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South Australian Productivity Commission  
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### **Re: Government Procurement Inquiry – Further Information on SACOSS Submission**

We are writing further to the SACOSS Submission to the Government Procurement Inquiry to provide new information in relation to one matter raised in our submission.

At pages 7-8 of our submission we noted the problem of late payments to our sector, and in particular that we believed that the changes to the *Late Payment of Government Debts (Interest) Act 2013* last year meant that not-for-profit organisations (NFPs) incorporated under state law appeared to now be excluded from the Act (as the payment of interest on late payments only applies to entities registered under the Commonwealth *Corporations Act*). We can now confirm this is the case.

Shared Services SA advises us that although small not-for-profits were previously entitled to interest on late payments, none applied in the five years preceding the changes to the Act. We believe that this was probably due to either not knowing they had the entitlement, or to barriers in the application process (including being seen to be “troublesome”), and the fact that in many instances the trigger for payment in the Act was circumvented by the arrangement whereby the department issues its own invoices (under the Recipient Created Tax Invoice agreement). The changes last year were designed to remove the knowledge and application barriers by making payment automatic, but many NFPs will now miss out altogether.

We now have a situation where state registered NFPs will be treated differently (and disadvantageously) to federally registered NFPs and for-profit businesses. As we noted in our original submission, this is clearly unacceptable.

We have also now been advised that rectifying this situation is best done by legislative amendment, for instance by including NFPs registered under the *SA Associations Incorporation Act* alongside those registered under the Commonwealth *Corporations Act* as entities entitled to automatic interest on late payments.

Accordingly, we can now be more specific in relation to Recommendation 3 of our original submission and we ask that the Productivity Commission recommend that the *Late Payment of Government Debts (Interest) Act 2013* be amended to ensure that interest on late payments is automatically payable to all NFPs regardless of their incorporation status or invoicing system.

Thank you for your attention to this matter. If you require any further information, please contact me at [greg@sacoss.org.au](mailto:greg@sacoss.org.au) or by phone on 8305 4229.

Yours

A handwritten signature in black ink that reads "G. Ogle". The signature is written in a cursive, slightly slanted style.

Dr Greg Ogle  
Senior Policy Officer

9 January 2019