

The Auditor-General
Auditor-General Report No. 15 2024–25
Performance Audit

Compliance with Gifts, Benefits and Hospitality Requirements in the Murray–Darling Basin Authority

Murray–Darling Basin Authority

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Canberra ACT
5 December 2024

Dear President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Murray–Darling Basin Authority. The report is titled *Compliance with Gifts, Benefits and Hospitality Requirements in the Murray–Darling Basin Authority*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office’s website — <http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Caralee'.

Dr Caralee McLiesh PSM
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out their duties under the *Auditor-General Act 1997* to undertake performance audits, financial statement audits and assurance reviews of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Audit snapshot

Auditor-General Report No.15 2024–25

Compliance with Gifts, Benefits and Hospitality Requirements in the Murray–Darling Basin Authority



Why did we do this audit?

- ▶ The giving or receiving of gifts, benefits and hospitality can create the perception that an official is subject to inappropriate external influence.
- ▶ This audit was conducted to provide assurance to the Parliament that the Murray–Darling Basin Authority (MDBA) has complied with gifts, benefits and hospitality requirements.



What did we find?

- ▶ The MDBA has been partly effective in complying with its gifts, benefits and hospitality requirements.
- ▶ The MDBA has established largely effective arrangements for managing gifts, benefits and hospitality. There is an opportunity to improve consistency across policies and procedures.
- ▶ The MDBA's controls and processes were partly effective. Deficiencies were identified with reporting on mandatory training completion and compliance with policy and procedural requirements for acceptance and provision of gifts, benefits and hospitality.



Key facts

- ▶ The MDBA is responsible for coordinating how water resources are managed in the Murray–Darling Basin.
- ▶ There were 20 items reported on the MDBA's internal gifts and benefits register for the period 1 July 2021 to 31 March 2024.



What did we recommend?

- ▶ The Auditor-General made three recommendations to the MDBA to improve risk management, policy requirements and control effectiveness for gifts, benefits and hospitality.
- ▶ The MDBA agreed to all three recommendations.

1

gift was publicly reported by the MDBA Chief Executive between quarter 1 of 2021 and quarter 2 of 2024 (an airline lounge membership).

5

instances of accepted gifts, benefits or hospitality were identified that were not recorded on MDBA's internal register.

35

hospitality or catering transactions (from a sample of 61) did not have a record of delegate approval for the hospitality or catering in the financial management system.

Summary and recommendations

Background

1. The *Public Service Act 1999* (PS Act) requires that Australian Public Service (APS) employees, agency heads and statutory office holders abide by the APS Code of Conduct.¹ The APS Code of Conduct, consistent with duties under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), require officials to declare the receipt of gifts, benefits and hospitality. Collectively, these requirements establish obligations for officials and Commonwealth entities in relation to how they manage the provision and receipt of gifts, benefits and hospitality.
2. Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit for themselves or another person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person.² The *National Anti-Corruption Commission Act 2022* also contains provisions against conduct that adversely affects (or could adversely affect) the honest and impartial exercise of any public official's powers, functions or duties.³
3. The Australian Public Service Commission (APSC) publishes *Guidance for Agency Heads – Gifts and Benefits*. The principles underpinning this guidance are that:
 - agency heads are meeting public expectations of integrity, accountability, independence, transparency and professionalism in relation to gifts and benefits; and
 - there is consistency in relation to agency heads' management of gifts and benefits across APS agencies and Commonwealth entities and companies.⁴
4. The Murray–Darling Basin Authority (MDBA) is a corporate Commonwealth entity established under the *Water Act 2007* (the Water Act) and comprises:
 - an eight-member Authority (the Authority) with functions and responsibilities defined under the Water Act and conditions set by the Remuneration Tribunal⁵; and
 - a statutory agency of staff engaged under the Public Service Act, with an average staffing level of 367 for 2024–25.⁶
5. The MDBA is responsible for coordinating how water resources are managed in the Murray–Darling Basin.⁷

1 *Public Service Act 1999*, sections 10, 13 and 14.

2 *Public Governance, Performance and Accountability Act 2013*, section 27.

3 *National Anti-Corruption Commission Act 2022*, paragraphs 8(1)(a) and 201(2)(b).

4 Australian Public Service Commission, *Guidance for Agency Heads Gifts and Benefits*, APSC, 2021, paragraph 3, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 9 September 2024].

5 *Water Act 2007*, Part 9, Division 2. The Authority consists of a chair, a full-time chief executive, two Indigenous members and four other members.

6 Average staffing level (ASL) is the full-time equivalent staffing level averaged over a financial year. The ASL of 367 is provided in the *Portfolio Budget Statements 2024–25: Climate Change, Energy, the Environment and Water Portfolio*, page 308, table 1.1.

7 *Water Act 2007*, Part 9, Division 1.

Rationale for undertaking the audit

6. Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit for themselves or another person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person. Public service entities must meet public expectations of integrity, accountability, independence, transparency, and professionalism. Acceptance of a gift or benefit that relates to an official's employment can create a real or apparent conflict of interest that should be avoided.⁸

7. Public confidence in Commonwealth entities and the APS can be damaged when gifts and benefits that create a conflict of interest are accepted or not properly declared. The APSC states in its publication, *APS Values and Code of Conduct in practice*, that the risk of the appearance of a conflict can be damaging to public confidence:

The appearance of a conflict can be just as damaging to public confidence in public administration as a conflict which gives rise to a concern based on objective facts.⁹

8. This audit was conducted to provide assurance to the Parliament that the MDBA has complied with gifts, benefits and hospitality requirements.

Audit objective and criteria

9. The objective of the audit was to assess whether the MDBA had complied with gifts, benefits and hospitality requirements.

10. To form a conclusion against the objective, the ANAO adopted the following two high-level audit criteria.

- Did the MDBA have effective arrangements in place to manage gifts, benefits and hospitality?
- Were the MDBA's controls and processes for gifts, benefits and hospitality operating effectively in accordance with its policies and procedures?

11. The audit examined the management of gifts, benefits and hospitality within the MDBA over the period 1 July 2021 to 31 March 2024.

Conclusion

12. The MDBA has been partly effective in complying with gifts, benefits and hospitality requirements. While the MDBA has policies and procedures for managing gifts, benefits and hospitality, the implementation of its controls and processes for ensuring compliance with gift, benefit and hospitality requirements have not been effectively operationalised.

13. The MDBA has established largely effective arrangements for managing gifts, benefits and hospitality. The MDBA has not considered conflict of interest risks associated with gifts, benefits

8 National Anti-Corruption Commission, *Towards Integrity Maturity: Mapping the Commonwealth integrity landscape*, NACC, Canberra, 2022, available from https://www.nacc.gov.au/sites/default/files/documents/2023-08/CIMF-towards-integrity-maturity-mapping-the-commonwealth-integrity-landscape_0.pdf [accessed 10 September 2024].

9 Australian Public Service Commission, *APS Values and Code of Conduct in practice*, Section 5: Conflict of Interest, APSC, 2024, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 10 September 2024].

and hospitality within its risk management framework. While the MDBA has developed policies and procedures for the acceptance and provision of gifts, benefits and hospitality, there are opportunities to improve the consistency between policies and procedures. Whole of government training on integrity and fraud and corruption is mandatory for MDBA staff. Limited guidance is provided to Authority members. The MDBA maintains an internal register of gifts and benefits accepted by MDBA officials, and has published a register of gifts and benefits received by the Chief Executive.

14. The MDBA's controls and processes are partly effective in supporting its compliance with gift, benefit and hospitality requirements. Deficiencies were identified with preventative controls relating to reporting on mandatory training completion and the compliance with policy and procedural requirements for the acceptance and provision of gifts, benefits and hospitality. While the MDBA does not have specific detective controls relating to acceptance of gifts, benefits and hospitality, since 2022–23 it has included a question on provision of hospitality in its biannual financial compliance survey. The MDBA has not established processes for managing non-compliance or assurance activities for gifts, benefits and hospitality.

Supporting findings

Arrangements for managing gifts, benefits and hospitality

15. The MDBA has articulated risks and controls related to bribery and corruption in a 2024 fraud and corruption risk assessment. Existing controls related to acceptance or provision of gifts, benefits and hospitality were not referenced in the 2024 assessment. Two integrity-related risks were identified in the MDBA's November 2021 Enterprise Risk Management Plan. The MDBA developed a revised suite of enterprise risks in August 2023, which no longer includes integrity-related risks. (See paragraphs 2.6 to 2.21)

16. The MDBA has developed policies and procedures for the acceptance of gifts, benefits and hospitality through its Accountable Authority Instructions, Instrument of Delegation, Official Hospitality, Gifts and Benefits Guidelines and Declaration of Interests Policy. There were inconsistencies between these documents in relation to instructions for accepting 'token gifts, benefits or hospitality' (valued at \$50 or below). In addition, the guidelines do not specify timeframes for obtaining delegate approval and reporting on acceptance of gifts, benefits or hospitality or sanctions associated with failure to comply with the requirements. (See paragraphs 2.22 to 2.37)

17. The MDBA has developed policies and procedures for the provision of gifts, benefits and hospitality through its Accountable Authority Instructions, Instrument of Delegation, Official Hospitality, Gifts and Benefits Guidelines and other policy documents. There were inconsistencies between these documents in relation to the distinction between official hospitality and business catering. (See paragraphs 2.38 to 2.56)

18. The MDBA has a mandatory training package which includes responsibilities and expectations for officials relating to gifts, benefits and hospitality. The relevant modules are whole of government modules on integrity and fraud and corruption. Members of the Authority have not been provided specific guidance on policy and procedural requirements for gifts, benefits and hospitality. (See paragraphs 2.57 to 2.67)

19. The MDBA has published a register of gifts and benefits received by the Chief Executive. It updated the register in October 2024 to comply with the requirement to annually report gifted airline lounge memberships. In August 2024 the MDBA decided to commence publishing gifts and benefits received by MDBA officials, including Authority members. The MDBA maintains an internal register of gifts, benefits and hospitality accepted by officials from external parties. It expanded the register in August 2024 to cover provision of official hospitality. There were no internal reporting mechanisms in place for the Chief Executive or management committees to have oversight of gifts, benefits and hospitality accepted or provided by MDBA officials. As a result of the inconsistencies in the treatment of official hospitality and business catering events by the MDBA, and the absence of a register, the MDBA has not been well placed to accurately report to Parliament on instances of official hospitality. (See paragraphs 2.68 to 2.80)

Controls and processes for managing gifts, benefits and hospitality

20. The MDBA has implemented preventative controls for the receipt or provision of gifts, benefits and hospitality through its policies and procedures, mandatory staff training, delegations and approval requirements. The MDBA does not provide reporting on the completion of mandatory training to the Chief Executive or relevant governance committees. Requirements set out in policies and procedures prohibiting the acceptance of gifts, benefits and hospitality from contractors were not adhered to. There was inconsistent treatment of business catering and official hospitality events, and instances of non-compliance with controls for official hospitality. (See paragraphs 3.6 to 3.50)

21. The MDBA has not implemented detective controls specifically for the purpose of identifying non-compliance with requirements for the receipt and provision of gifts, benefits and hospitality. The MDBA's biannual financial compliance survey is a detective control that can support the identification of non-compliance with requirements. Officials responding to the survey identified one instance of non-compliance with business catering or official hospitality guidelines in 2023–24, which was included in summary reporting provided to the Chief Executive. (See paragraphs 3.51 to 3.57)

22. The MDBA has not documented or implemented processes for managing identified instances of non-compliance relating to management of gifts, benefits and hospitality. The ANAO identified instances of non-compliance that had not been identified or reported by the MDBA. (See paragraphs 3.58 to 3.62)

23. The MDBA has not developed an evidence-based assurance framework that considers management of gifts, benefits and hospitality. (See paragraphs 3.63 to 3.68)

Recommendations

Recommendation no. 1 The Murray–Darling Basin Authority assess the risks associated with provision and acceptance of gifts, benefits and hospitality and identify appropriate controls.
Paragraph 2.19

Murray–Darling Basin Authority response: *Agreed.*

- Recommendation no. 2**
Paragraph 2.51
- The Murray–Darling Basin Authority review and update its policy framework for the acceptance and provision of gifts, benefits and hospitality to ensure:
- (a) instructions for accepting and keeping ‘token gifts, benefits and hospitality’ are consistent and appropriate;
 - (b) instructions for provision of hospitality include clear definitions and distinctions between official hospitality and business catering, and define relevant concepts such as ‘entertainment’ and ‘modest’;
 - (c) timeframes are specified for obtaining delegate approval and reporting on acceptance and provision of gifts, benefits and hospitality;
 - (d) consideration of any potential, perceived or actual conflicts created by the acceptance of gifts, benefits or hospitality is documented on declaration forms; and
 - (e) the framework defines sanctions associated with failure to comply with gifts, benefits and hospitality requirements.

Murray–Darling Basin Authority response: *Agreed.*

- Recommendation no. 3**
Paragraph 3.66
- The Murray–Darling Basin Authority implement:
- (a) regular reporting to the Chief Executive and relevant governance committees on mandatory training completion and acceptance and provision of gifts, benefits and hospitality; and
 - (b) arrangements to obtain assurance over controls for managing gifts, benefits and hospitality to inform continuous improvement and ensure ongoing effectiveness.

Murray–Darling Basin Authority response: *Agreed.*

Summary of entity responses

24. The proposed report was provided to the MDBA. Extracts of the proposed report were also provided to Callida Indigenous Consulting, Chartertech, eWater, Hudson, Paxus, Scyne Advisory and Xaana.ai. Summary responses to the report, where provided, are below and the MDBA’s full response is at Appendix 1. Improvements observed by the ANAO during the course of this audit are listed in Appendix 2.

Murray–Darling Basin Authority

The MDBA welcomes the ANAO's findings and agrees with the three recommendations in the Report. We are pleased that no non-compliance with our legislative obligations (including PGPA Act) were identified.

We are committed to upholding the highest standards of integrity. Currently, we are working to improve consistency in policy requirements and control operating effectiveness over the management of gifts, benefits, and official hospitality.

Our actions in response to the ANAO audit include frequent reporting and increased oversight on our internal gifts, benefits, and hospitality register to identify potential conflicts of interest. We are also embedding processes to ensure compliance with mandatory staff training and internal procedures, and reviewing internal policies for consistent treatment of gifts and benefits.

The MDBA also has progressed significant work in relation to improving its risk management practices over the past 18 months and is currently focused on integrity related risks and appropriate controls, including in relation to gifts, benefits and hospitality.

The MDBA appreciates the ANAO's approach in conducting the audit, including regular engagement, progress updates, and efforts to understand our agency's policy and practices.

Chartertech

Chartertech's *Conflict of Interest Policy and Declaration* outlines the policy for receiving gifts and benefits. This policy requires declaration of any gifts, benefits or hospitality received valued at over \$100, this threshold is applied to the Chartertech Gifting Register, which was referenced in the ANAO response. Chartertech can confirm that there are no records of gifts, benefits or hospitality provided for any MDBA personnel in accordance with this policy.

Key messages from this audit for all Australian Government entities

25. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Governance and risk management

- Entities could consider informing their suppliers that integrity and accountability are minimum expectations of all suppliers to the Commonwealth. This includes informing suppliers that it is not appropriate to provide gifts, benefits or hospitality to Australian Government officials. The Commonwealth Supplier Code of Conduct came into effect on 1 July 2024 as part of the Commonwealth Procurement Rules. Entities could use the Code of Conduct to hold suppliers accountable for the way they engage with officials.

Performance and impact measurement

- Monitoring and reporting on integrity-related metrics, such as conflict of interest declarations, gifts and benefits notifications and integrity training completion rates, helps entities to identify and respond to integrity risks.

Audit findings

1. Background

Introduction

1.1 The *Public Service Act 1999* (Public Service Act) requires Australian Public Service (APS) employees, agency heads and statutory office holders to uphold the APS Values and Code of Conduct. The APS Code of Conduct, consistent with duties under the *Performance and Accountability Act 2013* (PGPA Act), requires officials not to improperly use their duties, status, power or authority to gain, or seek to gain, a benefit for themselves or any other person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person. Collectively, these requirements establish obligations for officials and Commonwealth entities in relation to how they manage the provision and receipt of gifts, benefits and hospitality.

1.2 The *National Anti-Corruption Commission Act 2022* contains provisions against conduct that adversely affects (or could adversely affect) the honest or impartial exercise or performance of a public official's powers, functions or duties.

1.3 The Australian Public Service Commission (APSC) publishes *Guidance for Agency Heads – Gifts and Benefits*.¹⁰ The principles underpinning this guidance are that:

- agency heads are meeting public expectations of integrity, accountability, independence, transparency, and professionalism in relation to gifts and benefits; and
- there is consistency in relation to agency heads' management of gifts and benefits across the APS agencies and Commonwealth entities and companies.¹¹

1.4 Agency heads must publish a register of any gifts and benefits that they accept, valued at over \$100 (excluding GST), on a quarterly basis. A link to the register must also be provided to the APSC for publication on the APSC's website.

1.5 In the course of their official duties, APS employees may interact with many individuals and organisations, and may receive offers of gifts, benefits and hospitality as part of these interactions. The acceptance of such offers can pose risks to public confidence in entities and the APS more broadly, particularly in meeting the APS Values and the public's expectations of integrity, accountability, independence, transparency and professionalism.¹²

Murray–Darling Basin Authority functions

1.6 The Murray–Darling Basin is a major water catchment area that includes parts of Queensland, New South Wales, Victoria, South Australia and the Australian Capital Territory (known as Basin states). The 2013 intergovernmental Murray–Darling Basin Agreement outlines

10 Australian Public Service Commission, *Guidance for Agency Heads Gifts and Benefits*, APSC, 2021, available from www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits [accessed 7 June 2024].

11 *ibid.*, paragraph 3.

12 *ibid.*, paragraph 9.

arrangements between the Australian Government and Basin states to implement the Basin Plan 2012 (the Basin Plan).¹³

1.7 The Murray–Darling Basin Authority (MDBA) is responsible for coordinating how water resources are managed in the Murray–Darling Basin.¹⁴ Activities undertaken by the MDBA include:

- working with Basin states to ensure 33 water resources plans meet the requirements of the Basin Plan and address the local requirements of water resource management;
- publishing an Annual Water Take Report documenting the MDBA’s examination of use across Murray–Darling Basin catchments including information on water use, held environmental water and Cap compliance;
- reporting on the effectiveness of the Basin Plan by publishing an annual report;
- delivering and participating in conferences, meetings and other stakeholder engagement activities, including an annual conference;
- operating the River Murray system up to the border of South Australia, which includes calculating and releasing the volumes of water needed to meet state orders or system demands; and
- delivering programs to maintain and improve the environmental health, salinity and water quality of the River Murray.

Murray–Darling Basin Authority structure and resourcing

1.8 The MDBA is a corporate Commonwealth entity established under the *Water Act 2007* (the Water Act) and comprises:

- an eight-member Authority (the Authority) with functions and responsibilities defined under the Water Act and conditions set by the Remuneration Tribunal¹⁵; and
- a statutory agency of staff engaged under the Public Service Act, with an average staffing level of 367 for 2024–25.¹⁶

1.9 The MDBA’s Chief Executive is the agency head and accountable authority for the purposes of the Public Service Act and the PGPA Act.¹⁷ The Chief Executive is one of the eight members of the

13 Further detail on the Murray–Darling Basin and related water policy is presented in:

- paragraphs 1.1 to 1.29 of Auditor-General Report No.2 2020–21, *Procurement of Strategic Water Entitlements*, available from www.anao.gov.au/work/performance-audit/procurement-strategic-water-entitlements [accessed 2 August 2024];
- Murray–Darling Basin Authority (MDBA), *The Murray–Darling Basin Agreement*, MDBA, 2023, available from www.mdba.gov.au/water-use/allocations/murray-darling-basin-agreement [accessed 21 June 2024]; and
- MDBA, *The Basin Plan*, MDBA, 2023, available from www.mdba.gov.au/water-management/basin-plan [accessed 21 June 2024].

14 *Water Act 2007*, Part 9, Division 1.

15 *Water Act 2007*, Part 9, Division 2. The Authority consists of a chair, a full-time chief executive, two Indigenous members and four other members.

16 Average staffing level (ASL) is the full-time equivalent staffing level averaged over a financial year. The ASL of 367 is provided in the *Portfolio Budget Statements 2024–25: Climate Change, Energy, the Environment and Water Portfolio*, page 308, table 1.1.

17 *Water Act 2007*, section 208A.

Authority and cannot be directed by the Authority in relation to the exercise of powers under the PGPA Act or the Public Service Act.¹⁸

1.10 The MDBA has offices in seven locations: Adelaide, South Australia; Canberra, Australian Capital Territory; Goondiwindi, Queensland; Griffith, New South Wales; Mildura, Victoria; Murray Bridge, South Australia; and Wodonga, Victoria. As at 30 June 2024, 232 of 415 of the MDBA’s staff were based in the Canberra office.

1.11 An overview of MDBA’s total resourcing and the value of MDBA’s new and amended contracts from 2019–20 to 2023–24 is presented in Table 1.1.

Table 1.1: Murray–Darling Basin Authority total net resourcing and contract value

	2019–20	2020–21	2021–22	2022–23	2023–24
	\$ m	\$ m	\$ m	\$ m	\$ m
Total expenses	182.3	171.1	169.5	175.6	231.6
Value of contracts ^a	9.5	3.5	29.5	55.1	27.1

Note a: Value of new and amended contracts published to Austender.

Source: Financial statements contained in MDBA annual reports and ANAO analysis of Austender data.

Previous reports related to gifts, benefits and hospitality

1.12 Auditor-General Report No. 47 2017–18 *Interim Report on Key Financial Controls of Major Entities* reviewed the gifts and benefits policies of 26 major Australian Government entities, including all departments of state.¹⁹ This report identified:

- the merit of developing a whole of government gifts and benefits policy setting the minimum requirements for entities to include within their policies;
- regular review and monitoring of entities’ gifts and benefits policies increases accountability;
- centrally maintained gifts, benefits and hospitality registers assist entities in meeting accountability and transparency obligations; and
- transparency is enhanced through the publication of entities’ gifts and benefits registers on the internet.

1.13 The Australian Public Service Commissioner issued guidance on 18 October 2019 for reporting of gifts and benefits. The ANAO reviewed the status of the implementation of the guidance as part of Auditor-General Report No. 38 2019–20 *Interim Report on Key Financial Controls of Major Entities*. The report found that all 24 entities covered by the report had established a register of gifts and benefits, and that, except for one entity, all had recorded gifts and benefits

¹⁸ *ibid.*, section 208.

¹⁹ Auditor-General Report No.47 2017–18, *Interim Report on Key Financial Controls of Major Entities*, ANAO, Canberra, 2018, paragraphs 9, 1.24–1.32 and Appendix 2, available from www.anao.gov.au/work/financial-statement-audit/interim-report-key-financial-controls-major-entities-2017-18 [accessed 7 June 2024].

received by the agency head which exceed \$100. Publication of received gifts and benefits was undertaken by approximately 79 per cent of entities.²⁰

1.14 The ANAO tabled two audit reports related to gifts, benefits and hospitality in 2023–24.²¹

Rationale for undertaking the audit

1.15 Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit for themselves or another person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person. Public service entities must meet public expectations of integrity, accountability, independence, transparency, and professionalism. Acceptance of a gift or benefit that relates to an official's employment can create a real or apparent conflict of interest that should be avoided.²²

1.16 Public confidence in Commonwealth entities and the APS can be damaged when gifts and benefits that create a conflict of interest are accepted or not properly declared. The APSC states in its publication, *APS Values and Code of Conduct in practice*, that the risk of the appearance of a conflict can be damaging to public confidence:

The appearance of a conflict can be just as damaging to public confidence in public administration as a conflict which gives rise to a concern based on objective facts.²³

1.17 This audit was conducted to provide assurance to the Parliament that the MDBA has complied with gifts, benefits and hospitality requirements.

Audit approach

Audit objective, criteria and scope

1.18 The objective of the audit was to assess whether the MDBA had complied with gifts, benefits and hospitality requirements.

1.19 To form a conclusion against the objective, the ANAO adopted the following two high-level audit criteria.

20 Auditor-General Report No.38 2019–20, *Interim Report on Key Financial Controls of Major Entities*, ANAO, Canberra, 2020, Table 1.1, available from www.anao.gov.au/work/financial-statement-audit/interim-report-key-financial-controls-major-entities-2019-20 [accessed 7 June 2024].

21 These reports were: Auditor-General Report No. 44 2023–24, *Compliance with Gifts, Benefits and Hospitality Requirements in the Department of the Treasury*, ANAO, Canberra, 2024, available from www.anao.gov.au/work/performance-audit/compliance-gifts-benefits-and-hospitality-requirements-the-department-of-the-treasury [accessed 2 August 2024]; and Auditor-General Report No. 46 2023–24, *Compliance with Gifts, Benefits and Hospitality Requirements in the Australian Communications and Media Authority*, ANAO, Canberra, 2024, available from www.anao.gov.au/work/performance-audit/compliance-gifts-benefits-and-hospitality-requirements-the-acma [accessed 2 August 2024].

22 National Anti-Corruption Commission, *Towards Integrity Maturity: Mapping the Commonwealth integrity landscape*, NACC, Canberra, 2022, available from www.nacc.gov.au/sites/default/files/documents/2023-08/CIMF-towards-integrity-maturity-mapping-the-commonwealth-integrity-landscape_0.pdf [accessed 7 June 2024].

23 Australian Public Service Commission, *APS Values and Code of Conduct in practice*, Section 5: Conflict of Interest, APSC, 2024, available from www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest [accessed 7 June 2024].

- Did the MDBA have effective arrangements in place to manage gifts, benefits and hospitality?
- Were the MDBA's controls and processes for gifts, benefits and hospitality operating effectively in accordance with its policies and procedures?

1.20 The audit examined the management of gifts, benefits and hospitality within the MDBA from 1 July 2021 to 31 March 2024.

Audit methodology

1.21 To address the audit objective, the audit methodology included:

- examining the MDBA's documentation including its policies, procedures, risk assessments, registers, assurance and reporting activities relating to the management of gifts, benefits and hospitality;
- meetings with the MDBA's staff regarding the control frameworks and assurance activities in place to manage risks relating to gifts, benefits and hospitality;
- testing the effectiveness of the MDBA's control framework for gifts, benefits and hospitality and assessing officials' compliance with the MDBA's control framework using the MDBA's system tools to review and analyse emails and other files²⁴; and
- contacting organisations with contractual relationships with the MDBA to obtain information on gifts, benefits and hospitality offered to MDBA officials.

1.22 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$403,000.

1.23 The team members for this audit were Jenny Broome, Graham Bowrey, Manish Singh, Joshua Francis and Daniel Whyte.

24 ANAO used the MDBA's Microsoft Purview eDiscovery tool to assist with analysing MDBA information and records.

2. Arrangements for managing gifts, benefits and hospitality

Areas examined

This chapter examines whether the Murray–Darling Basin Authority (MDBA) has effective arrangements in place to manage gifts, benefits and hospitality.

Conclusion

The MDBA has established largely effective arrangements for managing gifts, benefits and hospitality. The MDBA has not considered conflict of interest risks associated with gifts, benefits and hospitality within its risk management framework. While the MDBA has developed policies and procedures for the acceptance and provision of gifts, benefits and hospitality, there are opportunities to improve the consistency between policies and procedures. Whole of government training on integrity and fraud and corruption is mandatory for MDBA staff. Limited guidance is provided to Authority members. The MDBA maintains an internal register of gifts and benefits accepted by MDBA officials, and has published a register of gifts and benefits received by the Chief Executive.

Areas for improvement

The ANAO made two recommendations aimed at: assessing risks posed by gifts, benefits and hospitality to assess whether additional controls are required; and addressing gaps and inconsistencies in the MDBA’s policy framework for acceptance and provision of gifts, benefits and hospitality.

The ANAO identified two improvement opportunities for the MDBA to: provide guidance to Authority members on gift, benefit and hospitality requirements; and clarify requirements for declaring offers that were not accepted.

2.1 Section 16 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act)²⁵ requires accountable authorities of Commonwealth entities to establish and maintain appropriate systems of risk oversight, management and internal control for the entity.

2.2 Section 27 of the PGPA Act states that an official must not improperly use their position to gain, or seek to gain, a benefit for themselves or another person, or to cause, or seek to cause, detriment to the entity, the Commonwealth, or any other person. Public service entities must meet public expectations of integrity, accountability, independence, transparency, and professionalism. Acceptance of a gift or benefit that relates to an official’s employment can create a real or apparent conflict of interest that should be avoided.

2.3 Corporate Commonwealth entities, such as the MDBA, are encouraged to align their risk management frameworks and systems with the Commonwealth Risk Management Policy. The policy supports the implementation of section 16 of the PGPA Act, by encouraging entities to

25 *Public Governance, Performance and Accountability Act 2013*, section 16.

formalise their approach to managing risks, embed risk management into their culture and work practices, define staff's risk management responsibilities, and review the effectiveness of controls.²⁶

2.4 Commonwealth officials must also uphold and promote the Australian Public Service (APS) Values and Employment Principles and abide by the Code of Conduct contained in the *Public Service Act 1999* (Public Service Act).

2.5 The audit assessed the alignment of MDBA's arrangements for managing gifts, benefits and hospitality with the PGPA Act and the Australian Public Service Commission's (APSC's) *Guidance for Agency heads – Gifts and Benefits*, as well as examining whether training and education was available to officials.

Have appropriate arrangements been established for managing risks associated with the acceptance or provision of gifts, benefits and hospitality?

The MDBA has articulated risks and controls related to bribery and corruption in a 2024 fraud and corruption risk assessment. Existing controls related to acceptance or provision of gifts, benefits and hospitality were not referenced in the 2024 assessment. Two integrity-related risks were identified in the MDBA's November 2021 Enterprise Risk Management Plan. The MDBA developed a revised suite of enterprise risks in August 2023, which no longer includes integrity-related risks.

Risk management framework

2.6 Between 1 July 2021 and 31 March 2024 the MDBA's risk management framework comprised:

- an instruction in the MDBA's Accountable Authority Instructions (April 2022) that all officials 'must refer to and act in accordance with the MDBA's risk management framework, policy and guidelines';
- a Risk Management Framework and Policy (November 2021) that set out a risk management hierarchy, a risk management methodology, governance arrangements for risk, and a risk appetite and tolerance statement;
- a Fraud Control Plan and Policy (October 2022) that included governance arrangements for fraud control and policies, guidelines and templates for handling suspected fraud; and
- related guidelines, assessments and templates.

2.7 The MDBA updated its risk management framework in May and June 2024. The revised framework comprises: a risk management framework titled 'Managing risk at the MDBA: 7 things you need to know...' (May 2024); a 2024/25 Risk Appetite Statement (May 2024); and Risk Management Guidelines (June 2024).

26 Finance, *Commonwealth Risk Management Policy*, see elements two, three, four and five, available from www.finance.gov.au/government/comcover/risk-services/management/commonwealth-risk-management-policy [accessed 11 June 2024].

Enterprise risk management

2.8 The MDBA defines enterprise risks as those that ‘have the potential to affect the entity as a whole in terms of outcomes or objectives.’

2.9 The MDBA’s January 2019 Enterprise Risk Management Plan identified eight enterprise risks. The plan included two integrity-related risks:

4. Unauthorised access to or disclosure of confidential or sensitive information

8. Material fraud or corruption incident involving MDBA staff member, contractor or grant recipient²⁷

2.10 The plan included a table outlining a high-level risk assessment for four of the eight enterprise risks. No controls were listed for the assessed risks and there were no references to risks or controls related to conflicts of interest or gifts, benefits and hospitality. Risk 4 was not assessed. Risk 8 was assessed as having ‘moderately effective to effective’ controls, a current risk rating with existing controls of ‘moderate’, and a target risk rating of ‘low’.

2.11 At a meeting in August 2023, the MDBA’s Executive Board considered a new Enterprise Risk Report which set out draft assessments against eight revised enterprise risks.²⁸ At subsequent Executive Board meetings, held between August 2023 and May 2024, reporting against the revised enterprise risks was provided and at least one enterprise risk was discussed at each meeting. None of the MDBA’s risk assessment worksheets for these revised enterprise risks since August 2023 has contained references to risks or controls relating to conflicts of interest or gifts, benefits and hospitality.

Fraud control plan and risk assessment

2.12 The PGPA Fraud and Corruption Rule establishes a requirement for an accountable authority to take all reasonable measures to prevent, detect and deal with fraud relating to the entity.²⁹

27 The other six enterprise risks were: at fault/preventable/unexpected disruption to water delivery; inaccurate, incomplete, untimely and/or unvalidated information provided to key stakeholders by the MDBA; delivery of a major program or capability that is not fit for purpose; business continuity event in excess of maximum acceptable outage; inappropriate or culturally insensitive conduct by MDBA staff member or contractor on MDBA operations; and physical incident occurs which is linked to/as a result of a MDBA funded activity.

28 The revised enterprise risks were:

- Strategy and Prioritisation — The MDBA is unable to develop and deliver against a prioritised Authority-wide strategy.
- Information Management and Access — The MDBA is unable to manage, access and appropriately share high quality and trusted information.
- Program Delivery — Failure to deliver a major program or capability.
- Information Security — Compromise of MDBA’s information systems, including via cyber-attack.
- Innovation — The MDBA does not effectively innovate for the future.
- Workforce — The MDBA does not maintain a capable, values-driven and engaged workforce, with a healthy workplace culture.
- Health and Safety — The MDBA does not create and maintain a safe working environment.
- Relationships — The MDBA is unable to maintain the support and confidence of key stakeholders.

29 Public Governance, Performance and Accountability Rule 2014, section 10. The Fraud and Corruption Rule sets out minimum standards for accountable authorities for managing the risk and incidents of fraud and corruption relating to their entity.

2.13 The MDBA's Fraud and Corruption Control Policy and Plan (July 2024) outlines the entities' policies and guidelines for handling suspected fraud and corruption. The 'policy and plan' does not include details on fraud and corruption risks, and it notes that the MBDA's fraud and corruption risk assessment document is held as a separate document.

2.14 The MDBA developed a draft fraud risk assessment in 2019 with six sub-categories of fraud risks.³⁰ The assessment for each risk records: causes; consequences; controls; current rating; target rating; treatments; residual risk; contingency plan (if the risk occurs); and control effectiveness. The MDBA identified patronage, nepotism, cronyism, collusion and bribery as potential causes for two of the six fraud risks:

Risk 2: Fraudulent or corrupt behaviour in a procurement or grant process

Risk 4: Fraudulent/corrupt behaviour in recruitment

2.15 Common controls identified by the MDBA for these two risks were adherence to and training in the Public Service Act, APS Code of Conduct, MDBA Conflict of Interest Policy, MDBA Fraud Control Plan, Accountable Authority Instructions and delegation instruments. The MDBA assessed the controls as 'Effective: No control gaps (controls are believed to be operating effectively).' The draft fraud risk assessment did not reference any controls testing conducted to inform this assessment of control effectiveness.

2.16 From 1 July 2024, the Fraud Rule was updated to the Fraud and Corruption Rule. The MDBA developed a revised fraud and corruption risk assessment, which was approved in July 2024, with five risks.³¹ The assessment for each risk records threats or causes; consequences; controls; current rating; target rating; treatments; residual risk; contingency plan (if the risk occurs); and control effectiveness. The MDBA identified bribery, kickbacks, conflict of interest, favouritism and nepotism as threats for Risk 1: Corruption in decision-making. Controls identified by the MDBA for the risk included:

Adherence to and training in: Public Sector Act, APS Code of Conduct, ethics, MDBA Conflict of Interest Policy, MDBA Fraud Control Plan, Accountable Authority Instructions, fraud and conflict of interest on commencement and biennial refresher (mandatory), compliance reporting, Recruitment and Selection Policy (for non SES), Human Resources Delegations, Sub Delegations and Authorisations 2019.

2.17 The MDBA assessed the controls as 'Moderately effective: few control gaps. The control is influencing the risk level; however, improvement is needed, but subject to business case and cost effectiveness.' The MDBA advised the ANAO in September 2024 that control owners were consulted to review and validate controls and assess their effectiveness. The 2024 fraud and corruption risk assessment does not record control owners.

2.18 Existing controls directly related to gifts, benefits and hospitality, including the MDBA's Official Hospitality, Gifts and Benefits Guidelines and its internal Gifts and Benefits Register, are not

30 The MDBA's six fraud risk sub-categories (2019) were: Fraudulent/corrupt behaviour in financial transactions (including supplier payments); Fraudulent or corrupt behaviour in a procurement or grant process; Theft, damage, destruction or misuse of a physical or digital MDBA asset; Fraudulent/corrupt behaviour in recruitment; Individual claims/receives benefits to which they are not entitled; and Fraudulent/corrupt behaviour in decision making.

31 The MDBA's five fraud and corruption risks (2024) are: Corruption in decision-making; Fraudulent behaviour from financial transactions; Regulatory, compliance and reputational risks; Information, cyber and technological fraud risk; and Human resources and personnel fraud risk.

referenced in the 2024 fraud and corruption risk assessment.³² The MDBA identified ‘Broaden the publication of received gifts and benefits on external website’ as a treatment for the ‘Corruption in decision-making’ risk (refer paragraph 2.77).

Recommendation no. 1

2.19 The Murray–Darling Basin Authority assess the risks associated with provision and acceptance of gifts, benefits and hospitality and identify appropriate controls.

Murray–Darling Basin Authority response: *Agreed.*

2.20 *The MDBA also has progressed significant work in relation to improving its risk management practices over the past 18 months and is currently focused on integrity related risks and appropriate controls, including in relation to gifts, benefits and hospitality.*

2.21 *The MDBA has also updated its Fraud and Corruption Risk assessment to include consideration of additional controls over gifts, benefits and hospitality.*

Has the MDBA developed fit-for-purpose policies and procedures for the acceptance of gifts, benefits and hospitality?

The MDBA has developed policies and procedures for the acceptance of gifts, benefits and hospitality through its Accountable Authority Instructions, Instrument of Delegation, Official Hospitality, Gifts and Benefits Guidelines and Declaration of Interests Policy. There were inconsistencies between these documents in relation to instructions for accepting ‘token gifts, benefits or hospitality’ (valued at \$50 or below). In addition, the guidelines do not specify timeframes for obtaining delegate approval and reporting on acceptance of gifts, benefits or hospitality or sanctions associated with failure to comply with the requirements.

2.22 The MDBA’s policies and procedures for the acceptance of gifts, benefits and hospitality are established through:

- instructions in the MDBA’s Accountable Authority Instructions (April 2022) (AAIs);
- the MDBA’s Instrument of Delegation – Core Financial Arrangements (July 2023 and September 2024), which outlines approval requirements for accepting gifts; and
- policy documents, including an Official Hospitality, Gifts and Benefits Guidelines (updated August 2024)³³ and Declaration of Interest Policy 2022–2024 (June 2022).

Accountable Authority Instructions

2.23 The MDBA’s AAIs include instructions related to the acceptance of gifts, benefits and hospitality. The AAIs were issued in April 2022 by the acting Chief Executive.

32 MDBA’s Official Hospitality, Gifts and Benefits Guidelines are examined at paragraphs 2.29 to 2.34 and 2.44 to 2.49 and its internal Gifts and Benefits Register is examined at paragraphs 2.68 to 2.70 and 3.12 to 3.13.

33 The Official Hospitality, Gifts and Benefits Guidelines were issued in September 2019 (version 1) and revised in June 2020 (version 2), October 2021 (version 3), March 2022 (version 4) and August 2024 (version 5).

2.24 The AAls include the following instructions to all officials on ‘receiving gifts and benefits’.

You must not:

- ask for, or encourage, the giving of gifts to yourself or other officials
- accept a gift of money (except in exceptional circumstances)
- accept a gift or benefit that influences or could be perceived to influence, your decision or action on a particular matter.

If you decide to accept a gift or benefit, your decision must be defensible and able to withstand public scrutiny and be approved by a delegate as per the Instrument of Delegation. You must have regard to the general duties of officials and associated instructions in deciding whether to accept a gift as outlined in the MDBA Official Hospitality, Gifts and Benefits Guidelines.

You should seek advice from Risk and Audit prior to accepting a gift or benefit.

2.25 Under the heading ‘official hospitality’, the AAls state that MDBA officials must not:

- accept hospitality if by its nature, frequency or other circumstances it could reasonably be seen as compromising your integrity or that of the MDBA.
- accept excessive (either in scale or frequency) hospitality in connection with your official duties.
- accept secretive hospitality.

2.26 The AAls include the following guidance on acceptance of gifts and benefits:

Officials, in the course of their work, may be offered gifts such as souvenirs, bottles of wine and personal items, or benefits such as sponsored travel, hospitality, accommodation or entertainment.

Generally, officials should not accept gifts or benefits in the course of their work. However, there may be circumstances where it is appropriate to accept a gift or benefit – for example, where refusal could cause cultural offence, where an item of token value is offered by way of public thanks, or where attendance at an event is an important means of developing and maintaining relationships with key stakeholders. Officials need to carefully consider the appropriateness of a gift or benefit before accepting or rejecting it.

Gifts provided to officials in the course of their work immediately become relevant property when received. Where a gift is token in nature an official may be able to retain the gift.

Instrument of Delegation

2.27 The MDBA’s Instrument of Delegation – Core Financial Arrangements (July 2023) established a delegation related to the acceptance of gifts by MDBA officials (see Table 2.1).³⁴ The delegation applied to approving ‘the keeping of a gift by an official managed by the delegate’. For the Executive Director (ED) Business Services³⁵, General Manager (GM) Finance³⁶ and Chief Financial Officer (CFO), this delegation did not allow them to approve gifts accepted by officials

34 This delegation is made under paragraph 173(2)(a) of the *Water Act 2007*, which relates to the Authority’s powers to acquire, hold and dispose of real and personal property.

35 Instances of the ED Business Services approving gifts for officials outside of their direct reporting line are discussed at paragraph 3.17.

36 As at September 2024, this position did not exist in the MDBA’s organisational structure.

outside of their direct reporting lines. The MDBA updated the Instrument of Delegation – Core Financial Arrangements in September 2024 to allow all delegates to approve gifts and benefits accepted by officials outside of their direct reporting lines (see Table 2.1).

Table 2.1: Delegations for the acceptance of gifts, benefits or hospitality

Delegation	Executive Director (EDs) [SES Band 2]	General Managers (GMs) [SES Band 1]	ED Business Services ^a [SES Band 2] GM Finance ^b [SES Band 1] CFO [EL2]	Executive Level 2 (EL2)
Approve the keeping of a gift by an official managed by the delegate (July 2023)	Any value	–	Any value	Up to \$50
Approve the keeping of a gift or benefit (September 2024)	Any value	Up to \$50	Any value	Up to \$50

Note a: The ED Business Services is also the Chief Operating Officer of the MDBA.

Note b: The GM Finance position was removed from the September 2024 delegation instrument.

Source: MDBA, Instrument of Delegation – Core Financial Arrangements (July 2023 and September 2024).

2.28 The September 2024 Instrument of Delegation requires delegate approval for keeping gifts or benefits (including hospitality) of any value. In contrast, the March 2022 and August 2024 Official Hospitality, Gifts and Benefits Guidelines both indicate officials may accept gifts or benefits valued at less than \$50 without delegate approval (refer to paragraph 2.34).

Policies and procedures related to the acceptance of gifts, benefits and hospitality

Official Hospitality, Gifts and Benefits Guidelines

2.29 The MBDA’s Official Hospitality, Gifts and Benefits Guidelines (August 2024) outline additional guidance, including general principles that officials, including Authority members must not:

- accept any gift, benefit or hospitality:
 - that can be perceived as having a capacity to affect the official’s decisions or considerations;
 - where there is an expectation or implication that a favour is expected in return; or
 - that is travel or accommodation in connection with official duties, regardless of whether it would further the interests of the MDBA³⁷; or
- use any information obtained in their official capacity to gain an advantage for themselves or any other person, or cause detriment to the MDBA, the Commonwealth or any other person.

37 The guidance states that there may be ‘extraordinary circumstances’ where accepting travel or accommodation gifts or benefits from stakeholders (such as site tours or trips) may be unavoidable. In these circumstances, approval is required from the relevant delegate.

2.30 The guidelines state that:

Token hospitality such as coffee or a modest meal may be accepted. Before accepting or declining other forms of hospitality such as dinners, sporting event tickets and the like, the approval of the appropriate delegate must be sought. If accepted, this must be recorded by informing the Secretariat and Governance Team...³⁸

2.31 The Official Hospitality, Gifts and Benefits Guidelines provide additional guidance on the acceptance of 'token' gifts, benefits and hospitality valued up to \$50 (see Box 1).

Box 1: Guidance to MDBA officials on acceptance of 'token' gifts, benefits or hospitality

The MBDA's Official Hospitality, Gifts and Benefits Guidelines state that:

Token gifts, benefits or hospitality are generally regarded as having a value (or equivalent) of less than or equal to \$50 including:

- items of little or no commercial value, including flowers or chocolates, or promotional items such as a calendar, pen, conference t-shirt, paperweight, drink bottles and coffee mugs or souvenirs (although the latter may have cultural value)
- prizes won in open competition at work-related social events or conferences; or
- coffee or a modest meal, such as lunch or breakfast where the benefit is directly related to the ongoing business of the MDBA. Alcohol must not be accepted.

Further, the guidelines state:

Staff are not required to complete a notification form for token gifts, benefits and hospitality, but must retain a record and inform the Secretariat and Governance team for entry on their Register.

2.32 The Official Hospitality, Gifts and Benefits Guidelines state that:

Acceptance of any gift, benefit or hospitality is inappropriate and should be declined where it is from a person or company:

- involved in a tender process with the agency, either for the procurement of goods and services or sale of assets;
- meeting with a view to offer services to the MDBA;
- the subject of a decision within the discretionary power, or substantial influence of the MDBA official concerned;
- in a contractual or regulatory relationship with the Commonwealth; or
- whose primary purpose is to lobby Ministers, members or Parliament, or agencies.

2.33 The guidelines do not set out timeframes for delegate approval or for reporting on acceptance from the recipient or delegate to the Secretariat and Governance team. Further, the guidelines do not specify sanctions associated with failure to comply with the requirements.

2.34 The Official Hospitality, Gifts and Benefits Guidelines are inconsistent with the MDBA's AAls, which state that acceptance of gifts and benefits must 'be approved by a delegate as per the

³⁸ The Secretariat and Governance Team was previously known as the Risk and Audit Team and the Governance, Risk and Audit Team.

Instrument of Delegation’ (refer to paragraph 2.24). The Instrument of Delegation does not provide a delegation for officials to keep gifts or benefits valued under \$50 without manager approval (refer to paragraph 2.27). The MDBA advised the ANAO in September 2024 that:

We interpret this to be that the Instrument delegates the ability to approve the keeping of a gift by an official but then the policy notes when officials may accept gifts or benefits with or without delegate approval. This is not a contradiction as the two documents do different things.

Declaration of Interests Policy 2022–2024

2.35 The MDBA’s Declaration of Interests Policy 2022–2024 (June 2022) defines a conflict of interest as ‘a conflict between the public duty and personal interests of an individual that improperly influences the individual in the performance of their official duties and responsibilities.’ The policy requires all entity officials to make declarations of interests on commencement and annually thereafter.

2.36 The policy identifies ‘gifts’ as an interest ‘that would be considered relevant and must be declared for assessment.’ It identifies that a conflict of interest may arise ‘where a person involved in conducting a procurement/grant ... has received a gift, hospitality or another benefit from a prospective supplier.’

2.37 The guidelines and notification form do not require recipients or approving delegates to include information about any potential, perceived or actual conflict created by the acceptance of gifts, benefits or hospitality.

Has the MDBA developed fit-for-purpose policies and procedures for the provision of gifts, benefits and hospitality?

The MDBA has developed policies and procedures for the provision of gifts, benefits and hospitality through its Accountable Authority Instructions, Instrument of Delegation, Official Hospitality, Gifts and Benefits Guidelines and other policy documents. There were inconsistencies between these documents in relation to the distinction between official hospitality and business catering.

2.38 The MDBA’s policies and procedures for the provision of gifts, benefits and hospitality are established through:

- instructions in the MDBA’s AAs (April 2022), primarily relating to official hospitality;
- the MDBA’s Instrument of Delegation – Core Financial Arrangements (July 2023 and September 2024); and
- the Official Hospitality, Gifts and Benefits Guidelines (updated August 2024) and other policy documents.³⁹

39 Other policy documents are: Business Catering Guidelines, Business Catering Approval form, Official Hospitality Spending proposal forms and the Business Catering or Official Hospitality Decision Support Tree (see paragraphs 2.41 to 2.56).

Accountable Authority Instructions

2.39 The MDBA’s AAls establish policies and controls related to the provision of gifts, benefits and hospitality, including requirements that:

- any decision to spend relevant money on official hospitality must be publicly defensible;
- MDBA officials must not enter into an arrangement to provide official hospitality unless the arrangement has been approved by a delegate under the Instrument of Delegation;
- potential fringe benefits tax (FBT) implications must be considered before approving a commitment; and
- MDBA officials must not make a gift of relevant property, unless it complies with the instructions on gifting relevant property in MDBA’s Official Hospitality, Gifts and Benefits Guidelines.

Instrument of Delegation

2.40 The MDBA’s Instrument of Delegation – Core Financial Arrangements (July 2023 and September 2024) establishes two delegations related to the provision of gifts, benefits and hospitality by MDBA officials (see Table 2.2).

Table 2.2: Delegations related to the provision of gifts, benefits and hospitality

Delegation	Executive Director (EDs) [SES Band 2]	General Managers (GMs) [SES Band 1]	ED Business Services ^a [SES Band 2] GM Finance ^b [SES Band 1] CFO [EL2]	Executive Level 2 (EL2)
Approve official hospitality (July 2023)	Up to \$2,000	Up to \$2,000	Any value	Up to \$250
Approve the giving of a gift (July 2023)	Any value	–	Any value	–
Approve official hospitality (September 2024)	Up to \$2,000	Up to \$2,000	Any value	–
Approve the giving of a gift or benefit (September 2024)	Any value	–	Any value	–

Note a: The ED Business Services is also the Chief Operating Officer of the MDBA.

Note b: The GM Finance position was removed from the September 2024 delegation instrument.

Source: MDBA, Instrument of Delegation – Core Financial Arrangements (July 2023 and September 2024).

Policies and procedures related to the provision of official hospitality

2.41 The MDBA’s policies and procedures make a distinction between providing official hospitality and business catering. Official hospitality and business catering are not consistently defined across policy and procedural documents (see Table 2.3).

Table 2.3: Definitions of official hospitality across the MDBA’s policy framework

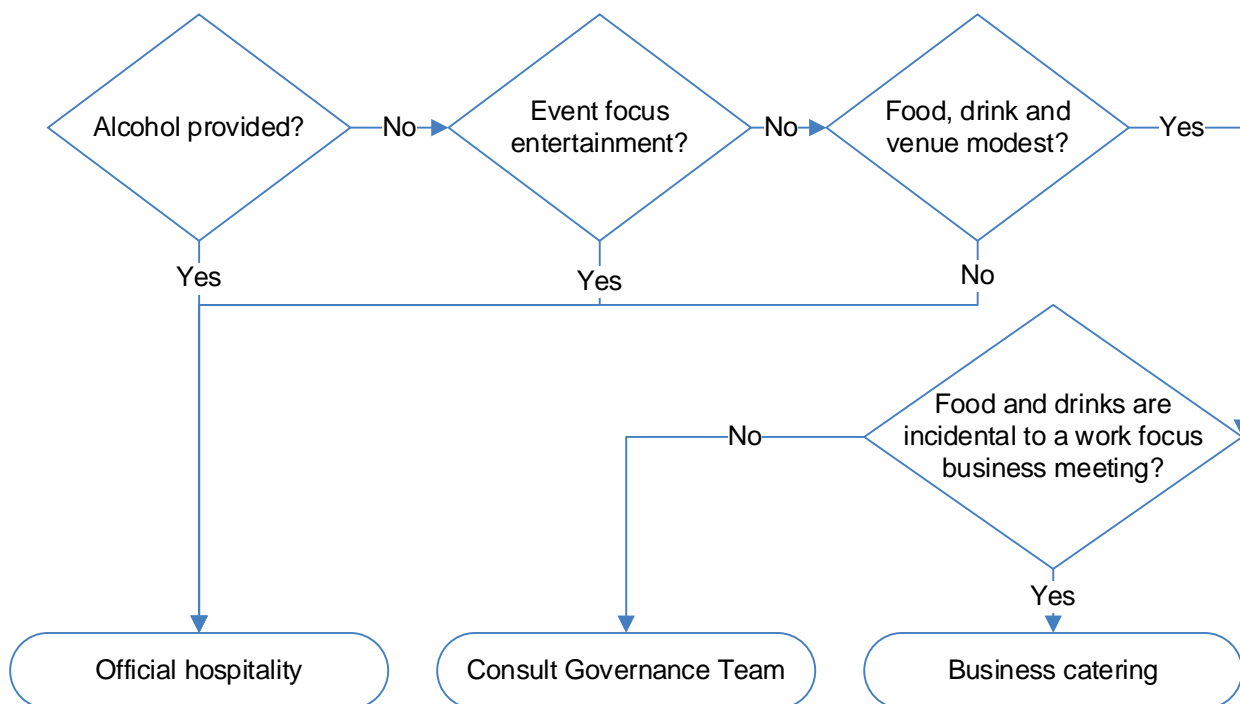
Source	Official hospitality	Business catering
Accountable Authority Instructions	Official hospitality generally involves the use of public resources to provide hospitality to persons other than MDBA officials to facilitate the achievement of one or more MDBA objectives. Official hospitality may include the provision of refreshments, entertainment, gifts of property, prizes or other benefits.	–
Official Hospitality, Gifts and Benefits Guideline (August 2024)	Official hospitality is a procurement and generally involves the use of public money to provide hospitality to persons other than MDBA staff to facilitate the achievement of one or more Commonwealth objectives. Official hospitality means an invitation to a function that may have an entertainment component, including work-related meals in restaurants or cafes, social functions, sporting or cultural events where the costs are met (wholly or substantially) by the host. It may also include gifts, such as MDBA Merchandise.	Business catering is a procurement subject to standard policies and requirements to commit public money. Ensuring value for money and standards of economy, efficiency, effectiveness, and ethics apply.
Official Hospitality Expense Spending Proposal form	Meals, beverages, entertainment and social functions provided for the purpose of facilitating the conduct of official business	–
Business Catering Guidelines	Official hospitality, which has an element of entertainment or benefit.	Business catering generally consists of light meals and refreshments such as sandwiches, cakes, biscuits, finger food, fruit and non-alcoholic drinks. Alcoholic drinks must not be provided with business catering. Business catering is not to be provided at restaurants.

Source: ANAO presentation of MDBA information.

2.42 The MDBA has developed an ‘Official Hospitality or Business Catering’ flowchart outlining questions for officials to answer when deciding if an activity is official hospitality or business catering (see Figure 2.1). The effectiveness of this flowchart to support MDBA officials’ decision-making is limited by:

- the lack of definitions for ‘entertainment’ and ‘modest’ in policy and procedural documents; and
- the MDBA’s processes for approving the provision of official hospitality not being designed to record delegates’ consideration of the questions outlined in the flowchart.

Figure 2.1: MDBA’s flowchart for classifying official hospitality or business catering



Source: ANAO presentation of MDBA flowchart.

2.43 Assessment of MDBA’s classification of events as official hospitality or business catering is presented in paragraphs 3.46 to 3.48.

Official Hospitality, Gifts and Benefits Guidelines

2.44 The AAIs require MDBA officials to act in accordance with the Official Hospitality, Gifts and Benefits Guidelines. The process for the provision of official hospitality described in the Official Hospitality, Gifts and Benefits Guidelines is for MDBA officials to request and record approval from delegates on an official hospitality approval form.

2.45 The guidelines outline principles for generally acceptable hospitality and provide examples of acceptable and generally unacceptable hospitality (see Table 2.4), but do not define sanctions associated with failure to comply with the guidelines.

Table 2.4: MDBA’s examples of appropriate and unacceptable hospitality

When is the provision of official hospitality by the MDBA appropriate?	What are unacceptable forms of hospitality?
<p>Principles:</p> <ul style="list-style-type: none"> • primary purpose of the event is work-related; • publicly defensible by being a proper use of public money under the PGPA Act; • furthers the conduct of MDBA business; • promotes or supports policy objectives or programs; and/or • would not compromise the MDBA’s reputation. <p>Examples:</p> <ul style="list-style-type: none"> • official functions for MDBA events; • hosting local, interstate and overseas visitors; • meeting with key stakeholders or their representatives (peak business, industry and community); • where an Authority member or MDBA worker is required to attend a MDBA business function and is not travelling; • visiting dignitaries; and/or • other approved official hospitality. 	<p>Examples:</p> <ul style="list-style-type: none"> • staff Christmas functions or other functions managed by the MDBA Social Club; • farewell gifts to officials, such as flowers and cards or the cost of farewell functions unless authorised by the Chief Executive or Chief Operating Officer; • hospitality that involves attendance at nightclubs or casinos; • hospitality that involves travel, other than with the express prior agreement by the relevant delegate; • recreational club membership fees; • hospitality for Commonwealth Ministers and Members of the Australian Parliament; and • donations to charity other than a transfer of a cash gift or benefit being disposed of in accordance with these guidelines.

Source: MDBA, Official Hospitality, Gifts and Benefits Guidelines (August 2024).

2.46 The guidelines include advice about the provision of alcohol with official hospitality, stating:

Alcohol is only provided by exception. If provided it:

- should only be provided with, and incidental to, a meal.
- must reflect the MDBA’s duty of care to keep attendees safe.
- must build the reputation of the department as a professional and trusted partner.
- must have a corresponding offer of non-alcoholic option.

2.47 The MDBA’s Official Hospitality Expense Spending Proposal and Official Hospitality (Special Circumstances) Standing Approval Spending Proposal forms include a field to record the reason for providing official hospitality, including the benefit to the MDBA. The forms do not prompt officials or delegates to document compliance with other policy requirements and principles.

2.48 The March 2022 version of the Official Hospitality, Gifts and Benefits Guidelines stated that MDBA officials must seek approval from the relevant delegate ‘either prior to the activity, or as soon as practicable after the activity’. This was inconsistent with the MDBA’s AAls which state that MDBA officials must not ‘enter into an arrangement to provide official hospitality unless the arrangement has been approved by a delegate under the Instrument of Delegation’. The August 2024 version of the Official Hospitality, Gifts and Benefits Guidelines state that MDBA officials must seek pre-approval for official hospitality.

2.49 The August 2024 version of the Official Hospitality, Gifts and Benefits Guidelines specify that a ‘delegate must not approve official hospitality they may personally benefit from (including attending the event).’

2.50 The MDBA Sensitive Water Market Information Policy requires MDBA meetings to be ‘managed so that information cannot be overheard.’ The MDBA’s hospitality-related policies and procedures do not reference the Sensitive Water Market Information Policy. Its hospitality approval forms do not document consideration by MDBA officials or delegates if the location or type of hospitality provided for MDBA events are consistent with the Sensitive Water Market Information Policy.

Recommendation no. 2

2.51 The Murray–Darling Basin Authority review and update its policy framework for the acceptance and provision of gifts, benefits and hospitality to ensure:

- (a) instructions for accepting and keeping ‘token gifts, benefits and hospitality’ are consistent and appropriate;
- (b) instructions for provision of hospitality include clear definitions and distinctions between official hospitality and business catering, and define relevant concepts such as ‘entertainment’ and ‘modest’;
- (c) timeframes are specified for obtaining delegate approval and reporting on acceptance and provision of gifts, benefits and hospitality;
- (d) consideration of any potential, perceived or actual conflicts created by the acceptance of gifts, benefits or hospitality is documented on declaration forms; and
- (e) the framework defines sanctions associated with failure to comply with gifts, benefits and hospitality requirements.

Murray–Darling Basin Authority response: *Agreed.*

2.52 The MDBA are reviewing its policy framework for the acceptance and provision of gifts, benefits, and hospitality to ensure consistent and appropriate instructions; clear definitions and distinctions; specified timeframes for obtaining delegate approval and reporting; documentation of any potential, perceived, or actual conflicts on declaration forms; and defined sanctions associated with failure to comply with requirements.

Policies and procedures related to the provision of gifts and benefits

2.53 The MDBA’s AAls for gifting MDBA property require officials to act in accordance with the Official Hospitality, Gifts and Benefits Guidelines. The guidelines state:

Expenditure on gifts, other than on token gifts, for the purposes of protocol and/or public relations are acceptable when the presentation is to further the aims of the MDBA. Only the Chief Executive, Executive Directors/Division Leads, the Chief Operating Officer or the Chief Finance Officer (CFO) are authorised (as per the instrument of delegation) to approve expenditure on gifts and/or benefits.

If the recipient of a proposed gift is a foreign national, foreign organisation or foreign Government, the CE must also be satisfied of the appropriateness of the proposed gift prior to purchase. [emphasis in original] ...

Where an external person speaks at a conference or seminar hosted by the MDBA for no fee, a token gift may be provided with pre-approval given.

2.54 The March 2022 version of the guidelines outlined a range of MDBA gifts and merchandise that could be given as gifts, including drink bottles, books, caps, stationery, USB flash drives, drink bottles, brown paper show bags and bookmarks (see Figure 2.2).

Figure 2.2: MDBA gifts and merchandise



Source: MDBA, Official Hospitality, Gifts and Benefits Guidelines (March 2022).

2.55 The August 2024 version of the guidelines states items that can be used as MDBA gifts are: an aluminium drink bottle and the book *Sharing the water – One hundred years of River Murray politics*. MDBA merchandise available are: posters, fact sheets, stickers, cotton shopping bags, and Murray River salt flakes sachets.

2.56 In August 2024, the MDBA advised the ANAO that its expenditure (including GST) on MDBA gifts was \$3,359.40 in 2021–22, \$1,275 in 2022–23, and \$0 in 2023–24. The MDBA advised that it had no expenditure on MDBA merchandise over the same period.

Has the MDBA developed effective training and education arrangements to promote compliance with policy and procedural requirements?

The MDBA has a mandatory training package which includes responsibilities and expectations for officials relating to gifts, benefits and hospitality. The relevant modules are whole of government modules on integrity and fraud and corruption. Members of the Authority have not been provided specific guidance on policy and procedural requirements for gifts, benefits and hospitality.

Mandatory training requirements

2.57 The MDBA's Essential Skills Policy (September 2021) establishes two programs of mandatory training: the Essential Induction program and the Essential Refresher program. The policy was due for review in 2023, but as of October 2024 this had not occurred.

2.58 MBDA employees and contractors must complete the Essential Induction program within the first three months of engagement. The program contains a total of nine mandatory whole-of-government e-learning modules (available to MDBA officials via a learning management system known as Learnhub). Two modules are relevant to the management of gifts, benefits and hospitality: Integrity in the Australian Public Service, and Fraud Awareness.

2.59 The MDBA Essential Refresher program requires annual completion of five modules, including the Integrity in the Public Service module, and biennial completion of the Fraud Awareness module. While the policy listed the Integrity in the APS module in the Refresher Program, the module was not part of the program within the Learnhub system until October 2023.

2.60 An overview of the training modules relevant to the management of gifts, benefits and hospitality is presented in Table 2.5.

Table 2.5: Overview of gifts, benefits and hospitality related training modules

Mandatory training module	Summary
Integrity in the Australian Public Service ^a	<ul style="list-style-type: none">• Outlines the roles and responsibilities of public servants in maintaining and promoting integrity when discharging their duties.• Notes that the acceptance of gifts in an official capacity may raise an actual or perceived conflict of interest.
Fraud awareness ^a	<ul style="list-style-type: none">• Outlines what fraud is, how it occurs, and the responsibilities of staff in responding to and managing fraud.• Includes references to Commonwealth legislation in place to create the legal framework, and case studies of how policies may be applied in practice.

Note a: The e-learning module is produced by the Australian Public Service Commission.

The Fraud Awareness module was replaced with the Fraud and Corruption module in July 2024.

Source: ANAO analysis of the Learnhub training module content.

Intranet guidance

2.61 Communication to officials regarding policy requirements can occur through other mechanisms. The MDBA intranet, known as 'Billabong', provides news and messaging across the entity. The Billabong page that provides information about the management of gifts, benefits and hospitality to officials is the Declaration of Interests page.

2.62 The Billabong Declaration of Interests page contains an overview of MDBA's approach to the management of gifts, benefits and hospitality and provides links to the Official Hospitality, Gifts and Benefits Guidelines, the Gifts and Benefits Notification Form, and the Official Hospitality Expense Spending Proposal and Official Hospitality (Special Circumstances) Standing Approval Spending Proposal.

2.63 On 31 March 2022, an intranet post was published advising staff of updates to the MDBA Official Hospitality, Gifts and Benefits Guidelines. The message identified that the updates:

- clarify that delegate approval is not required for an official to keep a token gift or benefit (i.e. of a value less than or equal to \$50), although they should keep their own record of it.
- officials should generally not accept gifts from stakeholders to pay for travel and accommodation where travelling on MDBA business to a stakeholder sponsored tour, trip or event.
- reflect recent changes to the Australian Public Service Commission’s (APSC) reporting requirements for gifts and benefits received by the Chief Executive. The Risk and Audit team will co-ordinate internally and update the Chief Executive gifts and benefits register quarterly, then provide a link to the register to the [APSC] for publication on their website.

2.64 There was no intranet post to advise officials when the August 2024 updates to the Official Hospitality, Gifts and Benefits Guidelines were published. The MDBA advised the ANAO in September 2024 that it was waiting for approval of the updated financial delegations before providing broader communications to staff. A ‘Business Bulletin’ email was sent to all staff on 26 September 2024 notifying them of the updated Instrument of Delegation – Core Financial Arrangements. The MDBA advised the ANAO in November 2024 that it is undertaking a further review of the Official Hospitality, Gifts and Benefits Guidelines, and staff will be advised of the revised guidelines once the review is completed.

Guidance for new Authority members

2.65 As part of the induction process for new Authority members, two guidance documents are provided: Guidance for Authority Members and Conflict of Interest Guidance for Authority Members. The guidance documents set out the Authority’s powers, functions and governance supports. Requirements in relation to the conduct of meetings, delegations and the management of conflict of interests are identified. The guidance documents indicate the MDBA has adopted the APS Code of Conduct as the code of conduct for Authority members.

2.66 The guidance documents do not include information on training requirements and Authority members have not been given access to the MDBA Learnhub system nor asked to complete MDBA mandatory training requirements. No specific references are included for gift, benefit and hospitality declaration or reporting requirements.

Opportunity for improvement

2.67 The MDBA could provide guidance to Authority members on policy requirements relating to the acceptance and provision of gifts, benefits and hospitality.

Does the MDBA have appropriate arrangements for monitoring and reporting on offers, receipts and provision of gifts, benefits and hospitality?

The MDBA has published a register of gifts and benefits received by the Chief Executive. It updated the register in October 2024 to comply with the requirement to annually report gifted airline lounge memberships. In August 2024 the MDBA decided to commence publishing gifts and benefits received by MDBA officials, including Authority members. The MDBA maintains an internal register of gifts, benefits and hospitality accepted by officials from external parties. It expanded the register in August 2024 to cover provision of official hospitality. There were no internal reporting mechanisms in place for the Chief Executive or management committees to have oversight of gifts, benefits and hospitality accepted or provided by MDBA officials. As a result of the inconsistencies in the treatment of official hospitality and business catering events by the MDBA, and the absence of a register, the MDBA has not been well placed to accurately report to Parliament on instances of official hospitality.

Centralised monitoring of gifts, benefits and hospitality

2.68 The MDBA maintains a centralised internal register of gifts and benefits accepted by MDBA officials. The notification form advises officials to forward the signed form to the Secretariat and Governance Team's shared email account. The Secretariat and Governance Team is responsible for recording these notifications on an internal Gifts and Benefits Register (the internal register). The MDBA has not established any procedural documents setting out the management of the internal register.

2.69 It is the responsibility of the individual official to ensure that a notification is made to the relevant delegate and the notification form is provided to the Secretariat and Governance Team. Once an entry is made on the internal register, the notification form, which includes the delegate's decision, is retained in MDBA's official record keeping system, Content Manager.

2.70 The MDBA does not maintain a register or other reporting mechanism for MDBA gifts or branded merchandise. In August 2024 it updated its internal Gifts and Benefits Register to include a section for recording official hospitality provided to MDBA officials or stakeholders.

2.71 The APSC's *APS Values and Code of Conduct in Practice* provides that 'agencies may require the employees to disclose offers which were not accepted, for example, where the offer could be perceived as a bribe'.⁴⁰ The MDBA's August 2024 Official Hospitality, Gifts and Benefits Guidelines added a requirement for officials to record any offers of gifts, benefits or hospitality in the internal register. This requirement is inconsistent with a subsequent statement in the guidelines that a notification form is required for accepted non-token gifts, benefits or hospitality. As at October 2024, the notification form had not been updated to operationalise the requirement to declare offers of gifts, benefits and hospitality.

40 APSC, *APS Values and Code of Conduct in Practice*, paragraph 5.2.18, APSC, available from <https://www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest> [accessed 19 August 2024].

Opportunity for improvement

2.72 The MDBA could update its guidelines for accepting gifts, benefits and hospitality and notification form to clarify requirements in relation to declaring offers that were not accepted.

Internal reporting

2.73 The APSC recommends entities measure and report on integrity performance regularly.

Agencies that can effectively measure, monitor and report on their integrity performance will be better positioned to identify risks; action and remedy integrity issues; and embed integrity into all aspects of workplace culture and practice.⁴¹

2.74 The APSC identifies a number of integrity metrics including reporting on gifts, benefits and hospitality.⁴² The MDBA has not established any reporting to management committees or the Chief Executive on the offer, decline, receipt or provision of gifts, benefits and hospitality.

External reporting

Alignment with the Australian Public Service Commission Guidance on gifts and benefits

2.75 The APSC's *Guidance for Agency Heads – Gifts and Benefits* (the APSC Guidance) establishes the requirement that agency heads are to publish a register of gifts, benefits and hospitality that have been accepted and are valued at over \$100.⁴³ This disclosure includes gifts, benefits and hospitality accepted by their immediate families and dependants where it is related to the official duties of the agency head.⁴⁴ The APSC Guidance also 'strongly encourages' statutory office holders to mirror the arrangements for agency heads as best practice⁴⁵, and stipulates a 'strong expectation' that items received by staff are also published on the register.⁴⁶

2.76 The MDBA's Official Hospitality, Gifts and Benefits Guidelines include additional requirements for the Chief Executive that align with the APSC Guidance, including the requirement to publish the register quarterly. The MDBA publishes an Accountable Authority Gifts and Benefits Register on its website.⁴⁷ The MDBA has been publishing the register since 'quarter 4' of 2021.

2.77 The March 2022 Official Hospitality, Gifts and Benefits Guidelines did not include any requirements for the public reporting of gifts, benefits and hospitality accepted by MDBA officials other than the Chief Executive. In August 2024 the MDBA added a new section to the guidelines stating:

41 APSC, *Integrity Metrics Resource*, APSC, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-metrics-resource> [accessed 21 August 2024].

42 *ibid.*, page 12.

43 APSC, *Guidance for Agency Heads – Gifts and Benefits* [Internet], paragraph 4, APSC, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 7 August 2024].

44 *ibid.*, paragraph 10.

45 *ibid.*, paragraph 12.

46 *ibid.*, paragraph 13.

47 MDBA, *Accountable Authority Gifts and Benefits Declaration* [Internet], available from <https://www.mdba.gov.au/about-us/accountability-and-reporting/reporting-and-submissions/accountable-authority-gifts-and> [accessed 15 August 2024].

The MDBA has chosen to voluntarily publish additional details on its website, as well as providing that information to the APSC ... ALL gifts and benefits received by any MDBA staff member [including Authority members] over the value of \$AUD100.00 will now be published, consistent with the approach of the Australian National Audit Office, to provide greater transparency.⁴⁸

2.78 The APSC Guidance requires the annual reporting of gifted airline lounge memberships.⁴⁹ The only item reported between quarter 4 of 2021 and quarter 2 of 2024 was a complimentary airline membership gifted to the Chief Executive from Qantas Airways Ltd. The gift was listed as being received 'from 27 June 2022' but was reported between quarter 2 and quarter 3 of 2023. On 31 October 2024, the MDBA updated the Accountable Authority Gifts and Benefits Register on its website to record the gifted airline lounge membership annually.

Reporting to Parliament

2.79 The MDBA provided responses to questions on notice from the Senate Environment and Communications Legislation Committee on the provision of hospitality that were asked of the Department of Climate Change, Energy and Water on four occasions between June 2023 and June 2024.⁵⁰

2.80 As discussed at paragraph 2.41, the MDBA makes a distinction between official hospitality and business catering, and definitions of these categories vary across MDBA's policies and procedures. As a result of the inconsistencies in the treatment of events by the MDBA, and the absence of a register of events (see paragraph 2.70), the entity has not been well placed to provide an accurate response to the questions posed. Further examination of the MDBA's classification and management of official hospitality and business catering is presented at paragraphs 3.46 to 3.48.

48 The ANAO publishes all gifts, benefits or hospitality offered to officials (whether accepted or refused), not only those valued above \$100.

49 The requirement is 'in circumstances where agency heads are gifted airline lounge memberships (including those which are invitation-only), these must be recorded in their agency's gifts and benefits register annually or when circumstances change, such as a new or cancelled membership.' APSC, *Guidance for Agency Heads Gifts and Benefits*, APSC, 2021, available from <https://www.apsc.gov.au/working-aps/integrity/integrity-resources/guidance-agency-heads-gifts-and-benefits> [accessed 19 September 2024].

50 The question asked was: In relation to expenditure on functions or official receptions etc. hosted by the Department or agencies in the portfolio in the financial year 2022/23 to date, please provide the following: (a) list of functions; (b) list of attendees; (c) function venue; (d) itemised list of costs (GST inclusive); (e) details of food served; (f) details of any wines or champagnes served including brand and vintage; and (g) details of any entertainment provided.

3. Controls and processes for managing gifts, benefits and hospitality

Areas examined

This chapter examines whether the Murray–Darling Basin Authority (MDBA) has implemented effective preventative and detective controls and processes for managing gifts, benefits and hospitality in accordance with its policies and procedures.

Conclusion

The MDBA’s controls and processes are partly effective in supporting its compliance with gift, benefit and hospitality requirements. Deficiencies were identified with preventative controls relating to reporting on mandatory training completion and the compliance with policy and procedural requirements for the acceptance and provision of gifts, benefits and hospitality. While the MDBA does not have specific detective controls relating to acceptance of gifts, benefits and hospitality, since 2022–23 it has included a question on provision of hospitality in its biannual financial compliance survey. The MDBA has not established processes for managing non-compliance or assurance activities for gifts, benefits and hospitality.

Areas for improvement

The ANAO made one recommendation aimed at implementing reporting to senior management and arrangements to obtain assurance over controls.

The ANAO identified one opportunity for improvement for the MDBA to advise contractors that it is not appropriate to provide gifts, benefits or hospitality to officials.

3.1 Section 16 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) requires accountable authorities of Commonwealth entities to establish and maintain appropriate systems of internal control.⁵¹ Successful risk management relies on the implementation of effective controls.⁵² In accordance with the Australian Public Service Commission’s (APSC’s) *APS Values and Code of Conduct in practice*, compliance with the requirements for gifts, benefits and hospitality supports agencies to manage actual or perceived conflicts of interest.⁵³

3.2 The Department of Finance through the Risk Management Toolkit defines a control as ‘any process, policy, device, system, practice or other action that is put in place to modify the likelihood or consequence of a risk or to detect if a risk is happening.’⁵⁴

3.3 Preventative controls work by reducing the likelihood of inappropriate activities related to gifts, benefits and hospitality before they occur. Preventive controls can include: policies and

51 *Public Governance, Performance and Accountability Act 2013*, section 16.

52 Department of Finance, *Commonwealth Risk Management Policy: Element 5*, Department of Finance, 2024, available from www.finance.gov.au/government/comcover/risk-services/management/commonwealth-risk-management-policy [accessed 7 June 2024].

53 APSC, *APS Values and Code of Conduct in practice*, Section 5: Conflict of Interest, APSC, Canberra, 2024, available from www.apsc.gov.au/publication/aps-values-and-code-conduct-practice/section-5-conflict-interest [accessed 7 June 2024].

54 Department of Finance, *Risk Management Toolkit: Element 5 Control Effectiveness*, Department of Finance, available from <https://www.finance.gov.au/government/comcover/risk-services/management/risk-management-toolkit/element-5-control-effectiveness> [accessed 22 August 2024].

procedures; education and training; deterrence messaging; declarations and acknowledgements; and pre-approvals with segregation of duties.⁵⁵

3.4 Detective controls can identify failures in activities related to gifts benefits and hospitality and help identify if a risk has occurred.⁵⁶ Detective controls can include: reconciliation and payment processes; monitoring activities, including the use and review of registers; exception reporting; and audit and assurance activities.⁵⁷

3.5 When detective controls identify instances of non-compliance, entities should have effective processes in place for managing investigations and follow-up actions. These may include training, sanctions, or referral to law enforcement agencies.

Has the MDBA implemented effective preventative controls for the receipt or provision of gifts, benefits and hospitality?

The MDBA has implemented preventative controls for the receipt or provision of gifts, benefits and hospitality through its policies and procedures, mandatory staff training, delegations and approval requirements. The MDBA does not provide reporting on the completion of mandatory training to the Chief Executive or relevant governance committees. Requirements set out in policies and procedures prohibiting the acceptance of gifts, benefits and hospitality from contractors were not adhered to. There was inconsistent treatment of business catering and official hospitality events, and instances of non-compliance with controls for official hospitality.

Controls for enforcing staff training

3.6 As outlined at paragraph 2.57, the MDBA's Essential Skills Policy (September 2021) establishes mandatory induction and refresher programs that include two e-learning modules relevant to gifts, benefits and hospitality: Integrity in the Australian Public Service and Fraud Awareness. The policy states that reporting will be provided to MDBA's Capability Board and Executive Directors on completion of essential skills learning on a regular basis or as needed.

3.7 Monthly human resources reports are provided to MDBA's Executive Directors and General Managers that contain data on officials' compliance with Induction and Refresher learning programs. Reporting on officials' compliance with the Induction learning program began in January 2023 and reporting on compliance with the Refresher learning program began in October 2023. Compliance reporting on completion of MDBA mandatory training had not been provided to the Capability Board, other MDBA governance committees or the MDBA Chief Executive. Without oversight by senior management, the entity is not in a position to assess the impact of non-compliance with mandatory training as a potential integrity issue within its operations and culture.

55 Department of Finance, *Risk Management Toolkit, Element 5 Control Effectiveness*, Department of Finance, available from <https://www.finance.gov.au/government/comcover/risk-services/management/risk-management-toolkit/element-5-control-effectiveness> [accessed 30 September 2024].

56 *ibid.*

57 Attorney-General's Department, *Commonwealth Fraud and Corruption Control Framework 2024*, Fraud and Corruption Guidance, available from <https://www.counterfraud.gov.au/library/framework-2024/fraud-and-corruption-guidance#element-2-guidance> [accessed 30 September 2024].

3.8 The MDBA completed a system upgrade of its Learnhub system in October 2023. During the system upgrade, MDBA officials discovered that the Integrity in the APS module was missing from the refresher program within Learnhub. The module had been identified as a mandatory element of the Refresher program since September 2021.

3.9 MDBA officials were notified of the oversight in a 'Business Bulletin' on 10 November 2023:

LearnHub has been refreshed for the first time since 2018 and the new look site is now live! Not only does it have a brand-new look, several courses have also been updated.

People and Culture are in the process of transferring all course completions for the last 12 months. If you have completed courses in the last 12 months this will soon be reflected in LearnHub, if not please complete as soon as possible.

'Integrity in the APS' is now included in the MDBA's Refresher Program, all staff will need to complete this course to remain compliant with the training program.

3.10 The MDBA has not been able to determine a reliable estimate of training completion rates for the two modules due to issues with the completeness and accuracy of its Learnhub data.

Preventative controls for accepting gifts, benefits and hospitality

Self-declaration of accepted gifts, benefits and hospitality

3.11 The MDBA's controls for monitoring accepted gifts, benefits and hospitality rely on MDBA officials' knowledge of the requirements for self-declaration. The MDBA does not provide regular reminders to officials to support self-declaration.

3.12 When a declaration is made by an MDBA official to the Secretariat and Governance Team, an entry is made on the internal Gifts and Benefits Register (the internal register). The MDBA has not established any procedural guidance on the management of the internal register (refer to paragraph 2.68).

3.13 The ANAO identified two declarations made by MDBA officials that were provided to the Secretariat and Governance Team and not recorded in the internal register:

- a lunch provided by Murray Irrigation Ltd to 14 MDBA officials; and
- a cloth bag received by a senior official from an international delegation.

3.14 The ANAO's identification of non-compliance with requirements to declare the acceptance of hospitality is examined at paragraph 3.27.

Delegate approval to accept gifts, benefits and hospitality

3.15 As outlined at paragraphs 2.24 and 2.28, the MDBA's Accountable Authority Instructions (AAIs) and Instrument of Delegation – Core Financial Arrangements require a delegate to approve the acceptance of a gift or benefit of any value by an official managed by the delegate. The Notification Form completed by officials and signed by the delegate does not record the role or position of the delegate.

3.16 The Instrument of Delegation (July 2023) required the delegate approving the receipt of a gift to be the recipient's manager. The instrument also lists corporate positions, such as the Executive Director (ED) Business Services and the Chief Financial Officer (CFO), as holding the delegation to approve the keeping of a gift. Notwithstanding the inclusion of corporate positions,

the MDBA advised the ANAO in July 2024 that the exercise of the delegation to approve the keeping of a gift must be by a delegate who manages the official.

3.17 Between 1 July 2021 and 31 March 2024, 20 items were recorded on the internal register. An additional two unrecorded items were identified by the ANAO (see paragraph 3.13).

- Of the 22 items, 6 items (27 per cent) were kept by the recipient without approval from a delegate (non-compliant with MDBA policy requirements). These items were reported by the recipient as being valued under \$50.⁵⁸
- Of the 16 items where delegate approval was obtained:
 - there was one instance where delegate approval was not required⁵⁹;
 - ten items were approved by a delegate that was the recipient’s manager or an Executive Director of the recipient’s division (compliant with MDBA policy requirements); and
 - five items were approved by a delegate that was not the manager of the recipient (non-compliant with MDBA policy requirements).⁶⁰

Controls for potential conflicts of interest

3.18 The MDBA’s control framework prohibits MDBA officials from accepting gifts and benefits:

- that ‘influences or could be perceived to influence [the MDBA official’s] decision or action on a particular matter’ (refer to paragraph 2.24); and
- from ‘a person or company in a contractual or regulatory relationship with the Commonwealth’ (refer to paragraph 2.32).

3.19 Of the 20 items recorded on the internal Gifts and Benefits Register and two items identified by the ANAO, 14 items (64 per cent) involved accepting gifts or benefits from companies in a contractual arrangement with the Commonwealth at the time the gift or benefit was accepted. There were seven instances of gifts or benefits accepted from external parties who were in contractual arrangements with the MDBA (see Table 3.1).

58 As set out at Box 1, the MDBA’s Official Hospitality, Gifts and Benefits Guidelines state that officials are not required to complete a notification form (which contains a section for delegate approval) for ‘token gifts, benefits and hospitality’ valued at \$50 or under. MDBA’s AAls and Instrument of Delegation require officials to obtain delegate approval to keep a gift of any value.

59 The recipient of the gift was a member of the Authority.

60 The Instrument of Delegation requires the delegate approving the receipt of a gift to be the recipient’s manager (see paragraph 2.27 and Table 2.1).

Table 3.1: Gifts and hospitality offered and accepted by MDBA officials from contractors and recorded on MDBA's register

Month	Item	Provider	Contractual arrangement	Recipient's role	Reason for the gift or benefit ^a	Declared value (\$)	Delegate decision
December 2021	Cardboard gift box with local produce from Griffith region	Sauce Communication	Professional conference organiser for the 2021 River Reflections Conference	Engagement Director (Executive Level 2)	As thank you for engaging Sauce Communications for Griffith water conference June 2021	50	Item may be shared with team
October 2022	Attendance at a function at the National Gallery	Maddocks Lawyers	Legal services provider	General Counsel (SES Band 1)	It is a celebration function and it is noted that while Maddocks provides professional services to the MDBA, there is wider connection through the legal profession and socially	Not able to be determined on a per person basis	Hospitality may be accepted
February 2023	Team drinks at Canberra hospitality venue	Pricewaterhouse Coopers Australia (PwC)	Delivery partner for Integrated River Modelling Uplift Program	General Manager (SES Band 1) and 6 members of the Integrated River Modelling Uplift Program Team	In appreciation of team efforts following planning session	100–200 ^b	Hospitality may be accepted
February 2023	Gift Pack of local produce from the Riverina	Sauce Communication	Professional conference organiser for 2023 River Reflections Conference	Engagement Director (Executive Level 2)	Christmas gift	100	Gift will be retained by MDBA and shared in the Office

Month	Item	Provider	Contractual arrangement	Recipient's role	Reason for the gift or benefit ^a	Declared value (\$)	Delegate decision
March 2023	'Glenfiddich 12' Whisky bottle 700ml and a case of Bentspoke Crankshaft beer	Cleared Security	IT security services	Chief Information Officer (SES Band 1)	Get well gift after surgery	160	Official may retain gift: Proviso that in future contractual dealings with Cleared Security, official will be precluded from signing contracts or approving expenditure in relation to those contracts. This function could be delegated to another official, consistent with the Core Financial Delegations.
April 2023	Team drinks at Canberra hospitality venue	PwC	Delivery partner for Integrated River Modelling Uplift Program	2 members of Integrated River Modelling Uplift Program Team	Hospitality	35–90 ^b	Hospitality may be accepted
July 2023	Umbrella, Phone charger, drink bottle and paper notebook	Intelligent Business Research Services	IT and digital research and advice services	Chief Information Officer (SES Band 1) and team members	Token gift to delegates associated with the upgrade of the IBRS website and its transition	45	No approval sought

Note a: Reason set out by the recipient on the MDBA notification form.

Note b: Value estimated prior to attendance at event.

Source: ANAO presentation of the MDBA's internal Gifts and Benefits Register.

3.20 Case Study 1 details the circumstances of MDBA officials obtaining approval from the ED Business Services (SES Band 2) to attend a function hosted by PricewaterhouseCoopers Australia (PwC).⁶¹ The MDBA was in a contractual relationship with PwC at the time of the offers. The approver was not the recipients' manager (a requirement to be a delegate approving receipt of a gift under MDBA's Instrument of Delegation — refer to paragraph 2.27).

Case study 1. Acceptance of benefits from PricewaterhouseCoopers Australia

On 25 July 2022 the MDBA engaged PwC as the delivery partner for the Integrated River Modelling Uplift (IRMU) program, with a contract value over four years of \$27,417,819.

At 2.45pm on Thursday 2 February 2023, a program officer in the IRMU team sought approval from the ED Business Services to attend a hospitality event that afternoon, advising that the event would be paid for by the IRMU's Delivery Partner PwC and estimating the value of the hospitality to be \$100–200. The ED Business Services approved attendance via email at 9.55pm the same day. Seven MDBA officials, including an SES Band 1, attended the event.

On 3 April 2023, the same program officer sought approval from the ED Business Services to attend an event with PwC the next day, estimating the value of the hospitality to be \$35–90 and advising that PwC 'is taking team members from the IMRU program out for team drinks.' The ED Business Services approved the attendance. Two MDBA officials attended the event.

In both cases, the value of the hospitality was estimated prior to the event. The MDBA officials did not update the declaration after the event for the actual value of benefits received.

Scyne Advisory (the entity that now holds the contract with MDBA for the IRMU program) advised the ANAO in September 2024 that:

- the total cost of the event held on 2 February 2023 at a hospitality venue in Canberra, was \$1,361 (\$428 for food and \$933 for alcohol) — in addition to the seven MDBA officials, at least 34 PwC staff attended; and
- the total cost of the event held on 4 April 2023 at a restaurant and bowling alley in Canberra, was \$644 (\$420 for food, \$56 for alcohol and \$168 for activity costs) — in addition to the two MDBA officials, five PwC staff attended.

After providing approval for MDBA officials to attend two hospitality events provided by PwC, the ED Business Services asked the SES Band 1 to 'consider the appropriateness of providing drinks under the program for future events.'

3.21 In May 2024, the MDBA received a gift box from Sauce Communication (refer to Table 3.1 for other gifts from this provider). The gift was declared in line with Official Hospitality, Gifts and Benefits Guidelines. On 13 May 2024, the MDBA emailed Sauce Communications advising:

We're currently being audited by the Australian National Audit Office, specifically all conference expenditure including gifts given and received.

Hence I will be returning the unopened gift box ... and want to reiterate that we enjoy working with you all and are very happy with the services provided, however, no gifts are necessary.

61 In July 2023, PwC sold the government related parts of its business to Allegro. The entity delivering this contract is now known as Scyne Advisory.

Opportunity for improvement

3.22 The MDBA could inform its contractors that it is not appropriate to provide gifts, benefits or hospitality to Australian Government officials.

Undeclared hospitality

3.23 The MDBA's AAls prohibit officials from accepting frequent hospitality (refer to paragraph 2.25) and the Official Hospitality, Gifts and Benefits Guidelines identifies that benefits should not be accepted from contractors (refer to paragraph 2.32). Until August 2024 the MDBA did not require officials to make a notification for offers of gifts, benefits or hospitality that were not accepted (refer to paragraph 2.71). The MDBA's gifts, benefits and hospitality framework does not require recipients or approving delegates to include information about the potential, perceived or actual conflict created by the acceptance of gifts, benefits or hospitality (refer to paragraph 2.37). The absence of these controls limits the MDBA's capacity to monitor and manage attempts to influence MDBA officials' decisions or actions.

3.24 A search of email and calendar invitations sent to the MDBA from seven organisations with contracts with MDBA identified 70 potential offers of hospitality to MDBA officials⁶², including:

- invitations for 'coffee meetings' sent to MDBA SES officials;
- the provision of food associated with work related meetings or events;
- offers to have 'drinks';
- offers to have a meal sent to SES officials; and
- offers to an MDBA SES official from eWater associated with the MDBA official being a board member of eWater.⁶³

3.25 In most instances there was insufficient information in the email and calendar records to determine whether it was an actual offer of hospitality and in all cases there was insufficient information to determine a whether a potential offer was accepted. In one instance, there was an explicit offer made by a Hudson representative to provide hospitality to an MDBA official:

Blocking this time out for our catch up tomorrow. Let me know if you're happy with the location. Looking forward to meeting you! PS: Lunch is on us =)

3.26 The MDBA advised the ANAO in September 2024 that none of the 70 potential offers resulted in instances of acceptance of gifts, benefits or hospitality.

62 The seven organisations were selected as they had more than \$1 million of contracts with the MDBA between July 2022 and August 2024. The organisations were: Callida Indigenous Consulting; Chartertech; eWater; Hudson; Paxus; Scyne Advisory; and Xaana.ai.

63 eWater advised the ANAO in September 2024 that:

The Commonwealth nominates a Director to the eWater Board, and currently the Commonwealth-nominated Director is a senior MDBA officer (Executive Director, River Management). Any hospitality or travel expenses provided to this individual by eWater (generally lunch and/or dinner provided to the Board at Board meetings) is done in their capacity as an eWater Director, not in their capacity as an MDBA employee.

3.27 The ANAO approached the seven organisations from which potential offers were received and asked if they had records of hospitality being provided to MDBA officials.⁶⁴ The organisations' responses are outlined in Table 3.2. The response from Scyne Advisory identified three instances of the acceptance of hospitality by MDBA officials that were not recorded in MDBA's internal register. The response from Hudson confirmed that the offer of hospitality referred to at paragraph 3.25 was accepted by the MDBA official and there was a record of this expenditure.

64 In its Report 504: *Inquiry into procurement at Services Australia and the NDIA*, the Joint Committee of Public Accounts and Audit recommended that 'the Australian National Audit Office consider the evidence and issues raised in this enquiry and consider further audits in relation to gifts and hospitality issues in the public sector to identify areas of concern, raise awareness, and help to build ethical cultures that operate with probity. This may include exercising its powers to obtain information from the private sector entities that contract to the Commonwealth, in relation to gifts and hospitality provided to public officials.' Available from https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Public_Accounts_and_Audit/SAandNDIA/Final_Report [accessed 30 September 2024].

Table 3.2: Potential offers of gifts, benefits and hospitality from organisations with contracts with the MDBA

Organisation	Does the organisation have a register (or other record) of gifts, benefits and hospitality offered and/or provided to clients?	If so, does it include record of the offer or provision of gifts, benefits and hospitality to the MDBA between 1 July 2021 and 31 March 2024?	Details of any instances of the offer and provision of gifts, benefits or hospitality to the MDBA recorded in the register
Callida Indigenous Consulting	'No — our primary control for partners and staff is an integrity framework which requires sign-off on all matters relating to integrity including aspects such as conflicts of interest etc.'	No	N/A
Chartertech	'Chartertech confirms the existence of a gifts register, however our policy for engaging with clients specifies no gifts, benefits or hospitality to be provided.'	'Chartertech confirms there were no offers of gifts, benefits or hospitality for any MDBA personnel in relation to the engagements supported by our team of consultants.'	N/A
eWater	'Yes, eWater maintains a register of gifts, benefits and hospitality provided to clients.'	'No, the eWater register does not record any provision of gifts, benefits and hospitality to the MDBA over this period.'	'As a not-for-profit government-owned company, eWater's practice is not to provide gifts, benefits or lavish hospitality to clients. eWater staff may, on occasion, pay for a coffee for an MDBA officer or supply a modest working lunch for clients meeting with us at our offices. On rare occasions, eWater hosts catered functions to which MDBA officers may be invited. Again, these costs are kept to a minimum.'
Hudson	'Hudson does not hold or maintain a formal register of gifts, benefits and hospitality Although Hudson is broadly aware of the restrictions and obligations placed on public officials in receiving gifts, benefits and hospitality, Hudson has no record of receiving a copy of any document or instruction from Murray Darling [<i>sic</i>] Basin Authority (MDBA) relating to obligations placed on suppliers (including Hudson) to hold or maintain such a register.'	N/A	'Although there is no register (and accordingly no details of gifts etc) Hudson has been made aware of one instance where a Hudson recruitment consultant [name withheld] offered hospitality to a senior MDBA official, specifically lunch on 6 April 2022. ... [Name withheld] ceased employment with Hudson in July 2022. Hudson made enquiries of [name withheld]. He confirmed that the scheduled lunch occurred and that another Hudson employee paid for the lunch (which was subsequently expensed to Hudson).'

Organisation	Does the organisation have a register (or other record) of gifts, benefits and hospitality offered and/or provided to clients?	If so, does it include record of the offer or provision of gifts, benefits and hospitality to the MDBA between 1 July 2021 and 31 March 2024?	Details of any instances of the offer and provision of gifts, benefits or hospitality to the MDBA recorded in the register
Paxus	'Paxus does not have a register (or other record) of gifts, benefits and hospitality offered and/or provided to clients.'	'I can confirm that there have been no offers of gifts, benefits or hospitality offered to MDBA employees.'	N/A
Scyne Advisory ^a	'Scyne Advisory (and previously PricewaterhouseCoopers Consulting) does (did) not maintain a centralised register of gifts, benefits and hospitality offered and/or provided to clients. Where expenditure is incurred for the provision of these items it is recorded against the client and engagement record in our practice management system. Giving and receiving of gifts is addressed in our Scyne Code of Conduct ...'	'As noted ... a register does not exist however a search was conducted of the MDBA client record to identify gifts, benefits or hospitality provided to the MDBA between 1 July 2021 and 31 March 2024.'	<ul style="list-style-type: none"> • 'Coffee catch up with Adelaide based PwC team' in February 2023 involving one MDBA official and four PwC attendees at a total of \$28.80. • 'Coffee catch up PwC engagement Leader' in February 2022 involving one MDBA official and one PwC attendee at a total of \$10.71. • 'Lunch with PwC engagement Director' in September 2022 involving one MDBA official and one PwC attendee at a total of \$72.14.
Xaana.ai	'...we have reviewed our records and can confirm that Xaana.ai does maintain a register of gifts, benefits, and hospitality offered and/or provided to clients.'	'...our register contains no records of any gifts, benefits, or hospitality offered or provided to the MDBA between 1 July 2021 and 31 March 2024.'	N/A

Note a: In addition to the three instances of hospitality provided to MDBA officials described here, Scyne Advisory confirmed the details of the two events declared by MDBA officials and described at Case Study 1.

Source: ANAO presentation of information provided by organisations.

Preventative controls for the provision of official hospitality

Delegate approval of provision of official hospitality

3.28 All official hospitality and business catering provided by the MDBA must be approved by a delegate, irrespective of the cost. The MDBA's Instrument of Delegation establishes the officials that hold a delegation to approve official hospitality (see paragraph 2.40 and Table 2.2) and business catering.⁶⁵

3.29 Based on a review of 61 transactions from the MDBA financial management system⁶⁶, the ANAO identified 35 transactions that did not have a copy of delegate approval in the financial management system. These transactions included:

- catering for a meeting valued at \$1,801.90;
- catering for an Authority workshop valued at \$1,100.00;
- catering for a performance management training session valued at \$661.80; and
- dinner for 27 people as part of a listening tour valued at \$2,206.64.

3.30 Case study 2 describes a retirement event arranged by MDBA officials as official hospitality. Approval for the event was provided by an official who did not hold a delegation.

Case study 2. Approval of retirement dinner by official without a delegation

In April 2023 an MDBA official completed an Official Hospitality Expense Spending Proposal for a retirement dinner to be held for a member of the Capacity and Shortfall Independent Expert Panel. The official hospitality was provided to 'celebrate the career and retirement of [name withheld] as a long standing contributor to environmental water, and for contractual services to the MDBA.'

There were 18 proposed attendees for the retirement dinner listed on the approval form, comprising:

- eight MDBA officials;
- three members of the Independent River Operations Review Group; and
- seven members of the Independent Expert Panel and spouses.

The total cost estimate for the dinner was \$1,530, representing a cost of \$85 per person.

The spending proposal was approved by an acting Executive Level 2 official who did not hold the delegation to approve the expenditure on official hospitality.

65 Under the MDBA's Instrument of Delegation, Executive Level 1 employees and above have a delegation to approve business catering.

66 The ANAO reviewed 61 randomly selected transactions occurring between 1 July 2021 and 30 March 2024 that had been charged to four expense codes related to official hospitality and business catering in the MDBA financial management information system: 'Business Catering (Meeting Expenses)'; 'Conferences, Meeting Hospitality'; 'Official Hospitality - FBT'; and 'Official Hospitality - No FBT'. The analysis did not include other expense codes that may relate to the purchase of food and beverage by MDBA officials, such as codes related to travel allowance and training activities.

The MDBA's Official Hospitality, Gifts and Benefits Guidelines state the provision of hospitality for a farewell function 'is generally unacceptable unless authorised by the Chief Executive or Chief Operating Officer' (see Table 2.4).

Prior approval of the arrangement

3.31 The MDBA's AAls do not permit MDBA officials to enter into an arrangement to provide official hospitality unless prior approval of the arrangement has been provided by a delegate (paragraph 2.39). In the case of business catering, the AAls require officials to seek and gain approval through a spending proposal for a proposed commitment of relevant money.

3.32 Of 26 transactions reviewed by the ANAO where delegate approval was recorded in the financial management system, there were six instances where approval was not provided in advance, including:

- hospitality for a stakeholder event at a value of \$595.45⁶⁷;
- a retirement dinner at a value of \$1,065.45 (see Case Study 4); and
- a dinner for the Basin Officials Committee valued at \$351.09.

2022 River Reflections Conference dinner

3.33 The River Reflections Conference is an annual event organised by the MDBA. Conference dinners form part of the conference and 'allow delegates to network and have discussions' with conference speakers. The MDBA officials arranging the 2022 River Reflections Conference dinner did not obtain approval from a delegate prior to entering into an arrangement to provide official hospitality. The conference dinner was scheduled for 1 June 2022. On 23 May 2022 officials sought approval for the official hospitality from the delegate. The delegate approved the Official Hospitality Expense Spending Proposal, stating:

is it possible to get these approved in advance of the commitment in the future? As delegate I am approving the expenditure on official hospitality. In this case it's well past the point that I could make any other decision. When you land on a venue after a "value for money" assessment, it would be good if you could seek delegate approval before booking ...

3.34 In July 2024 the MDBA advised the ANAO that the 'hospitality and all associated costs are included in the overall conference budget.'

Achievement of one or more MDBA policy objectives

3.35 As outlined at paragraph 2.39, the MDBA AAls require certain criteria to be met in order to provide official hospitality and state 'Official hospitality generally involves the use of public resources to provide hospitality to persons other than MDBA officials to facilitate the achievement of one or more MDBA objectives'. ANAO analysis identified eight official hospitality transactions that did not record the basis for the expenditure meeting policy objectives.⁶⁸

67 This event was categorised by the MDBA as business catering. The ANAO categorised the event as official hospitality. As official hospitality, the official who approved the expenditure did not hold a delegation to approve it.

68 The ANAO considered the documentation attached to the transaction and the narrative information provided by MDBA officials in the financial management system.

Authority dinners

3.36 The *Water Act 2007* requires the Authority to meet at least nine times each financial year. The MDBA arranges a dinner for members around the Authority meetings, generally the evening before the meeting.⁶⁹ The purpose of the dinner is to discuss the agenda of the upcoming meeting and resolve any concerns, and on one occasion to hear from an external speaker.

3.37 Authority dinners are classified by the MDBA as official hospitality. MDBA officials complete an Official Hospitality Expense Spending Proposal form or an Official Hospitality (Special Circumstances) Standing Approval Spending Proposal form for the purposes of obtaining delegate approval for Authority dinners. Both forms require the official to describe the ‘reason for providing the official hospitality (the benefit to the MDBA)’.

3.38 The ANAO reviewed the approval documentation for 14 Authority dinners. For 13 of the 14 Authority dinners, prior approval was obtained. There was no approval for one dinner. The approval forms reviewed by the ANAO generally did not:

- articulate how the proposed event meets ‘one or more MDBA objectives’ (see reasons outlined in Table 3.3);
- document consideration of the MDBA Sensitive Water Market Information Policy in relation to the holding of an event in a public venue (see paragraph 2.50); or
- assess the appropriateness of providing official hospitality solely to MDBA officials for the 13 out of 14 Authority dinners where only MDBA officials were in attendance.

3.39 Further, the MDBA has not considered the issue of positional authority in the circumstances where the delegate approving the hospitality is subordinate to the recipient(s) of the event.

Table 3.3: Purpose of proposed hospitality for Authority members dinners

Spending proposal form	Reason for providing official hospitality
One form for one proposed Authority dinner in 2022	‘Dinner for members to convene for a meal and “Members Only” discussions before the MDBA meeting.’
One form for two proposed Authority dinners in 2022	‘Dinners are arranged usually on the evening before the Authority meeting for members to convene for a meal and a ‘Members Only’ discussion ahead of the MDBA meetings. Members would be entitled to meal reimbursement otherwise.’
One Standing Approval form for nine proposed Authority dinners in 2023	‘Members have traditionally gotten together the evening before official Authority meetings for dinner. At such gatherings, Members discuss the proposed agenda for the meeting scheduled for the next day. This provides numerous benefits, the most obvious of which is to prepare members for the day ahead and resolve any concerns that may be held regarding either the agenda itself or possible disagreements as to discussion topics.’

69 The MDBA advised the ANAO that the Chief Executive uses his corporate credit card for Authority dinners.

Spending proposal form	Reason for providing official hospitality
One form for one proposed Authority dinner in 2023	'A private venue to enable a speaker with technical and environmental leadership experience is required for a working dinner between Authority members, Executive Directors and General Managers who are leading major project streams. There are significant scoping challenges that need to be resolved including on climate change - a working dinner will enable some of these issues to be explored in a semi structured way before the workshop the next day. The venue is suitable as it is providing a private dining room within walking distance from the MDBA office ...'
One Standing Approval form for 'approximately 9 Authority dinners' in 2023–24	'Members traditionally get together on the night before or after official Authority meetings for dinner. At these dinners, Members discuss the agenda and other related matters. This provides many benefits including preparation for meetings and resolving any concerns that may be held regarding either the agenda or other topics for discussion ...'

Source: ANAO presentation of MDBA official hospitality approval forms.

3.40 Additional analysis of the 14 Authority dinners held between 1 July 2021 and 31 May 2024 is presented at Table 3.4.

- Expenditure for six dinners was not consistent with the delegate’s pre-approval.
- Authority members’ remuneration and allowances, including travel allowances, are set by the Remuneration Tribunal. The ‘total cost per person’ for five dinners exceeded the Remuneration Tribunal’s ‘tier 1’ travel allowance.

Table 3.4: Analysis of Authority dinner events

Date	Number of attendees	Food (\$)	Drinks ^a (\$)	Total ^b (\$)	Total cost per person (\$)	Delegate pre-approval	Expenditure consistent with pre-approval	Consistent with Remuneration Tribunal travel allowance ^c
May 2022	6 Authority members	480.00	116.20	496.20	82.70	✗	✗	✗ _d
October 2022 ^e	7 Authority members	–	–	750.00	107.14	✓	✓	✗ _f
December 2022	7 Authority members	301.00	285.47	586.47	72.79	✓	✓	✓ _f
February 2023	4 Authority members	232.00	153.00	423.50	105.90	✓	✓	✗ _f
March 2023	7 Authority members	546.00	261.00	820.00	117.14	✓	✗ _g	✗ _f
May 2023	7 Authority members, 13 MDBA officials, 1 speaker	2,640.00	275.00	2,914.20	138.79	✓	✗ _h	✗ _f
September 2023	6 Authority members, 2 MDBA officials	760.00	285.00	1,166.74	145.84	✓	✗ _g	✗ _i
October 2023	7 Authority members, 4 MDBA officials	604.00	347.00	951.00	86.46	✓	✓	✗ _i
November 2023	7 Authority members	314.00	194.00	508.00	72.57	✓	✓	✓ _i
December 2023	7 Authority members	209.00	10.00	219.00	31.29	✓	✓	✓ _j
February 2024	7 Authority members	623.00	203.50	834.59	119.23	✓	✗ _k	✗ _i
March 2024	7 Authority members	360.00	112.00	472.00	67.43	✓	✓	✓ _i
April 2024	6 Authority members	268.00	173.00	449.82	74.97	✓	✓	✓ _i

Date	Number of attendees	Food (\$)	Drinks ^a (\$)	Total ^b (\$)	Total cost per person (\$)	Delegate pre-approval	Expenditure consistent with pre-approval	Consistent with Remuneration Tribunal travel allowance ^c
May 2024	5 Authority members	307.00	183.00	495.59	99.12	✓	✗ _i	✗ _i

Key: ✓ Yes ✗ No

Note a: Includes both alcoholic and non-alcoholic drinks.

Note b: Includes additional costs such as credit card surcharges.

Note c: Based on the Remuneration Tribunal (Official Travel) Determination in place at the time of the event.

Note d: Remuneration Tribunal (Official Travel) Determination 2019, Tier 1, high cost centre: \$72.00.

Note e: A copy of the receipt was not maintained in the MDBA records management systems.

Note f: Remuneration Tribunal (Official Travel) Determination 2022, Tier 1, high cost centre: \$76.00.

Note g: Pre-approval was for \$110.00 per person.

Note h: Pre-approval was for \$100.00 per person.

Note i: Remuneration Tribunal (Official Travel) Determination 2023, Tier 1, high cost centre: \$77.00.

Note j: Remuneration Tribunal (Official Travel) Determination 2023, Tier 1, country centre: \$77.00.

Note k: Standing pre-approval was for \$80.00 per person. Approval was sought from a second delegate prior to the event to increase the cost per head to \$89.00 per person.

Note l: Pre-approval was for \$80.00 per person.

Source: ANAO analysis.

Provision of alcohol

3.41 The March 2022 Official Hospitality, Gifts and Benefits Guidelines provided guidance on the inclusion of alcohol as part of official hospitality⁷⁰, stating:

It is acceptable to budget for the supply of alcohol for up to two standard drinks per attendee. Consideration must be given to the unit cost of the alcohol being provided with the overriding principle being that the expenditure on alcohol must be appropriate to the circumstances and be publicly defensible.

3.42 The MDBA Business Catering Guidelines and the 'Official Hospitality or Business Catering' flowchart prohibit the provision of alcohol with business catering (see Table 2.3 and Figure 2.1).

3.43 ANAO analysis of 61 transactions in the financial management information system identified six instances where alcohol was recorded as making up a proportion of the expenditure. The MDBA classified three of these transactions as business catering:

- the purchase of alcoholic drinks using the Chief Executive's corporate credit card⁷¹;
- dinner and drinks for a listening tour; and
- the cost of drinks as part of a 'Chair tour' valued at \$400.

'Generally unacceptable' forms of official hospitality

3.44 As presented in Table 2.4, the MBDA's control framework identifies acceptable and unacceptable forms of official hospitality. The provision of official hospitality to Commonwealth ministers and members of the Australian Parliament is identified as a 'generally unacceptable' form of hospitality. Case study 3 describes an event with a Commonwealth minister in attendance provided by the MDBA as official hospitality.

Case study 3. Basin Officials Committee and Ministerial Council dinner

The Basin Officials Committee (BOC) is made up of one senior official from the Commonwealth and each of the five Basin jurisdictions. The MDBA Ministerial Council (MinCo) is made up of ministers responsible for water from the Australian Government and the five Basin jurisdictions.

MinCo met in Sydney on 24 February 2023. On the evening before the MinCo meeting, MDBA officials arranged a dinner with members of MinCo and the BOC. In addition to the members of

70 The August 2024 version of the Official Hospitality, Gifts and Benefits Guidelines state 'alcohol is only provided by exception.'

71 As part of an MDBA SES Leadership Development Program held in February 2024, two cohorts of Executive Level and Senior Executive Service officials participated in three-day 'Leadership Immersion Workshops' coordinated by the Office of the Chief Executive. The MDBA advised the ANAO in August 2024 that meals, accommodation and travel allowance were arranged and provided to officials by the MDBA.

At one workshop, the MDBA Chief Executive purchased alcoholic and non-alcoholic drinks over two evenings of the event. On one occasion a corporate credit card was used for a \$140.00 transaction. On the other occasion a personal credit card was used for a \$202.22 transaction, and the Chief Executive subsequently sought reimbursement for the expenses from the MBDA. Both items of expenditure were coded as 'Business Catering (meeting expenses)' in MDBA's financial management system.

In September 2024, the MDBA advised the ANAO that 'the purchase of alcohol in this instance was neither official hospitality or business catering, it was a purchase related to meals and incidentals associated with travel for the workshop event'.

each committee, four Australian Government officials and the Chief Executive of the MDBA were in attendance.

The MDBA official arranging the event sought and obtained approval for official hospitality from the delegate four days after the event on 27 February 2023. The 'benefit to the MDBA' in providing the hospitality was recorded as

This dinner is critical to the MinCo 30. Members/Ministers will discuss various topics relevant to the MinCo Agenda. This will assist in the smooth running of the meeting the following day, where preliminary or in-principle agreement may be had across a range of agenda items. In addition, it provides a private space for members/Ministers to discuss and resolve any areas of concern.

The form signed by the delegate:

- detailed the attendance at the dinner of a minister of the Commonwealth;
- listed the number of attendees as 14 and named 16 attendees;
- recorded the cost per person as \$130.00; and
- recorded the total cost as \$1,800.00 (when the total cost for 16 attendees at \$130 each would be \$2,080.00).

3.45 The MDBA identifies 'farewell functions' as another form of generally unacceptable hospitality 'unless authorised by the Chief Executive or Chief Operating Officer.' Case study 4 describes the approval of a farewell event for the previous Chief Executive.

Case study 4. Chief Executive farewell dinner

On 14 December 2021, the Chair of the Authority 'hosted' a retirement dinner for the outgoing MDBA Chief Executive. On 10 December 2021, the Executive Assistant to the retiring Chief Executive sought approval for the event. The Official Hospitality Expense Proposal form listed 11 attendees with an estimated cost per person of \$180 at a Canberra restaurant. Attendees were identified as members of the Authority and MDBA Senior Executive Service officials.

The Official Hospitality Expense Proposal form was signed by the Chief Financial Officer (Executive Level 2) on 18 December 2021, four days after the event.

Two items of expenditure are recorded in the MDBA financial management system for the retirement dinner, one for \$1,065.45 and a second for \$387.27.

In September 2024 the MDBA advised the ANAO that:

The Official Hospitality Gifts and Benefits Guidelines at the time of the event effectively stated that "...the cost of farewell functions unless authorised by the Chief Executive or Chief Operating Officer... are not generally acceptable forms of hospitality". The use of the term "generally" is significant – it is neither "must" nor "should", and allows for a degree of interpretation. We note also that approval was sought from the CFO, who, at the time of the event, held a delegation to approve official hospitality > \$2,000.

Determination of official hospitality or business catering

3.46 The MDBA differentiates between official hospitality and business catering (refer paragraph 2.41 and Table 2.3). The ANAO’s review of transaction records identified four events that had been classified by MDBA officials as both business catering and official hospitality (see Table 3.5).

Table 3.5: Events classified as both official hospitality and business catering

Event	Financial management system classification	Official hospitality form completed	Business catering form completed	ANAO assessment
Joint Authority/Basin Communities Committee/Basin Officials Committee dinner in 2022	Official Hospitality – No FBT	✘	✓	Official hospitality
Joint Authority/Basin Communities Committee/Basin Officials Committee dinner in 2023	Business Catering (Meeting Expenses)	✓	✘	Official hospitality
Independent Expert Panel meeting to finalise a report	Business Catering (Meeting Expenses)	✓	✘	Business catering
Independent Audit Group for Salinity dinner	Official Hospitality – No FBT	✓ ^a	✓ ^b	Official hospitality

Note a: The Official Hospitality Expense proposal form was signed by the delegate before the event.

Note b: The Business Catering Approval form was approved by the delegate after the event.

Source: ANAO analysis.

3.47 For 39 out of 61 transactions reviewed by the ANAO, the MDBA correctly classified the expenditure as business catering. For four of the transactions classified by MDBA as business catering (meeting expenses), the ANAO assessed the events to meet the definition of official hospitality within MDBA’s policy framework due to the event occurring in a restaurant or at an entertainment venue.

3.48 An example of the MDBA’s inconsistent classification of events is an annual dinner attended by members of the Authority, the Basin Communities Committee and the Basin Officials Committee.

- In May 2021 approval for the event as official hospitality was sought from a delegate. The request form was not signed by the delegate.
- In April 2022 a delegate approved the event as business catering.
- In April 2023 a delegate approved the event as official hospitality.

Records management

3.49 For six of the 61 transactions examined, there was no invoice attached to the transaction record. The MDBA Credit Card Guidelines (2021) require a tax invoice to be retained for all purchases for the purposes of credit card acquittal. The MDBA advised the ANAO in June 2024 that

the MDBA '[does] not require supporting documentation to be included in line with the ATO GST requirements.'⁷²

3.50 As discussed at paragraph 2.47, the MDBA's approval forms and related processes for both official hospitality and business catering do not support the effective implementation of controls. The effectiveness of the approval forms is reduced as:

- the approval forms do not require officials preparing the form or the delegates approving the expenditure to document assessments against requirements and guidance — the forms have a single field titled 'Justification' or 'Description'; and
- the delegate approvals are pre-populated statements, with no fields for the delegate to document the basis of their assessment that the expenditure meets policy requirements and guidance.

Has the MDBA implemented effective detective controls for the receipt or provision of gifts, benefits and hospitality?

The MDBA has not implemented detective controls specifically for the purpose of identifying non-compliance with requirements for the receipt and provision of gifts, benefits and hospitality. The MDBA's biannual financial compliance survey is a detective control that can support the identification of non-compliance with requirements. Officials responding to the survey identified one instance of non-compliance with business catering or official hospitality guidelines in 2023–24, which was included in summary reporting provided to the Chief Executive.

Financial Management Compliance Survey

3.51 The MDBA requires all officials to complete a Financial Management Compliance Survey twice each financial year for the purposes of gathering 'data related to all known instances of non-compliance with the finance law.' In 2022–23 the MDBA made changes to the questions, including the addition of a question about instances where business catering or official hospitality were not provided in accordance with relevant guidelines. Table 3.6 sets out summary results for five surveys conducted between 1 July 2021 and 31 March 2024.

⁷² The Australian Taxation Office provides advice that businesses do not need to provide a tax invoice for sales less than \$82.50. Of the six transactions where no invoice was attached to the financial management system, four were for a value greater than \$82.50.

Table 3.6: Reports of non-compliance identified in the MDBA Financial Management Compliance surveys

Survey	Reports of non-compliance with business catering or official hospitality guidelines	Reports of actual, potential or perceived conflicts of interest not being reported	Reports of non-compliance with credit card guidelines	Reports of non-compliance with procurement requirements	Reports of non-compliance with financial delegation limits
Survey 1 2021–22	N/A	0	3	0	1
Survey 2 2021–22	N/A	0	1	0	0
Survey 1 2022–23 ^a	7	7	14	0	4
Survey 2 2022–23	0	0	3	0	0
Survey 1 2023–24	2	0	9	2	0

Note a: The MDBA advised the ANAO in October 2024 that there was a 'glitch' in the compliance management system for Survey 1 2022–23 whereby the system pre-populated previously reported breaches against multiple questions in the survey. This resulted in over-reporting of instances of non-compliance.

Source: ANAO presentation of the MDBA's results of the Financial Management Compliance Surveys.

3.52 Each financial year, the MDBA Chief Financial Officer prepares a compliance summary as part of the Chief Executive's sign-off process for the MDBA's financial statements.

- The compliance summary provided to the Chief Executive for 2021–22 reported 11 instances of non-compliance:
 - eight instances of unintentional use of corporate credit card for personal use; and
 - three instances of breaches of procurement processes.
- The compliance summary provided to the Chief Executive for 2022–23 reported 11 instances of non-compliance:
 - eight instances of unintentional use of corporate credit card for personal use; and
 - three instances of breaches of procurement processes.
- The compliance summary provided to the acting Chief Executive for 2023–24 reported 22 instances of non-compliance:
 - 17 instances of unintentional use of corporate credit card for personal use;
 - four instances of breaches of procurement processes; and
 - one instance of non-compliance with business catering requirements.

3.53 The compliance summary includes a section titled 'Corrective Actions', which contained the same statements for the 2021–22, 2022–23 and 2023–24 reports:

During the [next] financial year, the Finance and Procurement sections will continue to conduct training sessions for MDBA officials covering compliance with the MDBA Resource Management

Framework and the Commonwealth Procurement Rules. Wherever relevant, one-on-one training sessions have been conducted, particularly regarding the use of corporate credit cards.

In addition, to minimise confusion and unintentional use of corporate credit cards, the Finance section continues to affix a unique MDBA sticker to all MDBA corporate credit cards to help officials distinguish them from their personal credit cards.

3.54 The 2023–24 compliance summary also included a statement that the ‘Finance and Business Operations Branch are individually reaching out to those officials who have been involved in financial non-compliance for 2023–24.’

3.55 Seven officials responding to the Financial Management Compliance Survey in 2022–23 identified that they were aware of instances of non-compliance with business catering or official hospitality guidelines. Upon further investigation, the MDBA identified that these reports had resulted from a ‘glitch’ in the compliance management system (see Table 3.6) and did not represent non-compliance with the business catering or official hospitality requirements.

3.56 In 2023–24, two reports of non-compliance with business catering or official hospitality guidelines were made by MDBA officials (see Table 3.6). These two reports related to one instance of non-compliance, which involved an MDBA official seeking retrospective approval for a staff dinner in September 2023 using the Business Catering expense request form. The delegate did not approve the retrospective request and asked that a breach notification be recorded in the MDBA’s compliance management system. The event for which approval was sought was dinner at a restaurant for MDBA officials after attending a catered meeting. In addition to the failure to obtain delegate approval prior to the event identified as non-compliance by the MDBA, the expenditure on a meal at a restaurant for the purposes of business catering is not permitted by the MDBA’s Business Catering Guidelines.⁷³

Other detective controls

3.57 The MDBA has not identified detective controls within its gifts, benefits and hospitality policies and procedures.

Does the MDBA have effective processes for managing identified instances of non-compliance?

The MDBA has not documented or implemented processes for managing identified instances of non-compliance relating to management of gifts, benefits and hospitality. The ANAO identified instances of non-compliance that had not been identified or reported by the MDBA.

3.58 The MDBA has not documented or implemented a process for managing non-compliance with the requirements for gifts, benefits and hospitality. As outlined at paragraphs 2.33 and 2.45, the MDBA’s Official Hospitality, Gifts and Benefits Guidelines do not specify sanctions associated with failure to comply with gift, benefit and hospitality requirements.

3.59 The MDBA has identified one instance of non-compliance relating to gifts, benefits and hospitality through the Financial Management Compliance Survey (paragraph 3.51 and Table 3.6). There was no evidence that follow-up action was taken in response to the instance of

⁷³ The MDBA Business Catering Guidelines state that business catering is not to be provided at restaurants.

non-compliance with official hospitality and business catering requirements reported by MDBA staff.

3.60 The MDBA advised the ANAO in September 2024 that:

The actions taken in response to instances of non-compliance are supported by an annual letter between the CFO and the [Chief Executive]. Specifically, the letter speaks to 'corrective actions'.

3.61 The ANAO identified the following instances of non-compliance with gifts, benefits and hospitality requirements that had not been identified or reported by the MDBA:

- MDBA officials accepting benefits from contractors (see paragraphs 3.18 to 3.22)⁷⁴;
- official hospitality being approved by an official who did not hold the delegation (see Case study 2);
- no delegate approval for official hospitality for the May 2022 Authority member dinner (see Table 3.4);
- no delegate approval for the joint Authority/Basin Officials Committee/Basin Communities Committee dinner in June 2021 (see paragraph 3.48);
- five Authority member dinners exceeding pre-approved values (see Table 3.4); and
- expenditure on official hospitality for events prohibited by the Official Hospitality, Gifts and Benefits Guidelines (see Case study 3 and Case study 4).

3.62 Case study 5 outlines an instance of non-compliance with financial controls relating to a 'Leadership Immersion Workshop' dinner in 2024. No sanctions were applied in relation to this non-compliance.

Case study 5. Non-compliance in relation to a Leadership Immersion Workshop dinner

As part of an MDBA SES Leadership Development Program held in February 2024, two cohorts of Executive Level and Senior Executive Service officials participated in three-day 'Leadership Immersion workshops' coordinated by the Office of the Chief Executive. The MDBA advised the ANAO in August 2024 that meals, accommodation and travel allowance were arranged and provided to officials by the MDBA. One workshop was held in Murray Bridge, South Australia, and the second workshop was held in Batemans Bay, New South Wales. Officials attending received information ahead of the workshops setting out the purpose, objectives and outcomes of the session and the itinerary, including the details of meals provided to attendees.

Following the workshop in Murray Bridge, an Executive Level 2 (EL2) official sought advice from an official in the Office of the Chief Executive as to which cost code to charge a corporate credit card expense. The EL2 official stated that 'as part of our dinner we decided to eat at an alternative dinner.' The EL2 stated the credit card charge was for dinner for six MDBA officials.

The official in the Office of the Chief Executive sought advice from the acting ED Business Services. The ED Business Services' response was to instruct the officials involved to confirm that they did not also receive travel allowances and to code the expenditure to their own cost centres, noting that 'We probably just need to be clearer at these sessions about logistics and dinners etc, but its [sic] happened now so we'll just move on.' The EL2 official subsequently

74 A delegate approved the acceptance of the gift, benefit or hospitality in all cases.

confirmed that they had not received a travel allowance (in addition to the two MDBA funded dinners).

In September 2024, the MDBA advised the ANAO that:

The meals provided at the Leadership Immersion Workshops, which were offsite events requiring travel, are neither 'Official hospitality' or 'Business catering' – they are meals provided by MDBA in lieu of payment of travel allowance, or – in the case of SES, meals provided in lieu of payment for meals and travel related incidentals by corporate credit card ...

There is no instance of non-compliance. Staff were travelling for work purposes and there was a miscommunication with regards to where the dinner was being held for the event. Staff had approval for travelling and associated expenditure and appropriate processes were followed with regards to expenditure acquittals approvals.

Follow up was completed to confirm the fact that there was also no provision of travel allowance that occurred to ensure no double payment. Staff administering the event were also reminded to be clearer in their instructions around arrangements for dinner.

The MDBA coded the deposit payment to the venue for the Leadership Immersion Workshop as Business Catering (Meeting Expenses). The MDBA's Business Catering Guidelines state that 'Business catering is not to be provided at restaurants.'

Has the MDBA established a sound and evidence-based assurance framework so that processes and controls for gifts, benefits and hospitality are implemented and remain effective?

The MDBA has not developed an evidence-based assurance framework that considers management of gifts, benefits and hospitality.

3.63 There has been no management reporting on the offer, decline, receipt or provision of gifts, benefits and hospitality (refer to paragraph 2.74). The MDBA's management of gifts, benefits and hospitality does not include internal reporting to executive management on control effectiveness. Further, there has been no reporting to the Chief Executive or relevant governance committees on mandatory training completion (refer to paragraph 3.7).

3.64 As outlined at paragraphs 3.18 to 3.19, the MDBA does not have review processes for its internal register to assess conflicts of interest risks (such as offers from suppliers). This limits the effectiveness of controls supporting management of conflicts of interest.

3.65 Topics related to the management of gifts, benefits and hospitality have not been included in the MBDA's internal audit plan. There was no plan to undertake assurance activity related to gifts, benefits and hospitality.

Recommendation no. 3

3.66 The Murray–Darling Basin Authority implement:

- (a) regular reporting to the Chief Executive and relevant governance committees on mandatory training completion and acceptance and provision of gifts, benefits and hospitality; and
- (b) arrangements to obtain assurance over controls for managing gifts, benefits and hospitality to inform continuous improvement and ensure ongoing effectiveness.

Murray–Darling Basin Authority response: *Agreed.*

3.67 *The MDBA are in the process of implementing additional reporting and assurance mechanisms related to the acceptance and provision of gifts, benefits and hospitality.*

3.68 *In addition to existing reporting to Executive Directors, the MDBA will continue to improve its preventative controls through oversight of compliance with mandatory learning packages at relevant governance committees. Current results have been provided to the ANAO.*



Dr Caralee McLiesh PSM
Auditor-General

Canberra ACT
21 November 2024

Appendices

Appendix 1 Entity response



Office of the Chief Executive

Ref: EC24-000870

Dr Caralee McLiesh PSM
Auditor-General for Australia
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Auditor-General,

Thank you for your draft audit report on Compliance with Gifts, Benefits, and Hospitality requirements in the Murray–Darling Basin Authority (the Authority), dated 14 October 2024. I appreciate the opportunity to comment.

I am pleased that the audit did not identify any non-compliance with the *Public Governance, Performance and Accountability Act 2013* or the APS Code of Conduct. However, the report highlights areas where the MDBA has been partly effective in managing gifts, benefits, and hospitality and I value the recommendations of the Australian National Audit Office to improve consistency and controls, and effectiveness.

The Authority remains committed to upholding an integrity culture that meets public expectations of accountability, independence, transparency, and professionalism. Work is already underway to enhance policy requirements and control effectiveness related to gifts, benefits, and hospitality.

In response to the ANAO audit, we will review internal policies to ensure consistent treatment of gifts and benefits, increase reporting frequency, and enhance oversight through appropriate governance mechanisms. We will also ensure compliance with mandatory staff training on the provision and receipt of gifts, benefits and hospitality.

The Authority also has progressed significant work in relation to improving its risk management practices over the past 18 months and is currently focused on integrity related risks and appropriate controls, including in relation to gifts, benefits and hospitality.

Attached are the MDBA's summary response and responses to each recommendation, along with additional editorial matters.

I appreciate the ANAO's approach in conducting the audit, regular engagement, progress updates, and efforts to understand our policies and practices.

Andrew McConville
Chief Executive, Murray-Darling Basin Authority
11 November 2024

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Mildura – Latji Latji | Murray Bridge – Ngarrindjeri | Wodonga – Dhudhuroa

mdba.gov.au 1800 630 114 engagement@mdba.gov.au

Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.

2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's corporate plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.

3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:

- strengthening governance arrangements;
- introducing or revising policies, strategies, guidelines or administrative processes; and
- initiating reviews or investigations.

4. In this context, the below actions were observed by the ANAO during the course of the audit. It is not clear whether these actions and/or the timing of these actions were planned in response to proposed or actual audit activity. The ANAO has not sought to obtain assurance over the source of these actions or whether they have been appropriately implemented.

- The Murray–Darling Basin Authority (MDBA) updated and published its Official Hospitality, Gifts and Benefits Guidelines in August 2024 (refer to paragraphs 2.29 to 2.33 and 2.44 to 2.54).
- In August 2024 the MDBA developed a forward work plan for the management of official hospitality, gifts and benefits.
- In association with the August 2024 updates to the Official Hospitality, Gifts and Benefits Guideline, the MDBA created an official hospitality section of the internal Gifts and Benefits register (refer to paragraph 2.70).
- The MDBA updated its risk management framework in May and June 2024 and released a revised Fraud and Corruption Policy and Plan in July 2024. A fraud and corruption risk assessment was approved in July 2024.
- The MDBA updated the Accountable Authority Gifts and Benefits Register on its website on 31 October 2024 with an annual declaration of a gifted airline lounge membership.