future funding is informed by the review or evaluation of the success or otherwise of the agreement in delivering agreed outcomes and outputs, and whether the related policy objectives remain appropriate.

125. Like other ministerial councils, the Standing Council does not have the authority to make funding decisions, and any recommendations made to COAG in relation to future funding mechanisms for expiring agreements must incorporate funding decisions made as part of the Commonwealth Budget process. Any proposal to extend funding under an agreement beyond its expiry represents a New Policy Proposal under the Commonwealth's Budget Process and Operational Rules.

126. Commonwealth portfolio agencies should consult with Commonwealth central agencies for further information on arrangements relating to expiring National Partnerships.

APPENDIX A

TABLE 1: THE STRUCTURE OF NATIONAL PARTNERSHIP AGREEMENTS

Component	Purpose
Preliminaries*	A short introduction summarising the agreement. Should be <u>forward looking</u> and should not include any policy background, contextual, historical or advocacy content.
Parties*	The Parties to the agreement are the jurisdictions — the Commonwealth and the States and Territories, represented by the signatories (in most cases, the First Ministers) — <u>not</u> Portfolio Ministers or public servants. Agreements are to be <u>multi-lateral</u> and include <u>all jurisdictions</u> unless geographical reasons dictate otherwise (for example, Western Australia would be the only likely Party to an agreement specific to the Kimberley region of Western Australia). Local governments are entities created by the States, so would never be a Party to a National Partnership. Agreements should be written in anticipation that all States may be expected to sign the agreement at some time.
Term*	Agreements should be <u>time limited</u> . Usually the expiry is dictated by the duration of Commonwealth funding commitment and normally up to five years, but may be longer where necessary in the design of reforms or projects.
Delegations	Authority for <u>agreeing schedules</u> to the agreement may be delegated to Portfolio Ministers.
Objectives	Describe the mutually-agreed overarching <u>aspirations</u> (the purpose for the agreement) and any linkages to a National Agreement.
Outcomes	Describe the impact which the government activity is expected to have on community well-being. Compared with objectives, outcomes are more <u>specific goals for change</u> and should be strategic, high-level, achievable and measurable.
Outputs*	Outputs will describe the <u>projects or services being delivered</u> to achieve outcomes. Where outcomes may not be observable, outputs may be used as a proxy for outcomes.
Roles and responsibilities*	A clear statement of the role of each jurisdiction and the responsibilities for which they undertake to be accountable. Joint responsibilities should generally be avoided, except for the area of evaluations and monitoring or policy collaboration.
Performance indicators * (Project milestones for Project Agreements)	Data that informs the community about how governments are progressing towards achieving the objectives, outcomes and outputs. The form and content of performance indicators should focus on the information needs of the community, while providing sufficient evidence to satisfy public accountability requirements that funds are achieving or progressing satisfactorily towards the achievement of the desired outcomes and outputs.
Performance benchmarks	Quantifiable changes in a performance indicator, usually expressed in respect of a period of time. Where necessary to inform the community or, for relevant National Partnerships, to assess performance for the purpose of providing reward payments, they should be few in number, high-level and reflect the highest order, most challenging goals toward attainment of outcomes.

Financial arrangements*	The estimated annual <u>financial commitment</u> from each jurisdiction — financial transfers between jurisdictions plus Commonwealth or State own purpose expense. Detailed funding arrangements and associated performance benchmarks may be included in Implementation Plans, if there is a compelling reason to do so, with aggregate information provided in the National Partnership.
Governance arrangements*	Standard, collaborative, COAG-based variation, review and dispute resolution arrangements apply, including in relation to payments. Where relevant, reviews should be arranged to inform decision making processes about whether subsequent arrangements may be required.
Variation*	National Partnership agreements must have a standard variation clause, allowing them to be ‘amended at any time by agreement in writing by all the Parties and under terms and conditions as agreed by all the Parties’. Amendments must be negotiated through First Minister’s agencies and Treasuries.
Signature page*	National Partnerships are signed by the Prime Minister (or delegate), Premiers and Chief Ministers. Project Agreements are generally signed by the relevant Portfolio Minister.

(* denotes that these sections apply to Project Agreements as well as National Partnerships)

APPENDIX B

INPUT CONTROLS: DEFINITIONS AND ADDITIONAL INFORMATION

Definitions of different types of input controls are provided in the table below, and should be read in conjunction with the following points:

- agreements must focus on the achievement of outcomes and/or outputs, rather than how those outcomes and/or outputs will be achieved, and incorporate good payment design, with payments weighted appropriately and linked to achievement of performance benchmarks or milestones; and
- the Commonwealth is obliged to make payments only in accordance with written agreements between Ministers, and where States do not achieve outcomes and/or outputs in accordance with performance benchmarks or milestones in the written agreement, associated payments cannot be made. It is therefore essential that agreements incorporate good payment design, with payments weighted appropriately and linked to achievement of performance benchmarks or milestones. This is the key mechanism by which the Commonwealth ensures accountability for the expenditure of funds, and that outcomes and/or outputs are achieved in accordance with agreements, rather than by imposing input controls.

Additionally:

- financial input controls should be avoided because:
 - consistent with the outcomes focus of the Intergovernmental Agreement and States' responsibility for the achievement of outcomes and/or outputs, States have the flexibility to allocate and expend Commonwealth funds, provided outcomes and/or outputs, as measured against performance benchmarks or milestones, are achieved;
 - prescription of how funds are to be allocated/spent is inconsistent with the financial risk management arrangements for National Partnerships, Implementation Plans and Project Agreements, whereby States retain Commonwealth funding where they deliver outcomes and/or outputs for less than the agreed estimated cost of the project and bear all risk should the costs of a project exceed the agreed estimated costs; and
- other input controls should be avoided because:
 - consistent with the outcomes focus of the Intergovernmental Agreement and States' responsibility for the achievement of outcomes and/or outputs, States have the flexibility to determine *how* outcomes and/or outputs will be achieved.

Financial input controls	Definition	Additional information	
1. Maintenance of effort	States are required to maintain pre-NP levels of investment (financial and non-financial) during and/or after the term of the NP.	Maintenance of effort, cost matching, and cost sharing requirements reduce States' budget flexibility by prescribing how States allocate their own-source funding.	To be read in conjunction with the points above.
2. Cost matching and cost sharing	States are required to provide a prescribed level of own-source funding as a condition of Commonwealth funding. This can include existing or redirected State investments, or new effort.	If agreements focus on the achievement of outcomes and/or outputs and incorporate good payment design, then States will have an incentive to invest appropriately to achieve agreed performance benchmarks or milestones, and trigger the associated Commonwealth payment. See this circular on cost matching as part of underlying policy design.	
3. Income and/or expenditure reporting	States are required to provide evidence that funding has been received and expended.	The receipt and expenditure of funds is demonstrated through the achievement of outcomes and/or outputs.	
4. Acquittals	States are required to report how much Commonwealth funding received has been expended.	Acquittals are reports on inputs, and inconsistent with the outcomes focus of the Intergovernmental Agreement.	
5. Auditing (financial)	State expenditure of SPP and NP funding is subject to the Commonwealth audit process. This requires that States provide financial or non-financial information to Commonwealth auditors.	States have their own financial management and accountability, and audit requirements, noting that amendments to the <i>Auditor-General Act 1997</i> passed by the Commonwealth Parliament on 24 November 2011 provide the Commonwealth Auditor-General with increased powers to conduct audits of Commonwealth funding provided to State, Territory and local government agencies in specific circumstances.	

Financial input controls	Definition	Additional information		
6. Statement of purchasing activity	States are required to provide evidence that certain goods or services have been purchased.	Evidence of purchasing activity is demonstrated through the achievement of outcomes and/or outputs, and is not required where the purchase of goods or services is a component of a larger project with higher level outputs. However, it may be required where the purpose of the agreement is to purchase equipment, for example, in which case it should be appropriately reflected in outcomes and/or outputs and performance benchmarks and/or milestones.	To be read in conjunction with the points above.	
7. Prescribing how funds are to be allocated/spent	The Commonwealth directs how existing and/or new State or Commonwealth funding is to be allocated or expended during and/or after the term of the NP.	Budget flexibility means that States have an incentive to achieve outcomes and/or outputs efficiently according to the needs of their communities, including through innovation and continuous improvement.		
8. Return of unspent funds, savings quarantining, interest quarantining	Commonwealth funding not expended, or interest earned from Commonwealth funding, is required to be either returned to the Commonwealth, or expended in a particular area/way.	Any requirements to return unspent funds or quarantine savings or interest reduce States budget flexibility and incentives for States to deliver outcomes and/or outputs efficiently.		
9. Quarantining of reward funding	The Commonwealth requires that any reward funding achieved is allocated for expenditure in a particular sector.	<p>Reward payments are provided to States that deliver or progress nationally significant reform and are contingent on achievement of performance benchmarks and/or milestones, with achievement assessed by the COAG Reform Council. For accounting purposes, the Commonwealth will notionally allocate reward payments to the particular service sector in which they were achieved.</p> <p>Reward payments are not intended to fund nationally significant reforms but reward jurisdictions that meet ambitious reform goals or accelerated improvement in outcomes, recognising that the benefits are expected to flow to all jurisdictions. States will generally have made substantial investments in the sector if they have met the performance benchmarks and/or milestones and will want to determine their budget priorities once the reforms have been implemented.</p>		

Other input controls	Description	Additional information	
10. Sanctions (financial)	A financial penalty to the State that is incurred when certain terms and conditions of the agreement are not met.	Under the Intergovernmental Agreement, the Commonwealth is obliged to make payments in accordance with written agreements between Ministers. Where States do not achieve outcomes and/or outputs in accordance with performance benchmarks or milestones in the written agreement, associated payments cannot be made. This is the only type of financial sanction that applies under the Intergovernmental Agreement.	To be read in conjunction with the points above.
11. Prescribing implementation method, including through over-specification of outputs or activities	The Commonwealth directs the terms and actions that States must undertake to achieve outcomes and/or outputs.	In many cases, it is reasonable to expect that the Commonwealth and the States will consult and agree on implementation methods where this informs the development of output-related milestones to which payments are linked. However, over-prescription of implementation methods by the Commonwealth should be avoided as it reduces or eliminates States' ability to deliver outcomes and/or outputs efficiently according to the needs of their community, including through innovation and continuous improvement. It obscures accountability in that States are responsible for the achievement of outcomes and/or outputs but have less control over how those outcomes and/outputs will be achieved. It also transfers risk to the Commonwealth for the achievement of outcomes and/or outputs for which it is not responsible.	
12. Prescribing procurement method	The Commonwealth directs the activities and processes as to how the States will obtain goods and services.	Procurement is an internal State administrative process subject to State financial management and accountability requirements. Payments must be linked to performance benchmarks or milestones reflecting real outcomes and/or outputs. Procurement is an internal administrative process, not an outcome or output of itself. Therefore, it is inappropriate to attach milestones and payments to procurement or similar processes, for example obtaining quotes and raising purchase orders.	

Other input controls	Description	Additional information	
13. Prescription of staffing arrangements and costs	The Commonwealth directs States to use a certain level of staff/non-financial resources in the delivery of the outcomes and outputs and/or report such levels of resources during and after delivery of the National Partnership.	Prescription of staffing arrangements and costs is inappropriate where staffing is a component of a larger project with higher level outputs. However, reporting on staffing levels may be required where the purpose of the agreement includes the hiring of staff, for example, in which case it should be appropriately reflected in outcomes and/or outputs and performance benchmarks and/or milestones.	To be read in conjunction with the points above.
14. Prescription of implementation method, process and/or delivery method through competitive bidding processes	The Commonwealth directs the terms, actions and/or processes that States must undertake, or the resources that States must allocate, to achieve outcomes and/or outputs, as a condition of approving competitive funding bids.	Competitive bidding processes that determine the projects and/or services to be delivered under National Partnerships should be outcomes and/outputs focussed. The success or otherwise of funding bids should not be determined on the basis of inputs, but whether outcomes and/or outputs will be achieved satisfactorily. It is appropriate for States to draft Implementation Plans to provide the Commonwealth with the information necessary to assess funding bids, and form the schedules to National Partnerships where the bids are approved.	