

Budget Estimate Inquiry – Portfolio Committee No. 1 - Premier and Finance
Wednesday 7 September 2022
Independent Commission Against Corruption answers to Questions taken on notice

QUESTION (page 98):

Ms ABIGAIL BOYD: Perhaps I could ask the ICAC officials, because in the Report on investigation into pork barrelling in NSW—which some of us have read very carefully—on page 44 there is a reference to potential ways that we could perhaps boost the Government Sector Finance Act. There is a reference there, in the paragraph just above where it says "Recommendation 2", where it's talking about a Commonwealth provision but saying that that kind of provision in New South Wales:

... would be useful if attempts were made to provide funding in a way that avoided the proposed grants framework.

It strikes me that being able to give a gift of \$9,000 to somebody in the six months prior to an election could have the potential to fall foul of something along those lines. Can I have your view?

JOHN HATZISTERGOS: I'd have to take that on notice. I don't have the detailed information. I don't have the memorandum. I don't know if you've seen it, Philip?

PHILIP REED: Yes, well, I was only made aware of it by listening to the hearing earlier today. I think, like the Auditor-General has said, we would have signed off saying that there had been no gifts on that basis. That's all that I'm aware of at this time.

ANSWER:

I have now had an opportunity to familiarise myself with the terms of the Treasurer's Direction (TD) 22-27, entitled "Gifts of government property" which is dated 31 August 2022 and that commenced on 5 September 2022.

TD22-27 states that "This direction makes provision for and with respect to the circumstances in which a person handling government resources can make a gift of government property, for the purposes of section 5.6(1)(c) of the Government Sector Finance Act 2018." Further, TD22-27 defines government property as having the same meaning as in section 1.4 of the Government Sector Finance Act 2018. Section 1.4 of the GSF Act 2018 states:

government property means all property held by, for or on behalf of the State or a GSF agency (whether or not it is held on trust) except—

- (a) government money or related money, or
- (b) property held on trust for the benefit of an entity other than a GSF agency.

The section of the ICAC report on investigation into pork barrelling in NSW to which you refer contains a recommendation on page 44 as follows:

RECOMMENDATION 2

That the Government Sector Finance Act 2018 be amended to mirror s 71 of the Commonwealth Public Governance, Performance and Accountability Act 2013 by including obligations that a minister must not approve expenditure of money unless satisfied that the expenditure would be an efficient, effective, economical and ethical use of the money and that the expenditure represents value for money.

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As a gift which is the subject of TD22-27 and made under the Government Sector Finance Act 2018 cannot be money, it would not fall within the terms of the recommendation made by the ICAC in the report on investigation into pork barrelling in NSW.

I am informed that the ICAC's Corruption Prevention team was consulted by NSW Treasury in 2021 about potential amendments to TD21-04, the precursor to TD22-27, and advice was provided in relation to areas of risk. The Corruption Prevention team did not raise concerns with the amendments then being considered by NSW Treasury.