

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance

*Public Governance, Performance and Accountability Act 2013*

*PGPA Act Determination (Establishment of ICT Coordinated Procurement Special Account 2017)*

### ***Purpose of this determination***

This determination is made under subsections 78(1) and 78(3) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). It will establish the *ICT Coordinated Procurement Special Account 2017* (the special account) and make a consequential amendment to the purposes of the *Coordinated Procurement Contracting Special Account*.

As part of the machinery of government change on 27 October 2016, the whole of government information and communication technology (ICT) procurement function transferred to the Digital Transformation Agency (DTA) from the Department of Finance (Finance).

The *ICT Coordinated Procurement Special Account* is being established to administer the operations of centralised ICT procurement for the Australian Government, which has transferred from Finance. The special account provides accountability for costs incurred when undertaking centrally coordinated ICT supply arrangements. Amounts will be able to be debited from the *Coordinated Procurement Contracting Special Account* and credited to the special account, to be used for the purpose of centralised ICT procurement.

The purpose of the special account will be to administer Australian Government ICT Coordinated procurement contracts for the benefit of Commonwealth entities, including by:

- Planning for and conducting the whole of government ICT supply tenders;
- Managing whole of government ICT supply contracts;
- Providing ICT procurement assistance to Commonwealth entities;
- Undertaking monitoring and reviews of centralised ICT procurement performance by Commonwealth entities.

The *Coordinated Procurement Contracting Special Account* will continue to provide accountability for those whole of government procurement functions not transferred to the DTA.

### ***The operating context of special accounts***

A special account may be established, varied or revoked under the PGPA Act: by a determination made by the Minister for Finance (under section 78) or by an Act (see section 80).

A special account is an appropriation mechanism that sets aside amounts within the Consolidated Revenue Fund (CRF) for spending on specified purposes. The purposes of a special account are set out in the establishing determination or Act.

In accordance with section 81 of the Constitution, all revenues or moneys raised or received by the Commonwealth Executive Government form one CRF. Section 83 of the Constitution provides that such money may not be drawn from the Treasury except under an appropriation made by law.

- A special account enables revenues or moneys raised or received to be set aside for the purposes of that special account.

- Payments made for the purposes of a special account are supported by an appropriation in the PGPA Act; subsection 78(4) for a special account established by a determination or subsection 80(1) for a special account established by an Act.

### ***Special account determinations***

Special account determinations are legislative instruments under the *Legislation Act 2003*. Special account determinations may be varied or revoked by a subsequent determination being made in accordance with subsection 78(3) of the PGPA Act.

In accordance with subsection 79(3) of the PGPA Act, the Finance Minister must table a copy of such determinations in each House of the Parliament. Subsection 79(4) of the PGPA Act provides that special account determinations are subject to disallowance by either House of the Parliament. The disallowance period starts on the day a special account determination is tabled in the House and ends on the fifth sitting day after the determination was tabled in that House.

If neither House passes a resolution to disallow a special account determination, under subsection 79(5) it comes into effect on the day immediately after the last day on which it could have been disallowed, or on a later day if specified in the determination.

### ***Human Rights***

A Statement of Compatibility with Human Rights is not required for this determination. Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the *Legislation Act 2003*. While determinations made or varied under subsections 78(1) or 78(3) of the PGPA Act are subject to disallowance under section 79 of the PGPA Act, subsection 79(2) provides that they are not subject to disallowance under section 42 of the *Legislation Act 2003*. As such, a Statement of Compatibility with Human Rights is not required.

### ***Consultation***

The DTA was consulted in the preparation of this determination.