

National Competition Policy – Notes on Administration

FOR NATIONAL COMPETITION POLICY FEDERATION FUNDING AGREEMENT – AFFORDABLE HOUSING, COMMUNITY SERVICES AND OTHER – SCHEDULE

VERSION NUMBER:	DATE APPROVED:
1.0	29 November 2024

1. Overview	
1.1 Purpose	<p>The purpose of the Notes on Administration for National Competition Policy (NCP) Federation Funding Agreement – Affordable Housing, Community Services and Other – Schedule (FFA Schedule) is to provide administrative detail to support the FFA Schedule, specifically to provide guidance for managing the Performance Requirements under the FFA Schedule.</p> <p>The Notes contain the Competition Reform Guidelines (Guidelines) established under the FFA Schedule, as well as the administrative arrangements for those Guidelines to supplement the arrangements in the FFA Schedule.</p> <p>The Notes, combined with the FFA Schedule, FFR Act and the NCP IGA form the suite of documents that enable and support the delivery and ongoing development of consistent and complementary NCP reforms.</p>
1.2 Scope of the Notes on Administration	<p>The focus of the Notes is on the administrative requirements for the FFA Schedule. It includes requirements on the elements listed below.</p> <ul style="list-style-type: none"> Guidelines. Jurisdiction-Specific Reform Plans. Reporting. <p>The Notes also contain approved Guidelines.</p> <p>The Notes will not contain matters that affect decisions on funding under the FFA Schedule.</p>
1.3 Compliance with the FFR Act and the FFA Schedule	<p>The Notes are to be read in conjunction with the FFR Act and the FFA Schedule.</p> <p>If any inconsistencies arise between the terms and conditions contained in the FFR Act or the FFA Schedule and the Notes, the terms and conditions contained in the FFR Act and/or FFA Schedule will prevail.</p>
1.4 Revision of the Notes	<p>The Commonwealth maintains the Notes and relevant templates.</p> <p>Approval and revision of the Notes are subject to the processes in the FFA Schedule and the administrative arrangements detailed in these Notes.</p>

	The National Competition Policy Oversight Committee is responsible for approving revisions to the Notes.																								
1.5 Publication of Notes	The Notes will be published as a companion document to the FFA Schedule.																								
1.6 Definitions and Abbreviations	<p>The terms used in these Notes are defined in Table 1.</p> <table border="1"> <thead> <tr> <th colspan="2">Table 1: Definitions and Abbreviations</th> </tr> <tr> <th><i>Term</i></th> <th><i>Definition</i></th> </tr> </thead> <tbody> <tr> <td>FFA Schedule</td> <td>Federation Funding Agreement – Affordable Housing, Community Services and Other – National Competition Policy Schedule</td> </tr> <tr> <td>FFR Act</td> <td><i>Federal Financial Relations Act 2009</i> (Cth)</td> </tr> <tr> <td>Guidelines</td> <td>Competition Reform Guidelines</td> </tr> <tr> <td>JSRP</td> <td>Jurisdiction-specific Reform Plan</td> </tr> <tr> <td>NCP</td> <td>National Competition Policy</td> </tr> <tr> <td>NCP IGA</td> <td><i>Intergovernmental Agreement on National Competition Policy</i></td> </tr> <tr> <td>National Competition Policy Oversight Committee</td> <td>The entity described in the <i>Intergovernmental Agreement on National Competition Policy</i> or whichever entity constitutes the equivalent body at the time</td> </tr> <tr> <td>Notes</td> <td>National Competition Policy – Notes on Administration</td> </tr> <tr> <td>Party or Parties</td> <td>A Commonwealth, State or Territory which has signed on to the FFA Schedule</td> </tr> <tr> <td>States or state</td> <td>States and Territories or state/territory</td> </tr> </tbody> </table>	Table 1: Definitions and Abbreviations		<i>Term</i>	<i>Definition</i>	FFA Schedule	Federation Funding Agreement – Affordable Housing, Community Services and Other – National Competition Policy Schedule	FFR Act	<i>Federal Financial Relations Act 2009</i> (Cth)	Guidelines	Competition Reform Guidelines	JSRP	Jurisdiction-specific Reform Plan	NCP	National Competition Policy	NCP IGA	<i>Intergovernmental Agreement on National Competition Policy</i>	National Competition Policy Oversight Committee	The entity described in the <i>Intergovernmental Agreement on National Competition Policy</i> or whichever entity constitutes the equivalent body at the time	Notes	National Competition Policy – Notes on Administration	Party or Parties	A Commonwealth, State or Territory which has signed on to the FFA Schedule	States or state	States and Territories or state/territory
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2. Administrative requirements for Competition Reform Guidelines

The purpose of Competition Reform Guidelines is to support Parties to deliver the Performance Requirements for reforms in the FFA Schedule. Guidelines are drafted in a manner consistent with optimising for competition.

A Party can adopt Guidelines in its JSRP to detail how it will deliver Performance Requirements.

This section sets out further administrative requirements for Guidelines.

2.1 Oversight	<ol style="list-style-type: none"> 1. The National Competition Policy Oversight Committee will oversee the development of Guidelines as part of its responsibility for providing strategic oversight and direction for the development and delivery of NCP. 2. Overseeing development of Guidelines could involve the National Competition Policy Oversight Committee: <ol style="list-style-type: none"> 2.1. tasking a body/ies to develop Guidelines 2.2. providing instructions to the body/ies tasked with developing the Guidelines (for example, a terms of reference for developing Guidelines) 2.3. reviewing draft Guidelines to ensure consistency with criteria for Guidelines, and/or
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	<p>2.4. providing feedback on draft Guidelines.</p> <p>3. Overseeing development of Guidelines will involve the National Competition Policy Oversight Committee endorsing:</p> <p>3.1. final Guidelines before they are provided to the Commonwealth Treasurer for approval, and</p> <p>3.2. recommended amendments to approved Guidelines to the Commonwealth Treasurer for approval.</p>
<p>2.2 Development</p>	<p>4. Guidelines can be developed by:</p> <p>4.1. the National Competition Policy Oversight Committee</p> <p>4.2. ministers with policy responsibility for the reforms contained within a Guideline, and/or</p> <p>4.3. the ministerial body that has responsibility delegated to it for developing Guidelines will usually be specified in the FFA Schedule's Performance Requirements.</p> <p>5. Guidelines will be developed under oversight of the National Competition Policy Oversight Committee.</p> <p>5.1. The National Competition Policy Oversight Committee will provide advice to a body that has been delegated responsibility for developing Guidelines, via the FFA Schedule, before it starts developing Guidelines.</p> <p>6. Guidelines should be developed in accordance with the following processes as relevant to a specific set of Guidelines:</p> <p>6.1. collaboratively by all jurisdictions that are Parties to the FFA Schedule</p> <p>6.2. collaboratively by the jurisdictions that adopt the relevant performance milestone in their JSRP (or by jurisdictions that intend to adopt the relevant performance milestone in their JSRP if development of Guidelines occurs before a Party has an opportunity to include the milestones in its JSRP), and/or</p> <p>6.3. by a leading Party/Parties or agency/body in consultation with all other Parties to the FFA Schedule.</p> <p>7. Guidelines will:</p> <p>7.1. detail actions that Parties can take to deliver the Performance Requirements to which the Guidelines apply, and</p> <p>7.2. meet the following criteria:</p> <p>7.2.1. provide detail of pro-competitive reform/s that pertain to a specific Output in the Performance Requirements</p> <p>7.2.2. align with relevant Objectives set out in the FFA Schedule</p> <p>7.2.3. be informed by evidence available at the time of the drafting (including but not limited to, outcomes of reviews, government inquiries, reputable research reports, past reforms assessed as delivering the goals the Guidelines seek to deliver), and</p> <p>7.2.4. be applicable to all Australian jurisdictions that the reforms in the Guidelines are relevant to.</p> <p>8. Other matters that can be considered in developing Guidelines are:</p> <p>8.1. requirements for evaluating the Guidelines, and</p>

	<p>8.2. requirements for reviewing the Guidelines.</p> <p>9. Guidelines must be developed using the template at Attachment B.</p>
2.3 Endorsement	<p>10. Before providing a final set of Guidelines to the Commonwealth Treasurer for approval, the body/ies that developed the Guidelines should:</p> <p>10.1. endorse the final draft of the Guidelines, and</p> <p>10.2. seek the National Competition Policy Oversight Committee's endorsement of the final Guidelines (if not covered by the previous step).</p> <p>11. Endorsement of the Guidelines should be achieved by consensus of the Parties participating in development of the Guidelines.</p> <p>11.1. If consensus cannot be achieved within a reasonable timeframe, a majority of Parties participating in development of the Guidelines can endorse the Guidelines.</p> <p>11.1.1. In the event of a tie, the Commonwealth will have the casting vote.</p> <p>11.1.2. Any dissenting positions will be documented and provided to the Commonwealth Treasurer with the proposed final Guidelines.</p>
2.4 Approval	<p>12. Guidelines will be approved in accordance with the requirements of the FFA Schedule.</p> <p>13. The Commonwealth Treasurer will consider Guidelines for approval after receiving them from the National Competition Policy Oversight Committee.</p> <p>14. The National Competition Policy Oversight Committee should not provide proposed final Guidelines to the Commonwealth Treasurer unless they have been endorsed by the relevant body/ies.</p>
2.5 Administration	<p>15. Approved Guidelines will be included in Attachment A.</p>
2.6 Publication	<p>16. Approved Guidelines included in Attachment A will be published as part of the Notes.</p> <p>17. New approved Guidelines will be published through a revised version of the Notes.</p>
2.7 Amendment	<p>18. The Commonwealth Treasurer must approve amendments to Guidelines for the amendments to become effective.</p> <p>19. The Commonwealth Treasurer can delegate the responsibility for approving amendments to Guidelines to the Commonwealth Minister with policy responsibility for competition.</p> <p>20. The National Competition Policy Oversight Committee will oversee amendments to the Guidelines using the process under clauses 1-3 in Part 2.1 of these Notes.</p>

	21. If a Guideline is amended, and a Party's agreed JSRP references the superseded version of the Guideline, that Party can choose whether to update its JSRP to reference the amended Guideline.
2.8 Review	22. Each set of Guidelines will be reviewed at least every 5 years to identify if it should be amended to ensure it continues to support evidence-based pro-competitive actions to implementing the Performance Requirements in the FFA Schedule. 23. Alternative review requirements can be established in individual Guidelines.
2.9 Repeal	24. The Commonwealth Treasurer must approve the repeal of Guidelines for the repeal to become effective. 25. The Commonwealth Treasurer can delegate responsibility for approving the repeal of Guidelines to the Commonwealth Minister with policy responsibility for competition.

3. Administrative requirements for Jurisdiction-Specific Reform Plans

The NCP FFA Schedule requires that each Party develop a JSRP that details how it will deliver its chosen Objectives and Performance Requirements.

This section sets out further administrative requirements for JSRPs.

A state Party can seek guidance from the Commonwealth when that Party is developing its JSRP.

3.1 Draft JSRPs	26. State Parties to the FFA Schedule are each responsible for submitting a JSRP to the Commonwealth by 30 June 2025. 26.1. JSRPs can be submitted to NationalCompetitionPolicy@treasury.gov.au . 27. State Parties to the FFA Schedule must submit draft variations and updates to their JSRPs to the Commonwealth.
3.2 Agreeing JSRPs	28. Advice provided by the Commonwealth Treasury on a state's draft JSRP, and draft variations and updates to a state's JSRP, under the FFA Schedule will indicate whether the JSRP can proceed to the Commonwealth and respective state Treasurer for signing. 29. The JSRP becomes agreed after it is signed by the Treasurers of the Commonwealth and the respective state. 30. Signed Bilateral Schedules (JSRPs) will be published on the Federal Financial Relations website.

<p>3.3 Varying JSRPs</p>	<p>31. Parties can vary their JSRP at any time. 31.1. If a state Party varies its JSRP, the Commonwealth will consider the proposed updates to the JSRP in accordance with the FFA Schedule.</p> <p>32. Parties must update their JSRP: 32.1. to reflect any updates to the Performance Requirements in accordance with the FFA Schedule, and 32.2. when new Guidelines are approved that relate to any element or elements of the Performance Requirements that a Party has chosen to implement under the FFA Schedule.</p>
<p>3.4 Adopting Guidelines into JSRPs</p>	<p>33. To adopt Guidelines into their JSRP, a Party must, at minimum, specify in their JSRP the Guideline's title, version number, and date approved.</p> <p>34. This will ensure assessment of the Party's delivery of the relevant performance Requirements is based on the version of the Guidelines adopted in the Party's JSRP.</p>
<p>3.5 Prior reforms</p>	<p>35. For a state Party to become eligible for payment for progress made towards the FFA Schedule's Performance Requirements prior to the Party signing the Schedule or prior to those Performance Requirements being included in the FFA Schedule via an update, the Party's agreed JSRP must: 35.1. detail the progress made towards the relevant Performance Requirement/s for a Reform/s in Table 2 of the FFA Schedule prior to the Party signing the FFA Schedule or prior to the Performance Requirement/s being included in the FFA Schedule, and 35.2. detail the material additional progress the Party will make to deliver the Performance Requirements under the same Reform in Table 2 of the FFA Schedule.</p> <p>36. In determining whether a JSRP's proposed additional progress towards a Reform that is in Table 2 of the FFA Schedule is material, the Commonwealth will consider: 36.1. how the proposed additional progress contributes to delivering an Output or Outputs in the Performance Requirements in the same Reform, 36.2. how the proposed additional progress will contribute to delivering the relevant Objectives in the FFA Schedule, and 36.3. the magnitude of the net public benefit that the proposed additional progress is expected to deliver.</p>
<p>3.6 National Competition Principles</p>	<p>37. The FFA Schedule's requirements pertaining to the National Competition Principles do not detract from requirements under the NCP IGA.</p> <p>38. For a Party to become eligible for payment for the National Competition Principles Performance Requirements under the FFA Schedule, its JSRP must detail how it will deliver those specific Performance Requirements.</p> <p>39. A Party should not include in its JSRP details of how it will deliver elements of the NCP IGA's National Competition Principles that are not included in the FFA Schedule.</p>

<p>3.7 Seeking advice from the National Competition Council</p>	<p>40. The FFA Schedule enables a Party to seek advice from the National Competition Council on the extent to which its implementation approach is likely to be assessed as delivering the relevant commitments in the Party's JSRP.</p> <p>41. A Party seeking advice should ensure that its draft implementation plan demonstrating its implementation approach provides sufficient detail for the National Competition Council to provide advice.</p> <p>42. The National Competition Council will advise the Party seeking advice if further information is required.</p> <p>43. Where a Party seeks advice on an implementation approach in its JSRP that is different to relevant approved Guidelines, it is expected that the relevant Guideline will be approved before NCC advice is sought.</p>
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4. Administrative requirements for reporting

The NCP FFA Schedule contains reporting requirements for Parties.

This section sets out further administrative requirements associated with reporting.

<p>4.1 Annual reporting by Parties</p>	<p>Extensions</p> <p>44. Under the FFA Schedule, the National Competition Council can decide:</p> <p>44.1. whether to grant a Party's request for an extension to the due date for that Party's annual report, and</p> <p>44.2. what a reasonable period is to extend the due date for the Party's annual report.</p> <p>45. In making a decision referred to under clause 44 above, the National Competition Council can consider the factors listed below and any other relevant factors.</p> <p>45.1. The reason/s the Party requested the extension.</p> <p>45.2. Whether the Party can control the circumstance relating to its request for an extension.</p> <p>45.2.1. For example, a Party cannot control being affected by a caretaker period at the relevant time.</p> <p>45.3. The period the Party requested the extension for.</p> <p>45.3.1. Requests for extensions of more than one month must be supported by extenuating circumstances.</p> <p>45.4. Any impacts of granting an extension on the length of the reporting period to be covered in the Party's annual report.</p> <p>46. In making a decision referred to under clause 44 above, the National Competition Council must consult with the Commonwealth Treasury on any potential impacts on the Commonwealth's Budget.</p>
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ATTACHMENT A

COMPETITION REFORM GUIDELINES

INDEX

GUIDELINE TITLE	FFA SCHEDULE PERFORMANCE REQUIREMENT	PAGE

ATTACHMENT B
COMPETITION REFORM GUIDELINES TEMPLATE

Competition Reform Guidelines

FOR NATIONAL COMPETITION POLICY FEDERATION FUNDING AGREEMENT – AFFORDABLE HOUSING, COMMUNITY SERVICES AND OTHER – SCHEDULE

Guidelines for [reform title per Table 3 of FFA Schedule]

VERSION NUMBER:	DATE APPROVED:

Objective
<p>These Guidelines will support Parties to the National Competition Policy (NCP) Federation Funding Agreement (FFA) Schedule to deliver the performance requirements of the Schedule.</p> <p>Implementing these Guidelines will:</p> <ul style="list-style-type: none"> • [Include relevant objectives as described in clause 1 of the NCP FFA Schedule]
Context
<p>Developed by: [Relevant Officials] from all Parties to the FFA Schedule under a work program to revitalise National Competition Policy.</p> <p>Endorsed by: [insert relevant process that accords with the requirements of the Notes on Administration of the FFA Schedule]</p> <p>Approved by: [The Commonwealth Treasurer]</p> <p>Date approved: [dd/mm/yyyy]</p>
Evidence base
<p>[Summarise the evidence that supports the public benefit envisaged to be achieved by implementing the reform actions contained in these Guidelines]</p> <p>The development of these Guidelines was informed by:</p> <ul style="list-style-type: none"> • [List sources of evidence including reviews, government inquiries, research reports, past reform efforts assessed as deliver the goals the guidelines seek to deliver]

Output	To improve competition, state and territory Parties could:	Case studies
<p>Project 1 name [Replicate from FFA Schedule]</p>	<p>[Detail actions that jurisdictions could take to deliver the Project that will maximise the benefits of competition. Describe actions, not processes, used to determine actions. Examples of actions to be taken can be listed, where necessary.]</p>	<p>[Include a case study of the implementation of the same or similar reform actions that achieved the intended public benefit. Describe the benefit achieved.]</p>
<p>Project 2 name [Replicate from FFA Schedule]</p>		
<p>Project 3 name [Replicate from FFA Schedule]</p>		