COMPLIANCE

IN THIS SECTION

- Reporting requirements under the Public Governance, Performance and Accountability Act 2013
- Additional compliance reporting requirements

Reporting requirements under the *Public*Governance, *Performance* and *Accountability Act* 2013

REFERENCE	DESCRIPTION	REQUIREMENT	PAGE(S)
17AD(g)	Letter of transmittal		
17AI	A copy of the letter of transmittal signed and dated by the accountable authority on the date the final text is approved, with a statement that the report has been prepared in accordance with section 46 of the PGPA Act and any enabling legislation that specifies additional requirements in relation to the annual report	Mandatory	1
17AD(h)	Aids to access		
17AJ(a)	Table of contents	Mandatory	2–3
17AJ(b)	Alphabetical index	Mandatory	257
17AJ(c)	Glossary of abbreviations and acronyms	Mandatory	239
17AJ(d)	List of requirements	Mandatory	240
17AJ(e)	Details of contact officer	Mandatory	267
17AJ(f)	Entity's website address	Mandatory	267
17AJ(g)	Electronic address of report	Mandatory	267
17AD(a)	Review by accountable authority		
17AD(a)	A review by the accountable authority of the entity	Mandatory	6
17AD(b)	Overview of the entity		
17AE(1)(a)(i)	A description of the role and functions of the entity	Mandatory	17–22
17AE(1)(a)(ii)	A description of the organisational structure of the entity	Mandatory	23, 117
17AE(1)(a)(iii)	A description of the outcomes and programs administered by the entity	Mandatory	29–109

PGPA RULE

PART OF REPORT/

PGPA RULE REFERENCE	PART OF REPORT/ DESCRIPTION	REQUIREMENT	PAGE(S)
17AE(1)(a)(iv)	A description of the purposes of the entity as included in the Corporate Plan	Mandatory	17, 20–22
17AE(1)(aa)(i)	Name of the accountable authority or each member of the accountable authority	Mandatory	111
17AE(1)(aa)(ii)	Position title of the accountable authority or each member of the accountable authority	Mandatory	111
17AE(1)(aa)(iii)	Period as the accountable authority or member of the accountable authority within the reporting period	Mandatory	111
17AE(1)(b)	An outline of the structure of the portfolio of the entity	Portfolio departments – mandatory	N/A
17AE(2)	Where the outcomes and programs administered by the entity differ from any Portfolio Budget Statement, Portfolio Additional Estimates Statement or other portfolio estimates statement that was prepared for the entity for the period, details of variation and reasons for change	If applicable, mandatory	N/A
17AD(c)	Report on the performance of the entity		
	Annual performance statements		
17AD(c)(i); 16F	Annual performance statement in accordance with paragraph 39(1)(b) of the PGPA Act and section 16F of the PGPA Rule	Mandatory	24–109
17AD(c)(ii)	Report on financial performance		
17AF(1)(a)	A discussion and analysis of the entity's financial performance	Mandatory	13–15, 126–183
17AF(1)(b)	A table summarising the total resources and total payments of the entity	Mandatory	199–202
17AF(2)	If there may be significant changes in the financial results during or after the previous or current reporting period, information on those changes, including: the cause of any operating loss of the entity; how the entity has responded to the loss and the actions that have been taken in relation to the loss; and any matter or circumstances that it can reasonably be anticipated will have a significant impact on the entity's future operation or financial results	If applicable, mandatory	N/A
17AD(d)	Management and accountability		
	Corporate governance		
17AG(2)(a)	Information on compliance with section 10 (preventing, detecting and responding to fraud and corruption) of the PGPA Rule	Mandatory	218

PGPA RULE REFERENCE	PART OF REPORT/ DESCRIPTION	REQUIREMENT	PAGE(S)
17AG(2)(b)(i)	A certification by the accountable authority that fraud and corruption risk assessments and fraud and corruption control plans have been prepared	Mandatory	218
17AG(2)(b)(ii)	A certification by the accountable authority that appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud and corruption that meet the specific needs of the entity are in place	Mandatory	218
17AG(2)(b)(iii)	A certification by the accountable authority that all reasonable measures have been taken to deal appropriately with fraud and corruption relating to the entity	Mandatory	218
17AG(2)(c)	An outline of structures and processes in place for the entity to implement principles and objectives of corporate governance	Mandatory	18–19, 110–17, 190–194
17AG(2)(d)–(e)	A statement of significant issues reported to the Minister under paragraph 19(1)(e) of the PGPA Act that relate to non-compliance with finance law and action taken to remedy non-compliance	If applicable, mandatory	219
	Audit Committee		
17AG(2A)(a)	A direct electronic address of the charter determining the functions of the entity's audit committee	Mandatory	190
17AG(2A)(b)	The name of each member of the entity's audit committee	Mandatory	191–193
17AG(2A)(c)	The qualifications, knowledge, skills or experience of each member of the entity's audit committee	Mandatory	191–193
17AG(2A)(d)	Information about the attendance of each member of the entity's audit committee at committee meetings	Mandatory	191–193
17AG(2A)(e)	The remuneration of each member of the entity's audit committee	Mandatory	194
	External scrutiny		
17AG(3)	Information on the most significant developments in external scrutiny and the entity's response to the scrutiny	Mandatory	188–190

PGPA RULE REFERENCE	PART OF REPORT/ DESCRIPTION	REQUIREMENT	PAGE(S)
17AG(3)(a)	Information on judicial decisions and decisions of administrative tribunals and by the Australian Information Commissioner that may have a significant effect on the operations of the entity	If applicable, mandatory	190
17AG(3)(b)	Information on any reports on operations of the entity by the Auditor-General (other than reports under section 43 of the Act), a Parliamentary Committee or the Commonwealth Ombudsman	If applicable, mandatory	219
17AG(3)(c)	Information on any capability review on the entity that was released during the period	If applicable, mandatory	N/A
	Management of human resources		
17AG(4)(a)	An assessment of the entity's effectiveness in managing and developing employees to achieve entity objectives	Mandatory	118–125
17AG(4)(aa)	Statistics on the entity's employees on an ongoing and non-ongoing basis, at the end of that and the previous reporting period, including the following: a. statistics on full-time employees b. statistics on part-time employees c. statistics on gender d. statistics on staff location	Mandatory	203–206
17AG(4)(b)	Statistics on the entity's APS employees on an ongoing and non-ongoing basis, including the following: • statistics on staffing classification level • statistics on full-time employees • statistics on part-time employees • statistics on gender • statistics on staff location • statistics on employees who identify as Indigenous	No longer mandatory ¹	203–206
17AG(4)(c)	Information on any enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act</i> 1999	If applicable, mandatory	206

On 1 July 2019, ASIC moved out of the APS. The *Treasury Laws Amendment (Enhancing ASIC's Capabilities)* Act 2018 amended the ASIC Act to remove the requirement for ASIC to engage employees under the *Public Service Act* 1999. Instead, it engages employees under section 120 of the ASIC Act. While this content is no longer mandatory for ASIC to report, we have included some of this information because it is data we record, and it may be of interest to the public.

PGPA RULE REFERENCE	PART OF REPORT/ DESCRIPTION	REQUIREMENT	PAGE(S)
17AG(4)(c)(i)	Information on the number of SES and non-SES employees covered by enterprise agreements, individual flexibility arrangements, Australian workplace agreements, common law contracts and determinations under subsection 24(1) of the <i>Public Service Act 1999</i> during this period	If applicable, mandatory	206
17AG(4)(c)(ii)	The salary ranges available for APS employees by classification level	No longer mandatory	N/A
17AG(4)(c)(iii)	A description of non-salary benefits provided to employees	If applicable, mandatory	120, 207
17AG(4)(d)(i)	Information on the number of employees at each classification level who received performance pay	No longer mandatory ²	207
17AG(4)(d)(ii)	Information on aggregate amounts of performance pay at each classification level	No longer mandatory	207
17AG(4)(d)(iii)	Information on the average amount of performance payment, and the range of such payments, at each classification level	No longer mandatory	207
17AG(4)(d)(iv)	Information on the aggregate amount of performance payments	No longer mandatory	207
	Assets management		
17AG(5)	An assessment of the effectiveness of assets management where asset management is a significant part of the entity's activities	lf applicable, mandatory	223–225
	Purchasing		
17AG(6)	An assessment of the entity performance against the Commonwealth Procurement Rules	Mandatory	230–231
	Reportable consultancy contracts		
17AG(7)(a)	A summary statement detailing the number of new reportable consultancy contracts entered into during the period; the total actual expenditure on all such contacts (inclusive of GST); the number of ongoing reportable consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting year on those ongoing contracts (inclusive of GST)	Mandatory	232

² As above.

PGPA RULE REFERENCE	PART OF REPORT/ DESCRIPTION	REQUIREMENT PA	GE(S)
17AG(7)(b)	A statement that 'During [reporting period], [specified number] new reportable consultancy contracts were entered into involving total actual expenditure of \$[specified million]. In addition, [specified number] ongoing reportable consultancy contracts were active during the period, involving total actual expenditure of \$[specified million].'	Mandatory	232
17AG(7)(c)	A summary of the policies and procedures for selecting and engaging consultants and the main categories of purposes for which consultants were selected and engaged	Mandatory	233
17AG(7)(d)	A statement that 'Annual reports contain information about actual expenditure on reportable consultancy contracts. Information on the value of reportable consultancy contracts is available on the AusTender website.'	Mandatory	231
	Reportable non-consultancy contracts		
17AG(7A)(a)	A summary statement detailing the number of new reportable non-consultancy contracts entered into during the period; the total actual expenditure on such contracts (inclusive of GST); the number of ongoing reportable non-consultancy contracts that were entered into during a previous reporting period; and the total actual expenditure in the reporting period on those ongoing contracts (inclusive of GST)	Mandatory	231
17AG(7A)(b)	A statement that 'Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the value of reportable nonconsultancy contracts is available on the AusTender website.'	Mandatory	231
17AD(daa)	Additional information about organisations reportable consultancy contracts or report		
17AGA	Additional information, in accordance with section 17AGA, about organisations receiving amounts under reportable consultancy contracts or reportable nonconsultancy contracts	Mandatory	232

PGPA RULE REFERENCE	PART OF REPORT/ DESCRIPTION	REQUIREMENT	PAGE(S)
	Australian National Audit Office access cla	uses	
17AG(8)	If an entity entered into a contract with a value of more than \$100,000 (inclusive of GST) and the contract did not provide the Auditor-General with access to the contractor's premises, the report must include the name of the contractor, the purpose and value of the contract, and the reason why a clause allowing access was not included in the contract	If applicable, mandatory	230–231
	Exempt contracts		
17AG(9)	If an entity entered into a contract or there is a standing offer with a value greater than \$10,000 (inclusive of GST) that has been exempted from being published in AusTender because it would disclose exempt matters under the FOI Act, the annual report must include a statement that the contract or standing offer has been exempted, and the value of the contract or standing offer, to the extent that doing so does not disclose the exempt matters		N/A
	Small business		
17AG(10)(a)	A statement that '[Name of entity] supports small business participation in the Commonwealth Government procurement market. Small and medium enterprises (SMEs) and small enterprise participation statistics are available on the Department of Finance's website.'	Mandatory	233
17AG(10)(b)	An outline of the ways in which the procurement practices of the entity support small and medium enterprises	Mandatory	233
17AG(10)(c)	If the entity is considered by the Department administered by the Finance Minister as material in nature – a statement that '[Name of entity] recognises the importance of ensuring that small businesses are paid on time. The results of the Survey of Australian Government Payments to Small Business are available on the Treasury's website.'	If applicable, mandatory	233
	Financial statements		
17AD(e)	Inclusion of the annual financial statements in accordance with subsection 43(4) of the PGPA Act	Mandatory	126–183

PGPA RULE REFERENCE	PART OF REPORT/ DESCRIPTION	REQUIREMENT	PAGE(S)
	Executive remuneration		
17AD(da)	Information about executive remuneration in accordance with Subdivision C of Division 3A of Part 2-3 of the Rule	,	208–211
17AD(f)	Other mandatory information		
17AH(1)(a)(i)	If the entity conducted advertising campaigns, a statement that 'During [reporting period], the [name of entity] conducted the following advertising campaigns: [name of advertising campaigns undertaken]. Further information on those advertising campaigns is available at [address of entity's website] and in the reports on Australian Government advertising prepared by the Department of Finance. Those reports are available on the Department of Finance's website.'	If applicable, mandatory	229
17AH(1)(a)(ii)	If the entity did not conduct advertising campaigns, a statement to that effect	If applicable, mandatory	N/A
17AH(1)(b)	A statement that 'Information on grants awarded by [name of entity] during [reporting period] is available at [address of entity's website].'	If applicable, mandatory	224
17AH(1)(c)	Outline of mechanisms of disability reporting, including reference to website for further information	Mandatory	125
17AH(1)(d)	Website reference to where the entity's Information Publication Scheme statement pursuant to Part II of the FOI Act can be found	Mandatory	220
17AH(1)(e)	Correction of material errors in previous annual report	If applicable, mandatory	253
17AH(2)	Information required by other legislation	Mandatory	249–252

Note: N/A means not applicable.

 $Source: Public \ Governance, \ Performance \ and \ Accountability \ Rule \ 2014, \ Schedule \ 2.$

Additional compliance reporting requirements

DESCRIPTION	REQUIREMENT	SOURCE OF REQUIREMENT	PAGE(S)
Exercise of ASIC's powers under Part 15 of the Retirement Savings Accounts Act 1997 and under Part 29 of the Superannuation Industry (Supervision) Act 1993	Mandatory	ASIC Act, s136(1)(a)	218
ASIC's monitoring and promotion of market integrity and consumer protection in relation to the Australian financial system and the provision of financial services	Mandatory	ASIC Act, s136(1)(b)	29–103
ASIC's activities in accordance with each agreement or arrangement entered into by ASIC under s11(14) of the ASIC Act	Mandatory	ASIC Act, s136(1)(c)	218
Information about the activities that ASIC has undertaken during the period in exercise of its powers, and performance of its functions, under Chapter 5 of, or Schedule 2 to, the Corporations Act and any provisions of that Act that relate to that Chapter or Schedule	Mandatory	ASIC Act, s136(1)(ca)	30–33, 80–83, 197–198
Information about any instances during the period where ASIC failed to consult as required by section 1023F of the Corporations Act or section 301F of the National Credit Act	Mandatory	ASIC Act, s136(1)(cb)	218
The operation of the <i>Business Names</i> Registration Act 2011, including details of the level of access to the Business Names Register using the internet and other facilities, the timeliness with which ASIC carries out its duties, functions and powers under the Act, and the cost of registration of a business name under the Act	Mandatory	ASIC Act, s136(1)(d)	103–105

DESCRIPTION	REQUIREMENT	SOURCE OF REQUIREMENT	PAGE(S)
Information, for the relevant period, about the activities undertaken by each Financial Services and Credit Panel during the period, any exams administered by ASIC under subs 921B(3) Corporations Act, any warnings and reprimands given by ASIC under s912S Corporations Act, any decisions by ASIC not to follow a recommendation given to ASIC under subs 921Q(1) Corporations Act	Mandatory	ASIC Act, s136(1)(da)	196–197
Information about investigations (including joint investigations) conducted by ASIC under Division 1 of Part 4 of Chapter 3 of the <i>Financial Accountability Regime Act 2023</i> during the period	Mandatory	ASIC Act, s136(db)	N/A
The number of times ASIC used a prescribed information-gathering power, the provision of the Corporations Act, the ASIC Act, or another law that conferred the power, and the number of times in the previous financial year ASIC used the power	Mandatory	ASIC Act, s136(1)(e), reg 8AAA(1)	220–222
ASIC's regional administration in referring states and the Northern Territory, including a statement on ASIC's performance against service-level performance indicators during the relevant period	Mandatory	Corporations Agreement, s603(3)	95–96, 104
A report on the activities of each state and Northern Territory Regional Liaison Committee maintained by the Regional Commissioners	Mandatory	Corporations Agreement, s604(4)	95–96
A report on the work of the financial services and consumer credit external dispute resolution schemes, and ASIC's assessment of the systemic and significant issues the schemes have raised in their reports to ASIC, including information on any action taken in response to the matters raised in these reports	Suggested	Senate Economics References Committee inquiry into the performance of ASIC (report tabled on 26 June 2014), Recommendation 4	234

DESCRIPTION	REQUIREMENT	SOURCE OF REQUIREMENT	PAGE(S)
Commentary on ASIC's activities related to monitoring compliance with court enforceable undertakings, and on how court enforceable undertakings have led to improved compliance with the law	Suggested	Senate Economics References Committee inquiry into the performance of ASIC (report tabled on 26 June 2014), Recommendation 27	86
Accountable authority must state, in the annual financial statements, whether, in the authority's opinion, the statements comply with subsection 42(2)	Mandatory	PGPA Act, s42(3)	130
Work health and safety			
(a) initiatives taken during the year to ensure the health, safety and welfare of workers who carry out work for the entity	Mandatory	Work Health and Safety Act 2011, s4(2) of Sch 2	122
(b) health and safety outcomes (including the impact on injury rates of workers) achieved as a result of initiatives mentioned under paragraph (a) or previous initiatives			122
(c) statistics of any notifiable incidents of which the entity becomes aware during the year that arose out of the conduct of businesses or undertakings by the entity			122
(d) any investigations conducted during the year that relate to businesses or undertakings conducted by the entity, including details of all notices given to the entity during the year under Part 10 of this Act			N/A
(e) such other matters as are required by guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit.			N/A
Environmental performance			
(a) include a report on how the activities of, and the administration (if any) of legislation by, the reporter during the period accorded with the principles of ecologically sustainable development	Mandatory :	Environment Protection and Biodiversity Conservation Act 1999, s516A(6)	226–228
(b) identify how the outcomes (if any) specified for the reporter in an Appropriations Act relating to the period contribute to ecologically sustainable development			N/A

DESCRIPTION	REQUIREMENT	SOURCE OF REQUIREMENT	PAGE(S)
(c) document the effect of the reporter's activities on the environment			226–228
(d) identify any measures the reporter is taking to minimise the impact of activities by the reporter on the environment			226–228
(e) identify the mechanisms (if any) for reviewing and increasing the effectiveness of those measures			226–228
Information in its annual report on the numbers of transfers or changes in its control that occur each year for each type of ASIC licence, including Australian Financial Service Licences; Australian credit licences; Australian auditor registrations; market licences; benchmark operator licences; and clearing and settlement licences		Parliamentary Joint Committee on Corporations and Financial Services' Statutory inquiry into ASIC, the Takeovers Panel, and the corporations legislation (report tabled on 3 July 2023), Recommendation 1.	223

Erratum for Annual Report 2022–23

ASIC has reviewed consultancy contracts and associated expenditure in accordance with the Procurement Publishing and Reporting Obligations (RMG423) definition. The result has reclassified contracts that were previously reported as consultancy to be non-consultancy. In addition, the total expenditure for 2022–23 was reported instead of the total contract value.

ASIC retracts the following statement and tables on pages 226–228 of the 2022–23 Annual Report:

During 2022–23, ASIC awarded 515 contracts valued at \$10,000 (GST inclusive) or more, with a total value of \$47.107 million. Of these procurements, 179 were valued in excess of \$80,000 (GST inclusive), with a total value of \$98.996 million.

Table 43—Expenditure on non-consultancy contracts

BUSINESS DATA	2022–23
Number of new non-consultancy contracts	496
Expenditure on new non-consultancy contracts (\$ millions)	42.131
Number of ongoing non-consultancy contracts	887
Expenditure on ongoing non-consultancy contracts (\$ millions)	85.842

Note: The above figures are GST inclusive. Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the committed value of reportable non-consultancy contracts is available on the AusTender website at www.tenders.gov.au.

Consultancy contracts

During 2022–23, ASIC entered into 19 new consultancy contracts, involving total expenditure of around \$4.975 million (GST inclusive). In addition, 36 ongoing consultancy contracts were active during the year, involving total expenditure of \$7.346 million (GST inclusive).

Table 44—Consultancy trend data

BUSINESS DATA	2022–23	2021–22
Number of new consultancies	19	38
Expenditure on new consultancies (\$ millions)	4.975	8.970
Number of ongoing consultancies	36	42
Expenditure on ongoing consultancies (\$ millions)	7.346	3.888

Note: The above figures are GST inclusive and include all consultancies valued over \$10,000, as indicated on AusTender. The figures differ from the consultancy expenditures shown in the financial statements, which are the value of all consulting costs exclusive of GST. Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website at www.tenders.gov.au..

Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally, and business units seeking to engage consultants must prepare a business case for funding. Requests to engage consultants must be linked to outcomes in business plans and must contribute to ASIC's decision making. Once the engagement of a consultant is approved, the procurement method used must accord with the CPRs and ASIC's procurement policies.

Of the 19 consultants that ASIC engaged during 2022-23:

- three were engaged to conduct independent research or assessments
- two were engaged to provide skills currently unavailable within the agency
- 14 were engaged to provide specialised or professional skills.

The method of procurement used was open tender for 16 engagements (including engagements from panels) and limited tender for 3 engagements.

The consultants were engaged for the following main service categories:

- information technology consultation services
- management advisory services
- organisational structure consultation
- risk management consultation services
- strategic planning consultation services.

ASIC corrects the tables and statements with the following:

During 2022–23, ASIC awarded 515 contracts valued at \$10,000 (GST inclusive) or more, with a total value of \$111.394 million. Of these procurements, 179 were valued in excess of \$80,000 (GST inclusive), with a total value of \$98.996 million.

Table 45—Expenditure on non-consultancy contracts

BUSINESS DATA	2022–23
Number of new non-consultancy contracts	505
Expenditure on new non-consultancy contracts (\$ millions)	50.342
Number of ongoing non-consultancy contracts	914
Expenditure on ongoing non-consultancy contracts (\$ millions)	102,434

Note: The above figures are GST inclusive. Annual reports contain information about actual expenditure on reportable non-consultancy contracts. Information on the committed value of reportable non-consultancy contracts is available on the AusTender website at www.tenders.gov.au.

Consultancy contracts

During 2022–23, ASIC entered into 10 new consultancy contracts, involving total expenditure of around \$1.476 million (GST inclusive). In addition, 9 ongoing consultancy contracts were active during the year, involving total expenditure of \$0.073 million (GST inclusive).

Table 46—Consultancy trend data

BUSINESS DATA	2022–23	2021–22
Number of new consultancies	10	7
Expenditure on new consultancies (\$ millions)	1.476	0.971
Number of ongoing consultancies	9	16
Expenditure on ongoing consultancies (\$ millions)	0.073	0.255

Note: The above figures are GST inclusive and include all consultancies valued over \$10,000, as indicated on AusTender. The figures differ from the consultancy expenditures shown in the financial statements, which are the value of all consulting costs exclusive of GST. Annual reports contain information about actual expenditure on contracts for consultancies. Information on the value of contracts and consultancies is available on the AusTender website at www.tenders.gov.au..

Policy on selection and engagement of consultants

ASIC's consultancy budget is managed centrally, and business units seeking to engage consultants must prepare a business case for funding. Requests to engage consultants must be linked to outcomes in business plans and must contribute to ASIC's decision making. Once the engagement of a consultant is approved, the procurement method used must accord with the CPRs and ASIC's procurement policies.

Of the 10 consultants that ASIC engaged during 2022–23:

- one was engaged to conduct independent research or assessments
- seven were engaged to provide skills currently unavailable within the agency
- two were engaged to provide specialised or professional skills.

The method of procurement used was open tender for nine engagements (including engagements from panels) and limited tender for one engagement.

The consultants were engaged for the following main service categories:

- ◆ legal services
- management advisory services
- organisational structure consultation
- strategic planning consultation services
- marketing and distribution.

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