

The Auditor-General
Audit Report No.50 2001–2002

**A Preliminary Examination into the
Allocation of Grant Funding for the
Co-Location of National
General Practice Organisations**

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of Australia 2002

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Canberra ACT
16 May 2002

Dear Madam President
Dear Mr Speaker

The Australian National Audit Office has undertaken a preliminary examination in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this preliminary examination to the Parliament. The report is titled *A Preliminary Examination into the Allocation of Grant Funding for the Co-Location of National General Practice Organisations*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely



P. J. Barrett
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. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations/Glossary

ADGP	Australian Divisions of General Practitioners
AMA	Australian Medical Association
ANAO	Australian National Audit Office
Finance	Department of Finance and Administration
Health	the former Department of Health and Aged Care and the present Department of Health and Ageing
RACGP	Royal Australian College of General Practitioners
The College	Royal Australian College of General Practitioners

Findings

Introduction

1. In September 2001, the then Minister for Finance and Administration agreed to a transfer of funds between Outcomes in the Health and Aged Care portfolio. This transfer of funds, requested by the then Minister for Health and Aged Care, was to provide for a grant of up to \$5 million to the Royal Australian College of General Practitioners (RACGP). The grant was to assist the RACGP to achieve the co-location of national General Practice organisations in a well-positioned building in Canberra to be known as 'GP House'. The RACGP was to also contribute \$5 million to achieve this objective.
2. The Shadow Minister for Health and Ageing, Mr Stephen Smith, wrote to the Auditor-General on 11 March 2002 formally requesting an investigation into certain matters in relation to the 'Co-location of National General Practice Organisations'¹. The Federal President of the Australian Medical Association (AMA) Limited also wrote to the Auditor-General on 11 March 2002, requesting a comprehensive audit of funding decisions by the Minister for Health and Ageing. On the same day, the Prime Minister informed the Parliament that he had asked for a full report on this matter from relevant departments.
3. The Auditor-General responded to the Shadow Minister² and the Federal President of the AMA on 12 March 2002, advising that the Australian National Audit Office (ANAO) would undertake a preliminary examination of relevant papers relating to the 'GP House' matter. In his letter he noted that it was not the ANAO's role to comment on the merits of government policy. Rather our focus would be on development of the policy measures and whether the administrative processes accorded with accepted budget procedures and practices. The Auditor-General similarly advised the Prime Minister, the Minister for Health and Ageing and the Minister for Finance and Administration. Separate advice of the proposed preliminary examination was also sent to the respective departmental secretaries.
4. On 17 March 2002, the Prime Minister provided the Auditor-General with a copy of reports he had received from the Departments of Finance and Administration and Health and Ageing. The Prime Minister further advised on 6 April 2002 that he will table the reports in Parliament when the report of the ANAO's preliminary examination is tabled.

¹ See Appendix 1.

² See Appendix 2.

5. In the light of the conclusions of this preliminary examination (paragraphs 61 to 70 of this report), the Auditor-General has decided not to proceed with a full performance audit of this matter. The cost of the preliminary examination was approximately \$65 000.

ANAO preliminary examination

6. The ANAO's preliminary examination focussed on whether or not due process was followed in making the decision to transfer funds between Outcomes. The preliminary examination also considered the procedures adopted by the Department of Health and Aged Care (Health)³ in developing the funding proposal, the advisory role played by the Department of Finance and Administration (Finance) and specific advice provided by both departments to their Ministers. Finally, the examination considered the disclosure of the related budget measure.

7. The preliminary examination did not consider the merits of the co-location proposal or alternative policy options that may achieve similar outcomes. Ministerial decisions such as the one involving this co-location proposal are policy matters for government. It is not within the mandate of the ANAO to comment on the merit of such proposals.

8. In conducting this limited scope preliminary examination, the ANAO relied primarily on the reports prepared by Health and Finance for the Prime Minister. Follow up discussions were also held with the departments. In addition, the ANAO wrote to the former Minister for Health and Aged Care, the Hon Dr Michael Wooldridge, and to the RACGP seeking further information. The draft version of this report was provided for comment to the Prime Minister, the former Ministers for Finance and Administration and Health and Aged Care and other interested parties who were considered by the Auditor-General to have a special interest in this matter. Comments received have been taken into account in finalising this report. The Prime Minister had no comments to make on the draft report.

Background to the funding measure

9. Health has indicated that, around September 2000, the then Minister for Health and Aged Care indicated to his department his vision to co-locate key GP organisations to promote greater cooperation between them. The then Assistant Secretary of Health's General Practice Branch advised that the broad concept of bringing together various GP groups in close proximity to one another as a 'GP Precinct' actually dates back to early in 2000.

³ Changes to the administrative arrangement orders in November 2001 resulted in the renaming of the Department of Health and Aged Care to the Department of Health and Ageing. For ease of reference, this report refers to the department, before and after the changed administrative arrangements, as 'Health'.

10. The prime responsibility for developing the funding proposal to support this initiative was with Health. Up to July 2001, there was some consideration of options and development of proposals. This included discussion with the RACGP and the Australian Divisions of General Practitioners (ADGP) considering availability of premises for lease or land on which an appropriate building might be constructed, and some consideration of cost/funding. Around the turn of the calendar year (2000 to 2001) both the Minister for Health and Aged Care and the department formed the view that the RACGP was the GP organisation best placed to take the lead in the initiative to co-locate GP, and GP related, organisations.

11. The RACGP advised the ANAO that the concept of co-location of GP organisations in Canberra was first raised with them by the department between February and early April 2001. This was via telephone conversations and face-to-face meetings with the RACGP Chief Executive Officer, where the concept was raised in the course of other discussions.

12. Health's report indicated that there is some documentary evidence, and a clear recollection by the relevant senior officer that, around June 2001, the amounts being discussed were in the order of \$1–2 million and that it would have been possible to fund this amount from within existing allocations within the GP programs. Consultants operating on behalf of the RACGP provided Health with a draft proposal on 9 August 2001, requesting that the RACGP contribution to the initiative be matched by a grant contribution of \$5 million from the Commonwealth. This amount was not available from within that program. Accordingly, Health recommended to the Minister for Health and Aged Care, on 23 August 2001, that the proposal be funded through a transfer of funds between Outcomes and that this action would require approval from the Minister for Finance and Administration.

13. Prior to the Minister for Health and Aged Care writing to the Minister for Finance and Administration seeking funding approval, Health identified possible sources of funding for this and other activities and initiatives under consideration. An underspend of \$4 million had been identified for the Medical Specialist's Outreach Assistance Program. This was due to delays in consultations and negotiations with State governments as well as general practice and specialist bodies. The time taken to ensure community consultation and to develop service plans was also a factor. Health also identified that a further \$1 million could be transferred from Outcome 9.

14. The ANAO notes that Health's advice to their Minister on 23 August 2001 identified the specific source of the \$4 million underspend, but not of the remaining \$1 million, stating only that 'a further \$1 million may be available

from within Outcome 9, but this will exhaust the last of Outcome 9's uncommitted funds for 2001–02'. The Asthma Management Program was subsequently identified by Health as the source of the remaining \$1 million, as a result of the time Health thought was necessary to complete negotiations with relevant organisations for community support activities. The then Minister for Health and Aged Care advised the ANAO that he was not informed by his department of the source of the \$1 million funding.

15. Then Minister also advised the ANAO that Health had not provided him with advice on the Budget rules and he would not have expected them to do so on an issue such as this. This was because this type of funding arrangement was not the first of its type and was not out of the ordinary for Health.

16. The advice from Health to their Minister on 23 August 2001 suggested that the grant be made conditional. Health further advised of the need for the department to work with the RACGP, Divisions of General Practice and the Australian College of Rural and Remote Medicine to progress the details of the proposal. Included in the advice were proposed letters to the Minister for Finance and Administration requesting the transfer of funds (the two letters gave the Minister the options of proposing a grant of either \$4 or \$5 million).

17. Health information indicates that, on 27 August 2001, the Minister for Health and Aged Care spoke to the Minister for Finance and Administration, who was comfortable with the proposed transfer of funds between outcomes. The then Finance Minister advised the ANAO that he made no commitment at that time.

Processing the initiative

18. The Minister for Health and Aged Care formally wrote (undated) to the Minister for Finance and Administration, whose office received the letter on 29 August 2001. The letter sought the Minister for Finance and Administration's agreement, 'to a transfer between portfolio Outcomes in order to support an initiative which I consider has significant merit'.

19. The initiative being canvassed related to the construction of 'GP House' to provide office facilities within the parliamentary triangle for non-AMA groups. The letter outlined the benefits from the initiative and proposed that the Commonwealth contribute \$5 million towards this project to support the RACGP to jointly develop the property with the private sector. The RACGP was to also contribute \$5 million to achieve the objective of co-location of the national General Practice organisations.⁴

⁴ *Portfolio Additional Estimates Statements, 2002–2002*, Health and Ageing Portfolio, pp. 65, 66, 70, 81 and refer p.105.

20. To fund this new measure, the Minister for Health and Aged Care proposed a transfer of funds between Outcomes administered by his Department. Specifically it was proposed to transfer \$4 million from the 2001–2002 Medical Specialist Outreach Service Program in *Outcome 5: Rural health care* to *Outcome 4: Quality health care*. The balance would come from a transfer of \$1 million from *Outcome 9: Health investment* (see paragraph 14).

21. Finance's role was to provide advice on the funding proposal to their Minister. Finance prepared and sent a briefing to their Minister on 5 September 2001 recommending that the Minister note a number of points. The key points of the brief indicated that the proposal was not consistent with outcome objectives or the Government's rural and regional agenda. As well, the brief indicated there was nothing in the proposal that would provide identifiable financial benefit to the Government; improve the implementation of general practice reforms; or improve the ability of the Government to work cooperatively with GP organisations. The brief was consistent with indications of earlier views from the Minister's office.

22. This brief was withdrawn at the request of the then Secretary and replaced on 7 September 2001 with one that identified the same points but made very clear Finance's recommendation that the proposed transfer between outcomes to support the GP House proposal be opposed. This action was taken to make the brief clearer that the proposed transfer of funds should be opposed, and to strengthen the advice.

23. The key points in the briefing did not refer to the guidelines developed by Finance, and endorsed by Cabinet, for funding proposals either within or out of the budget context. It did, however, note that, if the savings offered as offsets to the cost of the proposal were fortuitous underspends, there would be an opportunity cost involved to the Budget.

24. The then Minister for Finance and Administration made the decision to approve the funding proposal without seeking further advice or notifying Finance as to whether he would, or would not, accept Finance's advice. The Hon John Fahey advised that, after receiving the departmental advice, he sought further assurances from the then Minister for Health and Aged Care on why the \$5 million could not be spent during the 2001–02 financial year and that no reductions in the approved health services would occur as a result of the proposed transfer of funds. Following assurances from the then Minister for Health and Age Care, he agreed to the transfer for the following three reasons:

- it would not adversely impact on the budget bottom line;
- it was never his practice to micro manage other Ministers' portfolios within existing budget allocations; and

- the Minister for Health and Aged Care's letter to him had outlined a number of valid reasons where a transfer would lead to beneficial health outcomes.
25. The then Minister for Health and Aged Care advised the ANAO that his assurance to the Minister for Finance and Administration was based on advice from his department.
26. On 27 September 2001, the Minister for Finance and Administration wrote to the Minister for Health and Aged Care advising that, 'I am pleased to agree to the funding arrangements proposed in your letter. I note these arrangements will have no impact on the underlying cash or fiscal balance'. Finance indicated that this response was prepared without consultation with the department.
27. Following agreement by the Minister for Finance and Administration, on 27 September 2001, the Minister for Health and Aged Care wrote to the President of the RACGP. This letter was in accordance with advice from Health to the Minister of the same date, which identified the importance that the Commonwealth attached to bringing GP organisations together physically, in the hope that it may facilitate their working together in reality. The Minister's letter advised, *inter alia*, that the grant would be subject to the execution of a funding agreement between the Commonwealth and the RACGP. A number of objectives were outlined and included in the agreement. These covered such matters as, naming rights, anchor tenancies, and other tenancies, sharing facilities, suspension and termination of the agreement, and repayment of moneys where the outcomes are not achieved⁵. The letter also states that, if the outcomes sought are not achieved, there will be obligations for the RACGP to repay to the Commonwealth all, or part, of the funds.
28. According to Health's report to the Prime Minister, a draft agreement was provided to the RACGP on 27 September 2001, outlining the key features of the proposed Agreement. A final version of the funding agreement was provided to the Chief Executive Office of the RACGP on 28 September 2001 and was executed by both parties on that day. Importantly, the agreement specifically noted that funding was subject to Parliamentary appropriation. In addition, the agreement provided for its suspension and / or termination as a result of any change in government policy.
29. On 5 October 2001, the Prime Minister announced that he had called on the Governor-General and recommended that the Parliament be prorogued, the House of Representatives be dissolved and the necessary action be taken for a half Senate election in time for the elections for both houses of Parliament to be held on Saturday 10 November 2001. The Governor-General accepted this advice.

⁵ See Appendix 3.

30. Under these arrangements, the House of Representatives was dissolved at noon on Monday 8 October 2001. The Government was in caretaker mode from that time until the outcome of the election was declared.

31. The *Australian Doctor* reported, on 9 November 2001, the Government's decision to promote GP unity through up to \$5 million funding for the establishment of a Canberra based GP House⁶. The article referred to some of the conditions that would be applied to the grant to the RACGP and included comments from the RACGP and the Australian Medical Association. The information was provided to the *Australian Doctor* by a spokesman for the then Minister for Health and Aged Care.

Documentation in Health

32. The Health report indicates that documentary evidence for a significant period of the development period is sketchy. This underlines the importance of the department enhancing its documentation relating to the development of policy measures, a matter previously raised with the Department by the ANAO⁷.

33. In its response to the draft report of this preliminary examination, Health advised that it agrees that standards of documentation had not been as rigorous as they ought to have been. The department is committed to bringing more discipline to documenting information, with a particular focus on practices around the creation of file notes and in formalising key advice to the Minister.

Operational guidelines⁸

34. Although the co-location concept was discussed with the Health Minister in September 2000, the funding proposal was not developed until August 2001. This was outside the timing for inclusion in the 2001–2002 Budget process. Consequently, the proposal was included in the Additional Estimates process.

35. Finance advised the ANAO that:

There were Cabinet endorsed rules which applied to spending proposals outside the budget process (which applied to the post 2001–02 Budget period)—these applied to 'new' spending, in other words where there was no existing capacity to fund the new proposals. Such proposals could only be brought forward for consideration with the approval of the Prime Minister.

⁶ *Australian Doctor*, 9 November 2001, p. 4.

⁷ ANAO Audit Report No.42 1999–2000 *Magnetic Resonance Imaging—Effectiveness and Probity of the Policy Development Process and Implementation*.

⁸ In recent years Treasury and Finance have prepared a submission on Budget processes for their Ministers to take to Cabinet. The Cabinet endorsed processes form the basis of operational guidance for Ministers and their departments.

Reallocation of funding between outcome appropriations was clearly covered by the Cabinet endorsed rules, which said that the approval of the Finance Minister was required. There were no caveats attached to this requirement. This rule did not interact with the spending proposals requirements outlined above.

36. Under the Cabinet endorsed guidelines⁹ any reallocation of Administered Expenses between outcomes of \$5 million or less required the approval of the Minister for Finance and Administration.

37. Where an agency proposed changes to outcomes as described in the 2001–2002 Budget, including changes to the funding of those outcomes, the guidelines required these changes to be included in the Additional Estimates Appropriation Bills and reported in the Portfolio Additional Estimates Statements. Passage of the Appropriation Bills provided authority for the funds to be made available for the nominated purposes.

38. There is, however, some apparent ambiguity in the guidelines between whether initiatives of the kind proposed by the Minister for Health and Aged Care should have been treated as a reallocation of administered expenses between outcomes or as a new policy proposal.¹⁰

39. Reallocation of administered expenses between outcomes of \$5 million or less (consistent with previous Cabinet or Ministers' decisions) only required the approval of the Minister for Finance and Administration. Reallocations greater than \$5 million require a decision of the Expenditure Review Committee of Cabinet or, outside of the Budget context, the Minister for Finance and Administration.

40. New policy proposals outside the budget process required the prior agreement of the Prime Minister and were required to be urgent, unavoidable and unforeseen. Although not all new policy required offsets, where such an offset was required or proposed then those offsets needed to be genuine.¹¹

41. In this instance, the savings were due to delays in consultations and negotiations in the Medical Specialists' Outreach Assistance Program and the Asthma Management Program and would not normally be seen as 'genuine' because they would be regarded as 'fortuitous' savings, in a budgetary sense.

42. Health, in its response to the ANAO's draft report, advised that it followed the appropriate Cabinet endorsed guidance, which allowed the reallocation of administered expenses, provided that the intent of the previous policy decisions remains intact. Furthermore, the department advised that, as there was no

⁹ Budget Advice 2000/10.

¹⁰ New policy proposals are any proposals that have a real or potential financial impact on the Budget and/or Forward Estimates.

¹¹ Reductions **not** considered genuine include fortuitous reductions and re-phasing of existing expenses.

question of additional expenditure, it considered that the Cabinet Minutes on handling additional expenditure proposals between Budgets did not apply. Health's then Secretary also considers that the funding arrangements conformed with Cabinet endorsed guidelines. He further advised that Health believed that the policy implications of the initiative were consistent with previous Cabinet or Ministers' decisions and therefore did not require Cabinet approval.

43. The co-location proposal was viewed by the Ministers as a transfer of funds between outcomes, rather than as a new policy proposal. As indicated in the report prepared by Finance for the Prime Minister, the authority under which the transfer was approved related to the movement (or reallocation) of funds between outcomes and did not give consideration as to whether this was a new policy or not.

44. Health's proposal was to fund the GP House initiative through savings from Outcomes 5 and 9. In effect, these savings would therefore offset the cost of funding GP House. Accordingly, Health advised that it could be reasonably expected that such savings would be genuine and not fortuitous. As indicated in the Ministerial Briefing from Finance, the proposed GP House funding would have no financial impact unless the funds being transferred were 'fortuitous' underspends, in which case the proposal would involve an opportunity cost to the budget.

45. Despite the departmental views, it is not unreasonable to conclude that the issue as to whether this funding transfer conformed with the guidelines is not clear cut. Advice to Ministers did not address this particular issue explicitly. An alternative view would have been that, because of the fortuitous nature of the savings offered as an offset and the effect of the entirely new initiative, it would have been prudent to treat the co-location proposal as a new policy measure. Health did not give consideration as to whether or not the proposal constituted a new policy and therefore required additional approval, at least from the Prime Minister. Finance advice did discuss the question as to whether the funding source represented 'fortuitous' savings, the proposal's inconsistency with the Government's rural and regional agenda, and the outcomes of Outcome 4. It also recommended the proposal be opposed.

46. Finance advised that, in relation to its advice to the then Minister, it did not consider that it was necessary to refer to the process by which the measure could have been implemented, in the light of its clear opposition to the proposal. Finance also stated that it does not normally provide details of the process by which approval for a proposal should be sought when it is advising against the proposal. If the Minister had disagreed with the course of action proposed, the usual process would have been for the Minister to seek further advice.

47. The then Secretary of Health advised that,

It is a matter for judgement by the two Ministers, and particularly the Minister Finance and Administration, as to whether there are sufficient policy sensitivities about a proposed transfer, or questions about the net financial implication of a proposed transfer, to warrant referral of the proposal to Cabinet. *And that* the prudence of seeking Cabinet approval rested with the Minister for Finance.

48. In response to the draft report, the Hon John Fahey advised that there was no doubt in his mind on the authority to deal with transfers or reallocations up to \$5 million. He also noted that no advice on the absence of authority was given to him on this occasion, or indeed on the many occasions of a similar nature by Finance.

49. Nevertheless, in the ANAO's view, there is some uncertainty about the application of budgetary guidance in this instance. Accordingly, the ANAO suggests that consideration be given by Finance to reviewing the relevant budgetary guidance and, as necessary, providing advice to Cabinet to clarify current guidance.¹² Areas arising from this preliminary examination that would benefit from review include the merits of guidance in determining whether a proposal is consistent with previous Cabinet or Ministers' decisions, and whether current guidance on the reallocation of administered expenses which involve fortuitous savings might desirably be strengthened.

50. The Hon John Fahey, in his response to the draft report, advised that he did not disagree with the proposal that relevant budgetary guidance on this issue be enhanced.

Disclosure of the funding arrangements

51. The funding arrangements are included in the *Portfolio Additional Estimates Statements 2001–2002* tabled in the Parliament on 14 February 2002. An outline of the grant is on pages 65 and 66 of these Statements. The transfer of funds is reflected in the Explanation of Variations for Outcomes 4, 5 and 9 on pages 70, 81 and 105 respectively.

52. In addition, the grant is identified on page 23 of the *Pre-Election Economic and Fiscal Outlook 2001, A Report by the Secretary to the Treasury and the Secretary to the Department of Finance and Administration, October 2001*.¹³

53. The grant was also identified on page 32 of the *Mid-Year Economic and Fiscal Outlook 2001–2002, Statement by the Honourable Peter Costello, M.P. Treasurer*

¹² Finance advised that operational guidelines have been consolidated and clarified for the 2002–03 Budget. The ANAO considers that the evidence of this preliminary examination suggests that there would be merit in further review.

¹³ The grant is included in Appendix B: Summary of policy decisions.

of the Commonwealth of Australia, and the Honourable John Fahey, M.P. Minister for Finance and Administration, October 2001.

Employment of former Minister

54. There has been a degree of public concern expressed that the approval of a \$5 million grant to the RACGP was in some way linked to an offer of consultancy work to the Hon Dr Wooldridge by the RACGP.

55. The RACGP advised the ANAO that:

The possibility of the RACGP engaging Dr Wooldridge as a consultant was first discussed with him following the swearing in of the new Ministry on November 26 [2001].

It arose at the instigation of the College who believed that Dr Wooldridge would be of immense value to the College and General Practice with the development of health policy.

The RACGP started developing an agreement for a consultancy with Dr Wooldridge in the week commencing November 26. A substantive agreement was forwarded to Dr Wooldridge via our consultants on December 17. Dr Wooldridge, via our consultants, reached an agreement on December 24 to begin his consultancy in January 2002.

56. In its response to the draft report, the RACGP further advised that:

...the Royal Australian College of General Practitioners, a not for profit organisation, had held discussions with Dr Wooldridge for some weeks following the swearing in of the new Ministry, and that it was not until Christmas Eve in 2001 that he (Dr Wooldridge) finally agreed to work as a consultant to the College on projects designed to improve health outcomes for the Australian population.

...the policy objectives of the Commonwealth to co-locate GP organisations had been carried out in good faith by the RACGP; .. the Australian Divisions of General Practice had been aware of the concept since December 2000; ..the ADGP had been briefed on the detail around the GP House proposal by representatives of the RACGP during 2001; and ..the Executive of the ADGP had agreed in principle to explore the GP House proposition.

It was on this basis that the RACGP entered into an agreement with the Commonwealth to further develop the concept of GP House. It was only after the development proposal satisfied certain specified conditions in that agreement, that the RACGP would have considered entering into a contract with the Commonwealth to establish GP House.

..the RACGP conducted its negotiations to secure Dr Wooldridge as a consultant in a fit and proper manner; ... the College also conducted its negotiations with

the Commonwealth in a fit and proper manner to secure the Commonwealth's long-held policy objectives of co-location of GP groups.

57. The Hon Dr Wooldridge's advice to the ANAO confirmed the RACGP statement that he had no discussions with the RACGP about possible work with that organisation prior to the election. Furthermore, Dr Wooldridge's recollection was that, in December 2001, a consultant working for the RACGP contacted him about working for that organisation.

58. Dr Wooldridge noted that the RACGP had not, on balance, benefited from the reforms to funding of GP organisations. Over a four-year period, the removal of the RACGP's training monopoly cost them some \$84 million in Commonwealth funding, against the \$5 million gain for GP House.

59. Dr Wooldridge had sought advice from his then departmental Secretary after the election regarding post-political work. Specifically, Dr Wooldridge asked for, and was provided with, details of advice or guidance provided to senior public servants considering taking up subsequent employment. Dr Wooldridge also discussed with the then Secretary areas of employment where he would need to be careful. The record indicates Dr Wooldridge received and accepted the advice provided. The record also indicates that Dr Wooldridge clearly had an intention of moving back into the health and medical field and discussed with the then Secretary the possibility of working with general practice organisations. The then Secretary did not identify any potential conflict of interest for Dr Wooldridge in doing so.

60. The current Guide on Key Elements of Ministerial Responsibility (December 1998) addresses Ministerial conduct, including the avoidance of giving any appearance of using public office for private purpose and improper influence. Whether it is in the public interest to develop particular guidelines for Ministers relating to post ministerial-office employment, is a matter for the Government to decide. Codes of Conduct employed by some overseas governments may offer some guidance if the Government does wish to pursue this matter.¹⁴ The Parliament will also clearly have an interest in this matter.

¹⁴ In the USA, the Senate and House of Representatives Ethics Manuals provide rules and outline statutory requirements (contained in the Ethics Reform Act of 1989) on Post-Employment Restrictions and Negotiating for Future Employment.

Conclusion

61. The transfer of funds between outcomes was effected through the Additional Estimates bills and supported by disclosure in the related *Portfolio Additional Estimates Statements 2001–02*.
62. The Minister for Health and Aged Care sought the agreement of the Minister for Finance and Administration to a transfer between portfolio outcomes in order to support an initiative relating to construction of GP House, which he considered had substantial merit. The Minister proposed that the Commonwealth contribute \$5 million towards this project to support the RACGP to jointly develop the property with the private sector.
63. In viewing this proposal, Ministers and agencies were required to have regard to Cabinet endorsed guidelines concerning, amongst other things, transfers between outcomes and the funding of new policy proposals. Ministers viewed this proposal as a transfer of funds between outcomes. In the ANAO's view, there is some uncertainty in the guidelines between whether initiatives of the kind proposed by the Minister for Health and Aged Care should have been treated as a reallocation of administered expenses between outcomes or as a new policy measure. Both departments considered their actions were consistent with the guidelines.
64. Despite the departmental views, it is not unreasonable to conclude that the issue as to whether this funding transfer conformed with the guidelines is not clear cut. Advice to Ministers did not address this particular issue explicitly. An alternative view would have been that, because of the fortuitous nature of the savings offered as an offset and the effect of the entirely new initiative, it would have been prudent to treat the co-location proposal as a new policy measure. Health did not give consideration to whether or not the proposal constituted a new policy and therefore required additional approval, at least from the Prime Minister. Finance advice did discuss the question as to whether the funding source represented 'fortuitous' savings as well as the proposal's inconsistency with the Government's rural and regional agenda and the outcomes of Outcome 4. It also recommended the proposal be opposed.
65. In the ANAO's view, there is some uncertainty about the application of budgetary guidance in this instance. Accordingly, the ANAO suggests that consideration be given by Finance to reviewing the relevant budgetary guidance and, as necessary, providing advice to Cabinet to clarify current guidance.¹⁵ Areas

¹⁵ Finance advised that operational guidelines have been consolidated and clarified for the 2002–03 Budget. The ANAO considers that the evidence of this preliminary examination suggests that there would be merit in further review.

arising from this preliminary examination that would benefit from review include the merits of guidance in determining whether a proposal is consistent with previous Cabinet or Ministers' decisions, and whether current guidance on the reallocation of administered expenses which involves fortuitous savings might desirably be strengthened.

66. The Hon John Fahey, in his response to the draft report, advised that he did not disagree with the proposal that relevant budgetary guidance on this issue be enhanced.

67. Finance's advice to the then Minister did not address the process by which approval for the measure should be sought, in light of its clear opposition to the proposal. However, the former Minister for Finance advised that there was no doubt in his mind on the authority to deal with transfers or reallocations up to \$5 million and he agreed to the proposal following assurances from the then Minister for Health and Aged Care. These assurances included that there would not be an adverse impact on the budget bottom line and that there would be beneficial health outcomes.

68. A funding agreement was executed between the Commonwealth and the RACGP on 28 September 2001. Provision of the funds by the Commonwealth was subject to specified terms and conditions, including Parliamentary appropriation, and providing for its suspension and termination as a result of any change in government policy.

69. The funding arrangements are outlined in the *Portfolio Additional Estimates Statements 2001–2002* tabled in the Parliament on 14 February 2002 and other relevant Budget papers. The Government's decision to promote GP unity through 'up to \$5 million funding for the establishment of Canberra based GP House' had been foreshadowed earlier in an article in the *Australian Doctor* in November 2001.¹⁶

70. From the evidence available to the ANAO, there is no indication that the contract between the RACGP and the Hon Dr Wooldridge constitutes a conflict of interest based on existing practices and procedures. The RACGP advised that the contract was initiated after the co-location proposal had been approved. This was confirmed by the Hon Dr Wooldridge. Whether it is in the public interest to develop particular guidelines for Ministers relating to post ministerial-office employment, is a matter for the Government to decide. Overseas government experience offers some guidance. The Parliament will also clearly have an interest in this matter.

¹⁶ *Australian Doctor*, 9 November 2001, p. 4.

Canberra ACT
16 May 2002



P. J. Barrett
Auditor-General

Appendices

Appendix 1

Text of letter from the Shadow Minister for Health and Ageing to the Auditor-General requesting this examination

11 March 2002

The Auditor-General
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Mr Barrett

I am writing to formally request that you investigate certain matters in relation to the 'Co-location of national General Practice organisations' a measure detailed on p65 of Health Portfolio Additional Estimates Statements 2001-02.

I welcome media reports this morning of your intention to inquire into these matters.

In particular I ask that, without limiting in any way your investigation, you consider:

- a) whether appropriate procedures were followed in the development of this policy, the approval of the grant to the RACGP, and the funding of this grant with transfers from other programs;
- b) whether appropriate disclosure about this policy was made, including consistency with the Charter of Budget Honesty;
- c) whether this policy represents good value to the taxpayer in terms of the cost of the policy versus the potential policy benefits; and
- d) whether there were any other possible way of achieving the same potential policy benefits at a cheaper cost to taxpayers.

Yours sincerely

Stephen Smith
Shadow Minister for Health and Ageing

Appendix 2

Text of Auditor-General's response to the letter from the Shadow Minister for Health and Ageing

12 March 2002

Mr S Smith MP
Shadow Minister for Health and Ageing
PO Box 356
BASSENDEAN WA 6054

Dear Mr Smith

Thank you for your letter of 11 March 2002 formally requesting me to investigate certain matters in relation to the 'Co-location of national General Practice organisations', a measure detailed in the Health Portfolio Additional Estimates Statements 2001-02. I should mention that I have not taken any decision on this matter, nor indicated that I had decided to conduct an audit.

I am aware that the Prime Minister informed Parliament yesterday that he has asked for a full report on this matter from relevant departments. In this light, I have written to the Prime Minister asking for any terms of reference for the review he has requested, the anticipated timing of the report, and whether it is his intention to make the report public.

I have also asked my staff to undertake a preliminary examination of relevant papers relating to this matter. In this context, you will appreciate that our role does not extend to commenting on the merits of government policy. Rather, our focus would be on the development of the policy measure and whether it accorded with accepted budget procedures and practices.

Once I have the benefit of advice from the Prime Minister and my staff, I will decide whether it is advisable to proceed with a full performance audit in the public interest. I will then inform you, the Joint Committee of Public Accounts and Audit whose duties include determining the audit priorities of the Parliament, and other interested parties.

Yours sincerely

P.J. Barrett

Appendix 3

Extract of some conditions in the Funding Agreement between the Commonwealth and the Royal Australian College of General Practitioners (RACGP) regarding achievement of certain outcomes

1. The letter from the Minister for Health and Aged Care to Dr P. Hemming, President of the Royal Australian College of General Practitioners on 27 September 2001 stated, inter alia, that:

'The grant will be subject to the execution of a Funding Agreement between the Commonwealth and the Royal Australian College of General Practitioners (RACGP). The Commonwealth will be making this grant in order to secure the following outcomes.

For the \$3.1 million of funding in respect of GP House and co-location of GP organisations:

- *that from no later than June 2004, the RACGP, the Australian Divisions of General Practice and at least one other national GP organisation, approved by the Commonwealth, occupy part of the top floor of the building at 44 Sydney Avenue;*
- *that at least three national GP organisations as provided for above will be co-located for a period of at least three years from the first day of co-location;*
- *that the Commonwealth has naming rights for the building, for 10 years with the initial name to be 'GP House':*
- *that, for a period of five years, priority will be given within any remaining space within the RACGP's total top floor lease of 2121 square metres, to other GP organisations which may wish to locate there (this includes Australian College of Rural and Remote Medicine or General Practice Education and Training Limited or the Rural Doctors' Association of Australia, the General Practice Registrar's Association and the General Practice Computing Group);*
- *that where there is insufficient space for all GP groups to occupy the floor, the Commonwealth will consult with RACGP in deciding priorities for occupying the space; and*
- *that Commonwealth permission must be sought before any space on the top floor can be let to parties other than the GP organisations referred to. (Such permission should not be unreasonably withheld, consistent with project objectives).*

For the \$1.9 million of funding for fitout costs:

- *that RACGP comply with the points made above;*

- *payment of these funds will not be available until such time as the ADGP and the other national GP organisation have signed leases;*
- *that the design and fitout of the shared facilities will be agreed between RACGP, ADGP and the other national GP organisations which are going to occupy the top floor;*
- *that the shared facilities will not occupy more than one sixth of the floor space on the top floor without Commonwealth agreement and that the rental for these facilities will be shared between the GP tenants including the RACGP on an agreed basis;*
- *that the shared facilities will not be available for use by non-GP tenants unless the Commonwealth has given its permission, such permission should not be unreasonably withheld consistent with project objectives, and on the basis that appropriate reimbursement is made to the Commonwealth in relation to its contribution to fitout; and*
- *that the permission of the Commonwealth be sought before a non-GP tenant occupies an area where the Commonwealth has provided the initial fitout, such permission should not be unreasonably withheld consistent with project objectives, and on the basis that an appropriate repayment is made to the Commonwealth for its fitout costs.*

If the outcomes are not achieved as required for the \$3.1 million in funding, the RACGP will repay to the Commonwealth all or part of the funds (plus appropriate interest), depending on the nature of the deficit. The RACGP will provide an appropriate level, of security against this obligation. In relation to the \$1.9 million, if the outcomes sought are not achieved, the RACGP will repay to 'the Commonwealth that part of the contribution as could reasonably be recovered from other users'.

2. The Agreement between the Commonwealth and the RACGP signed by both parties on 28 September 2001 seeks to give effect to the above conditions. It states that.

'3.2 In consideration of the provision of the Funds, the RACGP must perform the Project according to the terms and conditions set out in this Agreement.

3.3 *The RACGP must:*

- (a) perform all aspects of the Project (including achieving the outcomes and objectives of the Project) as set out in Item A of Schedule 1; and*
- (b) endeavour in good faith to ensure that all work undertaken under this Agreement is in support of the Commonwealth's Objectives.'*

3. Item A of Schedule 1 to the Agreement states:

A1 Overview

The Project is to secure the outcomes specified in Items A2 – A6 of this Schedule.

A2 Naming rights

The RACGP must procure the right for the Commonwealth to name the Building for at least 10 years from the date the first tenant commences occupation and to change that name from time to time. The Commonwealth agrees that the building will be named 'GP House' for the first three years from the Commencement Date, and thereafter the Commonwealth agrees to consult with the RACGP on any change to the name of the Building.

A3 Anchor tenancies

The RACGP must procure that:

- a) RACGP;*
- b) Australian Divisions of General Practice; and*
- c) at least one other national GP organisation approved by the Commonwealth together occupy the Top Floor for at least 3 years commencing on or before 1 June 2004.*

Occupation must be pursuant to a separate lease to each organisation ('Leases'). The Leases must contain terms and conditions satisfactory to the Commonwealth, particularly in relation to rent, method and frequency of rent reviews, terms and options to renew the term of the lease. The Commonwealth's requirement is that the total of the initial term and any option periods should be at least 5 years. The Leases must be signed prior to occupation commencing.

A4 Other tenancies on the Top Floor

The RACGP must offer any remaining space within the Top Floor to Other GP Organisations until 5 years after the 3 organisations referred to in item A3 commence co-location.

Where there is insufficient space for all the Other GP Organisations who wish to occupy space and the Top Floor, the Commonwealth will decide priorities for occupying the space after consultation with the RACGP.

A5 Shared facilities

The RACGP must ensure that:

- a) unless otherwise agreed with the Department, Shared Facilities do not occupy more than one sixth of the net lettable area of the Top Floor;*
- b) subject to item A6, the rental of the Shared Facilities is shared between the GP Organisations occupying space on the Top Floor on an agreed basis (should agreement not be possible, resolution should be sought through an independent arbiter); and*
- c) prior to the Shared Facilities being installed, the design of the Shared Facilities is agreed between the GP Organisations who enter into leases in compliance with item A3.*

A6 Other tenants

The RACGP must ensure that no person other than GP Organisations:

- a) occupies space on the Top Floor; or*
- b) is entitled to use the Shared Facilities;*

until five years after the GP Organisations referred to in Item A3 commence co-location unless:

- c) the prior written consent of the Commonwealth is obtained (such consent not to be unreasonably withheld, consistent with the Commonwealth's Objectives); and*
- d) to the extent that the occupation or use is of an area where the Commonwealth has contributed to the initial fitout, the RACGP repays to the Commonwealth a proportion of the Fitout Funding to the extent recoverable from other (non GP Organisation) tenants or payable by the RACGP itself if it occupies more than its initial allocation.*

4. The contract also specifies that *'the Department may, by written notice to the RACGP, immediately suspend dealings with the Funds or terminate this Agreement'* if, inter alia,:

- a) 'notwithstanding any other clause in this Agreement, as a result of any change in government policy, funds for the Project are to cease or be reduced;*

- b) *the Department is reasonably satisfied that the terms and conditions of this Agreement have not been complied with by the RACGP including, without limitation, that any of the outcomes identified in Items A2 to A4 have not been achieved or will not be achieved;*
- c) *at any time the Department forms the reasonable opinion that any Funds have been used, spent or committed by the RACGP other than in accordance with this Agreement.'; . . .*

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