

Risk and Audit Committee

Charter of operation

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Introduction

1. The AER Board, as the accountable authority of the **Australian Energy Regulator (AER)**, has established the **Risk and Audit Committee** (the Committee) in compliance with section 45 of the Public Governance, Performance and Accountability Act 2013 (PGPA Act) and section 17 of the PGPA Rule 2014 (PGPA Rule).

The role of the Committee

2. The Committee provides independent advice to the accountable authority, through the Governance Forum, on the entity's financial reporting, performance reporting, risk oversight and management, and systems of internal control. The Committee is not responsible for the executive management of these functions.
3. The Committee will engage with management in a constructive and professional manner in discharging its responsibilities and formulating its advice to the accountable authority.
4. The Committee will exercise a governance role in relation to the entity's internal audit function. The internal audit function is responsible for delivering an internal audit program in line with the Committee's guidance and subject to approval by the accountable authority.

Authority

5. The Committee has no executive powers, except those expressly provided by Commonwealth legislation or delegated to it by the accountable authority.
6. The accountable authority approves the Committee, within the scope of its functions and responsibilities and subject to confidentiality considerations, to:
 - a. have unimpeded access to the accountable authority and relevant management
 - b. meet with, make inquiries of and seek information from any official, employee or relevant external party, including internal and external auditors, as it considers necessary to enable it to fulfil its functions and responsibilities
 - c. require any official, including the accountable authority, to attend a committee meeting, and
 - d. obtain independent legal or other professional advice (subject to the approval of the Committee Chair and appropriate financial delegation arrangements) as necessary for the proper discharge of its functions and responsibilities.
7. The Committee will make such requests through the Secretariat.

Members

8. The accountable authority determines the composition of the Committee and appoints its members, having regard to the requirements under the PGPA Act, PGPA Rule, and guidance from the Department of Finance.
9. When appointing members, the accountable authority should ensure that the collective qualifications, knowledge, skills and experience of the Committee's members are suitable to enable the Committee to perform its functions in the context of the agency. Additionally, in considering the reappointment of members, the accountable authority will assess the extent to which a member has fulfilled their obligations under this Charter.

10. At least one member will have accounting or related financial management experience with an understanding of accounting and auditing standards in a public sector environment.
11. All of the members of the Committee will be persons who are not officials of the agency, and a majority of the members will be persons who are not officials of any Commonwealth entity.
12. Members will ordinarily be appointed for 3-year terms, with staggered starting dates where possible to ensure a rotation of members over time.
13. Members may be re-appointed for up to 3-years after a formal review of their performance.
14. The maximum continuous appointment term is 6-years.
15. A member may resign at any time by giving written notice to the Accountable Authority. The resignation will take effect when the notice is received by the Accountable Authority, or later if stated in the notice.

Induction:

16. The Secretariat will provide new members relevant information and briefings on their appointment to assist them to meet their committee responsibilities.

Role of the Chair

17. The Committee Chair is accountable for the effective operation of the Committee and any advice provided to the accountable authority and will:
 - a. set the work program and determine each meeting agenda
 - b. ensure the Committee is run effectively and inclusively, in line with an agreed agenda, dealing with the business at hand and helping to frame the issues for discussion or deliberation, whilst seeking to engage all members in discussions
 - c. ensure decisions and actions arising from meetings are clearly articulated
 - d. ensure the accuracy of minutes taken and records maintained (delegated to secretariat)
 - e. provide leadership and determine the culture and behaviour of the Committee
 - f. engage with the accountable authority as appropriate on outcomes and decisions from the Committee.
18. The Chair will nominate a member of the Committee as an alternate Chair in the Chair's absence.

Member Obligations

19. The Committee Members are expected to:
 - a. understand the Committee's role and responsibilities, be familiar with the Committee's relationship with management and the internal and external auditors as well as have a sound knowledge of the entity's operations and the environment in which it operates
 - b. contribute the time needed to study and understand the papers provided; apply good analytical skills, objectivity and good judgement; and express opinions frankly, ask questions that go to the fundamental core of the issue and pursue independent lines of enquiry
 - c. work collaboratively and cooperatively with the Committee Chair and other members of the Committee in the best interests of the entity generally and the business of the Committee specifically, and
 - d. bring their own expertise and experience to the Committee to enable completion of activities in an efficient and effective manner.
 - e. not use or disclose information obtained by the Committee except in meeting the Committee's responsibilities, or unless expressly agreed by the accountable authority.

Functions

20. The Committee's functions are a matter of decision by the accountable authority, in consultation with the Committee, and must at minimum satisfy the functions set out in the PGPA Rule. These functions are set out below:

Financial reporting [PGPA Rule 17(2)(a)]

21. Review the annual financial statements, assess their appropriateness, and provide advice to the accountable authority including recommending that the accountable authority sign the annual financial statements.
22. Review processes in place to allow the entity to stay informed throughout the financial year of any changes or additional requirements in relation to financial reporting.
23. Review the appropriateness of the annual reporting processes in place and systems for preparing financial reporting information; and provide advice that financial information included in the entity's annual report is consistent with the signed financial statements.
24. Discuss with the ANAO the auditor's judgements about the adequacy of the entity's accounting policies and the quality of the entity's processes for the preparation of the entity's financial statements.

Performance Reporting [PGPA Rule 17(2)(b)]

25. Review the appropriateness of the entity's systems and procedures for developing, measuring and reporting the entity's performance, including providing advice that:
 - a. the entity's Portfolio Budget Statements and Corporate Plan include details of how the entity's performance will be measured and assessed
 - b. the entity's approach to measuring its performance throughout the financial year against the performance measures included in its Portfolio Budget Statements and Corporate Plan is appropriate for the entity, in accordance with the Commonwealth Performance Framework, and takes into account guidance issued by the Department of Finance
 - c. the entity has appropriate processes in place for the preparation of its annual performance statement and the inclusion of the statement in its Annual Report.
26. Review the entity's annual performance statements and provide advice to the accountable authority on their appropriateness for the entity.

Systems of risk oversight and management [PGPA Rule 17(2)(c)]

27. Review the appropriateness of the entity's systems of risk oversight and management including providing advice that:
 - a. management has a current and appropriate enterprise risk management framework, the necessary internal controls and the associated procedures for the effective identification and management of the entity's risks, including reviewing the entity's control environment and insurance arrangements
 - b. an appropriate approach has been followed in managing the entity's key risks, including those associated with individual projects, programs and activities
 - c. management has adequately developed risk management capability in the entity and whether key roles, responsibilities and authorities relating to risk management are clearly articulated and adhered to in the entity.

28. Review the process of developing and implementing the entity's fraud control arrangements consistent with the Commonwealth Fraud and Corruption Control Framework and satisfy itself that the entity has adequate and appropriate processes and systems in place to detect, capture and effectively respond to fraud risks. This includes reviewing reports on fraud from management that outline any significant or systemic allegations of fraud, the status of any ongoing investigations and any changes to identified fraud risk in the entity.

System of internal control [PGPA Rule 17(2)(d)]

29. Internal control framework

Review the appropriateness of the entity's systems of internal control including providing advice that:

- a. management's approach to maintaining an effective internal control framework, including in relation to functions performed by external parties such as contractors and advisers, and whether appropriate processes are in place for assessing whether key policies and procedures are complied with
- b. management has in operation relevant policies and procedures, such as accountable authority Instructions, delegations, a business continuity plan, and bullying and harassment policies, and that these are periodically reviewed and updated
- c. appropriate processes are in place to periodically (but not less than once per financial year) assess whether key policies and procedures are complied with
- d. management periodically assesses the adequacy of the entity's information security infrastructure, including complying with reporting obligations.

30. Business continuity management

- a. Satisfy itself that an appropriate approach has been taken in establishing the entity's business continuity planning arrangements, including whether business continuity and disaster recovery plans have been periodically updated and tested.

31. Ethical and lawful behaviour

- a. Assess whether management has taken steps to embed a culture that promotes the proper use of public resources and is committed to ethical and lawful behaviour.

32. Internal audit

- a. Review the proposed internal audit coverage, ensure the coverage takes into account the entity's key risks, and recommend approval of the Internal Audit Strategy and Plan by the accountable authority.
- b. Provide guidance and advice on the internal audit function, review internal audit reports, monitor the implementation of audit findings and recommendations, and report to the accountable authority on systemic issues identified in internal audits.

33. Legislative and policy compliance

- a. Review the effectiveness of systems for monitoring the entity's compliance with those laws, regulations and associated government policies with which it must comply.
- b. Provide advice to the accountable authority regarding the issue of the entity's annual Certificate of Compliance, or equivalent report.

34. Security compliance

- a. Review management's approach to maintaining an effective cyber security environment and internal security system, including Protective Security Policy Framework and ICT security policy compliance.

Accountability and reporting

Annual Work Plan

35. The Committee will contribute to and approve an annual work plan and meeting schedule that includes the dates, location, and proposed agenda items for each meeting for the forthcoming financial year at the last meeting of each financial year and covers all the functions outlined in this Charter.

Reporting

36. The Committee will, report annually to the accountable authority on its operation and activities during the financial year and confirm that all functions outlined in this Charter have been satisfactorily carried out.
37. The Committee may, at any time, report to the accountable authority any other matter (within the scope of the Committee or a member's expertise) it deems sufficiently important. In addition, individual Committee members may request a private meeting with the accountable authority at any time.
38. The Committee Chair will attend a meeting of Governance Forum at least once per financial year. The Committee Chair will update the accountable authority as required and is invited to provide further updates to Governance Forum throughout the financial year.
39. In accordance with Section 17AG, clause 2a of the PGPA Rule the AER will publish in the Annual Report, a link to the Charter, and the names, qualifications, attendance and remuneration of Committee members.

Engagement with the Australian National Audit Office (ANAO)

40. The Committee will engage with the ANAO, as the entity's external auditor, in relation to the ANAO's financial statement and performance audit coverage. This includes:
 - a. providing input on planned ANAO financial statement and performance audit coverage
 - b. responding to the ANAO's annual fraud assessment questions
 - c. monitoring management responses to ANAO financial statement management letters and performance audit reports, including the implementation of audit recommendations
 - d. providing advice to the Accountable Authority on action to be taken on significant issues raised in relevant ANAO reports or better practice guides
 - e. engaging effectively with ANAO representatives that attend Committee meetings, and
 - f. convening private meetings with ANAO representatives if and when required.

Audit and Risk Committee written statement

41. The Committee will provide the accountable authority with an annual written statement following the August committee meeting, which will contain the following statements:
 - a. A statement as to whether the annual financial statements, in the committee's view, comply with the PGPA Act, the PGPA Rules, the Accounting Standards and supporting guidance.
 - b. A statement as to whether additional entity information (other than financial statements) required by Finance for the purpose of preparing the Australian Government consolidated financial statements (including the supplementary report package) comply with the PGPA Act, PGPA Rules, Accounting Standards and supporting guidance.

- c. A statement in respect of the appropriateness of the entity's financial reporting as a whole, with reference to any specific areas of concern or suggestions for improvement.
 - d. A statement of the Committee's view in relation to the appropriateness of the entity's annual performance statement and the performance reporting as a whole, whether they comply with the PGPA Act and PGPA Rule, and making reference to any specific areas of concern or suggestions for improvement.
 - e. A statement in relation to the appropriateness of the entity's systems for risk oversight and risk management as a whole, with reference to the Commonwealth Risk Management Policy and any specific areas of concern or suggestions for improvement.
 - f. A statement of the Committee's view in relation to the appropriateness of the entity's systems for internal control, with reference to any specific areas of concern or suggestions for improvement.
42. These statements must involve the Committee communicating its view to the accountable authority, not merely stating that the Committee does not know of anything that would indicate the particular element is inappropriate. The Committee will document the process by which it reaches its view, and the Committee Chair will ensure that evidence of this process, and the view reached is recorded and retained.

Conflict of interest

43. Once each financial year, Committee members will provide written declarations, through the Chair to the accountable authority, declaring any material personal interests they may have in relation to their responsibilities. The accountable authority, in consultation with the Chair, should be satisfied that there are sufficient processes in place to manage any real or perceived conflict.
44. Members with an actual or perceived conflict of interest will notify the Committee as soon as these issues become apparent.
45. At the beginning of each Committee meeting, members are required to declare any material personal interests that may apply to specific matters on the meeting agenda. Where required by the Committee Chair, the member will be excused from the meeting or from the Committee's consideration of the relevant agenda item(s).
46. The Committee Chair is also responsible for deciding, in consultation with the accountable authority where appropriate, if they should excuse themselves from the meeting or from the Committee's consideration of the relevant agenda item(s). Details of any material personal interests declared by the Committee Chair and other members, and actions taken, will be recorded in the minutes.

Meeting arrangements

Meeting frequency

47. The Committee will hold at least 4 meetings each financial year, plus one special meeting to review financial statements and performance statements (normally in late-August).
48. The Committee Chair may choose to hold additional meetings as necessary for the Committee to fulfil its Charter; and is required to call a meeting if asked to do so by the Accountable Authority.

Meeting quorum

49. A quorum will consist of a majority of Committee members. The quorum must always be in place during the meeting.
50. Committee member must notify the Secretariat at least 2 working days prior to the meeting if they are unable to attend.

Meeting attendees

51. Any AER Board member may attend any Committee meeting and will be provided with all relevant papers prior to the meeting, but they will not be members of the Committee.
52. The Committee Chair may invite the attendance of agency employees, including the AER Chief Executive Officer, Chief Risk Officer, Chief Finance Officer, or their delegates, as advisors or observers to assist the Committee in its work, but they will not be members of the Committee.
53. Attendance at Committee meetings may also include other members of management as determined by the Committee Chair as advisors or observers, but they will not be members of the Committee.
54. Representative(s) of the ANAO, internal and external audit may be invited to attend meetings of the Committee, or parts thereof, as advisors or observers, but will not be members of the Committee.

Meeting agenda

55. The Chair will determine the meeting agenda, with support provided by the General Manager Corporate and the Secretariat.
56. The meeting agenda and any papers will be provided to members at least one week before a meeting unless circumstances require a shorter timeframe. The meeting agenda will include details of any conflicts of interest previously declared by Committee members.

Forward agenda

57. The Secretariat will maintain a forward agenda of items based on the annual work plan, for the Committee. Consideration of the forward agenda by the Committee will be included as a standing agenda item for each meeting.
58. Responsible Officers must ensure any agenda items are included in the forward agenda as soon as practical, and at least 28 days prior to the meeting date, taking care to include all relevant information.
59. The Secretariat will provide the draft agenda to the Committee Chair for approval 28 days prior to each meeting – to allow sufficient time for development and approval of papers.

Meeting papers

60. Responsible SES must ensure that papers are submitted on time and of a quality and nature suitable for effective and efficient deliberations and decision making.
61. Cleared meeting papers are due to the Secretariat by 12 noon, 5 working days before the meeting.
62. Meeting papers will be made available to Committee members at least one week before each meeting unless circumstances require a shorter timeframe.

Oral updates

63. Sometimes it will be appropriate to provide the Committee with a brief oral update of recent developments rather than preparing a formal paper.
64. Presenters should submit requests for an oral update at least 5 working days before the relevant meeting unless the circumstances do not allow.

Action items register

65. The Secretariat will maintain a register of action items arising from Committee meetings. It will be based on items recorded in the minutes.
66. A status update on open action items is to be provided to the Secretariat 21 days before the meeting.

Committee performance

67. The Chair of the Committee, in consultation with the Accountable Authority, and with the support of the Secretariat, will undertake a review of the performance of the Committee each financial year. The review will be conducted on a self-assessment basis and will seek input from Committee members, advisors and observers, senior management, and any other relevant stakeholders.
68. The Committee will review its effectiveness against its functions at least once every 2 financial years. The review will be conducted by way of a survey coordinated by the Secretariat on advice from the Chair and will seek responses on the performance of the Committee from all members, standing attendees and observers. The results will be presented to the Committee biennially and provided to the accountable authority.
69. The Chair will provide advice to the Accountable Authority on a member's performance, where an extension of the member's tenure is being considered.

Review of this Charter

70. The Committee will review this Charter in the first 12 months of operation, and then at least every 2 financial years, or earlier if requested by the accountable authority or otherwise appropriate. Any proposed amendments that change the intent or effect of this Charter will be considered by the accountable authority.
71. Formatting and minor changes, including typographical or grammatical corrections, consistency edits, and non-substantive clarifications that do not change the intent or effect of this Charter, will be considered by the Chief Executive Officer.