



**ACT**  
Government

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Chief Minister, Treasury and  
Economic Development

# Administration of Government Grants in the ACT

A framework and best practice policy

2021 Chief Minister, Treasury and Economic Development Directorate

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## PART I Overview

### 1.1 PURPOSE

This best practice policy is established for the purpose of detailing a framework for the use and administration of ACT Government grants. The aim of the policy is to enable consistent, transparent, efficient, and effective administration of ACT Government grants in accordance with legislation and government policy objectives.

The framework's intended outcome is to equitably and transparently select funding recipients that best represent value for money in the context of stated objectives of the grant giving activity.

Within the framework established by this document, agencies determine their own specific grants administration practices and processes.

### 1.2 APPLICATION

This policy applies to all Territory directorates and authorities subject to the *Financial Management Act 1996* (ACT) that are responsible for the administration of ACT Government grants, or when considering entering into a grant arrangement. This policy applies to both contestable and non-contestable grants.

### 1.3 DEFINITION

A grant is an arrangement where money is provided to a recipient as financial assistance by the Territory for a specified purpose that enables the recipient to achieve goals and objectives that are consistent with Territory policy.

For clarity, the following arrangements are not Grants.

- a) The acquisition of goods, services, works or property or disposal of goods, works or property as a procurement by a Territory entity in accordance with the *Government Procurement Act 2001* (ACT). Procurements includes *Service funding arrangements*, in which the Territory may enter into an agreement with a non-government organisation for the delivery of goods or services to the community.
- b) *Sponsorship arrangements* in which the Territory provides money to an organisation or individuals to enable the organisation or individual to carry out a particular event or activity in return for which the Territory receives sponsorship rights.
- c) Compensation payments made under legislation
- d) Tax concessions or offsets
- e) Other payments under the *Financial Management Act 1996* including loans, investments, and Acts of Grace payments.

\* Further guidance around whether an activity is a grant or a procurement is available from Procurement ACT ([procurementACT@act.gov.au](mailto:procurementACT@act.gov.au)) which can advise about procurement arrangements. Alternatively, contact the Government Solicitors Office where specific legal advice is required.

### 1.4 LEGISLATIVE AND POLICY FRAMEWORK

The key documents that comprise the ACT Government Legislative and Policy Framework for grant administration include:

- *Financial Management Act 1996* (ACT)

- *Public Sector Management Act 1994 (ACT)*
- *Freedom of Information Act 1989 (ACT)*
- Directors-General Instructions (DGIs)
- other ACT Government policy including, but not limited to:
  - agency risk management policies and processes;
  - insurance determinations; and
  - any universal grants criterion that may be developed.

Further information on the key legislative and policy framework can be found at Appendix 1.

## 1.5 GOVERNANCE

Agencies must ensure that there are clear lines of delegation in place for the approval of both grant programs and awarding of individual grants.

Decisions around whether a grant program will be competitive or a more targeted select process must be documented, including why the particular approach is proposed, and agreed by the delegate before the program is advertised. In certain circumstances this may include where there are very limited providers or where a provider has a well-established track record that demonstrates best value for money.

Grants programs should be developed having regard to the seven key principles identified at Part II of this policy.

Grant program guidelines must be developed for all grant programs and include, at a minimum, information on: the aim or purpose of the grant; available funding; eligibility requirements; exclusions; assessment of applications; acceptance of a grant and other relevant information for an applicant. Officials must provide advice to the delegate on the application and selection processes followed, the criteria used to assess applications, and reasons as to why an applicant was successful.

Where appropriate, electronic grants administration systems should be considered.

## PART II Key Principles of Grants Administration for Territory Officers

### 2.1 PRINCIPLES

Territory Officers should ensure grants administration is conducted soundly by taking into consideration a number of key principles for grants administration (in no particular order) set out below.

- **Robust planning and design** - High quality planning of each step of a grant process underpins efficient, effective, and ethical grants administration.
- **An outcomes orientation** - Grants administration should focus on the delivery of outcomes that implement government policy.
- **Proportionality** - The framework for a granting activity should be commensurate with the scale, nature, complexity, and risks involved in the granting activity.
- **Collaboration** - A collaborative and cooperative relationship between the agency administering a grant, the grant recipient and other relevant stakeholders will assist efficient and effective grant administration.
- **Governance and accountability** - Granting activities should be underpinned by solid governance structures and clear lines of accountability in relation to outcomes and the process of administration.
- **Probity and transparency** - Probity relates to uprightness, honesty, incorruptibility, impartiality, proper and ethical behaviour, and accountability and is often used to mean

“good process”. Grants administrators must maintain probity when planning and executing granting activities.

Transparency refers to opening a granting activity, its planning and processes, to scrutiny and providing assurance that grants administration processes are appropriate and any legislative obligations are being met.

- **Efficient and effective use of public money** - Ensuring public money used in granting activities is applied efficiently and effectively involves the comparison of costs, benefits, options, and outcomes of a granting activity. Grant programs should also be evaluated to ensure they continue to meet government priorities and objectives.

## PART III Planning for an ACT Government Grant Program

Territory Officers should use established best practice when planning an ACT Government Grant Program. This section identifies key considerations that should be taken into account when designing and implementing a grants program.

### 3.1 PLANNING AND DESIGN

**Establish the need for the program** - Territory Officers should ensure that the granting activity has a performance framework linking an agency’s directions and the grant’s operational objectives to government outcomes.

Agencies should determine to what extent the operation of a granting activity may interact with other programs, including those administered by other bodies. These can include Commonwealth, State, Territory or local government bodies, private trusts and foundations, or national or state coordinating organisations. Consultation and co-operation with other bodies can help avoid duplication of effort and improve outcomes for potential recipients and government.

**Define operational program objectives** - Operational objectives should be a concise, unambiguous, realistic, outcome-oriented statement of what the granting activity is intended to achieve. The more specific the operational objectives, the easier it is to develop supporting documentation (such as selection criteria), limit wasted applications and develop an appropriate performance information framework.

Grant program operational objectives should have regard to common government objectives including the government’s wellbeing framework and closing the gap.

#### **Government objectives**

*Wellbeing framework* – Officials should have regard to the progressive implementation of the [ACT Wellbeing Framework](#) across government and its requirements - particularly the need for wellbeing impact assessments. Grant program guidelines should clearly identify how the program aligns with the Framework.

*Closing the gap* – grant program guidelines should identify that “Consistent with the objectives of the grant program, funding for projects, activities or initiatives that contribute towards closing the gap on disadvantage between Aboriginal and Torres Strait Islander and non-Indigenous Canberrans will be considered”. Consideration should also be given, where appropriate, as to how the grant program supports the core outcomes outlined in the [ACT Aboriginal and Torres Strait Islander Agreement 2019-2028](#)

**Undertake risk assessment and management** - Risk assessment and management involves the systematic identification, analysis, treatment, and allocation of risks arising from both the grant activity and the grantee. The extent of risk management required in grants administration will vary,

because a variety of risks may arise during each stage of grants administration. Risk management should be developed with reference to the key principles for grants administration, particularly Proportionality.

**Design program for value for money** - Relevant considerations include the purpose, value and duration of a grant, the deliverables to be supplied, grant conditions, enforceability considerations, and the nature and level of the risks involved. In certain circumstances government may have an affirmative action dimension on value for money considerations.

**Design program accountability** - Accountability arrangements in grants administration should relate to both the process of administration and the achievement of government outcomes.

**Establish performance measures** - Performance information should make clear the extent to which the granting activity is contributing to government outcomes. In addition, it should reflect the extent to which government outcomes and agency strategic directions remain appropriate in light of changing circumstances that may result from the impact of the granting activity itself.

**Identify reporting requirements** - The level of reporting expected of a recipient should be clearly identified and associated timeframes established. In addition, the level and detail of reporting required should take into account the nature of the grant program, the level of funding provided, the risks involved and policy outcomes being sought. It may be appropriate for smaller value one-off grants to have simpler, less stringent reporting requirements.

**Identify methodology or approach** - Grant rounds may be undertaken through either a competitive or a more targeted select process. It is up to grant managers to determine the best methodology or approach based on the nature and objectives of the of the grant program.

**Recipient disclosures** - As part of the application process, applicants should be asked to disclose if they are in receipt of any other government funding pertaining to the activity for which they are seeking funding, or if there are any conflicts of interest.

**Produce program guidelines** - Grant program guidelines should be fit for purpose and include information on the outcomes and objectives of the grant program, governance arrangements, funding, the selection processes, performance monitoring and reporting, evaluation, operational issues, how performance will be managed including compliance, and complaint and conflict handling mechanisms.

The design of grant products (including guidelines and applications) should be accessible and take into account environments for people with disability as well as people who use First Nations languages or other non-English languages and/or people who have difficulty reading and understanding English. They should also encourage people to notify grant administrators if they have difficulty accessing information.

**Other considerations** - a range of other issues including (but not limited to) legal, taxation, stakeholders and accounting treatments should be considered on a case by case basis and specialist advice sought where necessary.

## 3.2 SELECTION AND DECISION-MAKING

It is important that appraisal and selection processes be transparent, equitable, and free from the risk of political or other bias. It is better practice for all applications to be assessed using a common appraisal process, and where there is a departure from the common approved process, the reasons should be documented.

Policies and procedures around the handling of applications including dealing with conflicts of interest, appraising applications, and internal control mechanisms should be documented.

**Handling applications** - Under the financial management framework, there is an overarching requirement to manage an agency's affairs efficiently, effectively, and ethically. Where a selection

process is undertaken, those involved should be adequately trained and procedure instructions should be available before the processing of applications begins.

**Conflict of Interest and bias** - “Conflict of interest” is understood by reference to the *Public Sector Management Act 1994*. Conflict of interest may be actual, potential, or perceived. All conflicts of interest as well as any concerns relating to bias which may result in undue advantage for an applicant in relation to the conduct of a grant process must be identified and addressed, having regard to legal advice, as appropriate.

In particular, Territory staff must not act as decision-makers or participate in any decision-making process if at any time a conflict of interest exists or is likely to arise in the course of the decision-making process, unless the conflict has been fully documented and dealt with conclusively and satisfactorily.

**Records Management** - Grant managers must keep full and accurate records of their business activities and have regard to guidance provided by their agency concerning freedom of information requests and requirements. *The Freedom of Information Act 2016* requires agencies to proactively release a range of government information including information about government grants made or administered by an agency (Part 4, 23 (1)(e)).

**Appraising applications** - In the case of grant programs, unless specifically agreed otherwise, competitive, merit-based selection processes should be used, based upon clearly defined selection criteria.

**Adverse information** - Where the Territory receives or otherwise becomes aware of information that is adverse to an applicant, and where the applicant has not already provided that information, the Territory will give the applicant an opportunity to respond to the adverse information. Having regard to all relevant factors, the Territory has discretion as to whether it will consider any information from any source as part of its assessment.

**Clarification** - In communicating with an applicant, for example, to seek clarification, the Territory should not advise or imply the status of any application, or frame requests for clarification in a way that may give rise to an advantage or disadvantage for a particular applicant.

**Appropriate internal control mechanisms** - The separation of duties is a fundamental internal control. This means that the delegate giving financial approval for the expenditure should not be appraising applications.

**Grant announcements** - An agency *must* publish, on the [ACT Government Grants Portal](#) information on its individual grants, or where appropriate, a bundle of grants. The default position is that all agencies *must* report all grants awarded on the agency website.

There may be circumstances where an agency determines that public reporting of grants in accordance with this Policy is contrary to the *Privacy Act 1988* (Privacy Act), other statutory requirements, or the specific terms of a Deed of Grant. In these circumstances:

- (a) An agency *must* endeavour to publish as much information as legally possible.
- (b) The reasons for not reporting fully *must* be documented by the agency.
- (c) Agencies should take all possible steps to ensure that Deeds of Grant contain provisions that do not prevent the disclosure of information in accordance with this policy.

### 3.3 MANAGING A GRANT

**Establish a grant agreement** - The form of the funding agreement used should protect the Territory’s interests in ensuring that public money is used for the intended purpose, defining project deliverables, scheduling payments (according to progress), and specifying progress reporting

requirements and acquittal procedures. This could include using a Deed of Grant, Letter of Offer, or a Memorandum of Understanding. The form of agreement should be commensurate with the scale, nature, complexity, and risks involved in the granting activity.

Grant agreements are typically for one-off amounts but can also include multi-year funding where the arrangement meets definitional requirements. Deeds of Grant can be more effective in protecting and enforcing the Territory's interest; however, other forms may be considered on a case by case basis. The reasons as to why a particular form of agreement was selected should be justified and documented.

Advice on the form of agreements should be sought from the ACT Government Solicitor's Office as appropriate.

**Acknowledging ACT Government financial assistance** - grant funding agreements should expressly identify where applicants are required to acknowledge that funding was provided by the ACT Government in any related promotional material such as posters, websites, publications, programs, or banners.

**Monitor progress and payments** - Monitoring of payments and progress are an integral part of good governance and risk management and provide a measure of assurance that public funds allocated to grant recipients have been spent for the intended purpose. Identified performance indicators should also be monitored.

**Managing performance** – Performance should be monitored against established and agreed outcomes. Any poor performance should be addressed consistent with the mechanisms identified in the grant agreement. The exact form of which would need to be considered by grant managers on a case by case basis.

**Acquit funds** - Reliable, timely and adequate evidence is required to demonstrate that grant funds have been expended in accordance with the terms and conditions of grant agreement. The stringency of acquittal procedures should be balanced against the level of risk and take into account the cost of compliance. Where acquittal is not possible, the decision to attempt to recover or write-off outstanding funds should be documented.

### 3.4 REVIEW AND EVALUATION

Granting activity should be 'fit for purpose'. That is, key design features and related processes should be commensurate with the scale, nature, complexity, and risks involved in the granting activity.

Grant programs should be periodically reviewed to ensure that they are continuing to meet government priorities and objectives and are delivering on identified outcomes.

Any evaluation should be undertaken having regard to the ACT Government Evaluation Framework and any other internal policies. The framework can be found at

<https://www.cmtedd.act.gov.au/policystrategic/accountability/report#Evaluate>



## PART IV Resources Section

There are a range of other resources that may be helpful for officers to consider. The Commonwealth guidelines are linked to for reference only.

The *Risk Management - Principles and guidelines* (AS/NZS ISO 31000:2009) is available for purchase online or in hard copy at [https://infostore.saiglobal.com/en-au/Standards/AS-ISO-31000-2018-1134720\\_SAIG\\_AS\\_AS\\_2680492/?source=predictive](https://infostore.saiglobal.com/en-au/Standards/AS-ISO-31000-2018-1134720_SAIG_AS_AS_2680492/?source=predictive).

Department of Finance (2017) *Commonwealth Grants Rules and Guidelines* is currently available at <https://www.finance.gov.au/government/commonwealth-grants/commonwealth-grants-rules-guidelines>.

Department of Finance (2018) *Resource Management Guide 411: Grants Procurements and other Financial Arrangements* is currently available at [https://www.finance.gov.au/sites/default/files/2019-11/rmg\\_411\\_0.pdf](https://www.finance.gov.au/sites/default/files/2019-11/rmg_411_0.pdf)

Note: References in this policy are correct as at October 2020.

## APPENDIX 1

### 1. KEY LEGISLATIVE REQUIREMENTS

#### 1.1 Financial Obligations

##### *Financial Management Act 1996 (ACT)*

The *Financial Management Act 1996 (ACT)* (FMA) sets out the legislative basis for the financial framework under which the Territory operates.

Under section 31 of the FMA the Director-General of a directorate is accountable for the efficient and effective financial management of the directorate (refer to section 55 of the FMA for Territory Authorities). This includes responsibility for the efficient and effective management of grants.

The FMA requires directorates to provide regular service performance and financial reports to the Minister, including Annual Reports (see Part 3 of the FMA).

#### 1.2 General Obligations

##### *Public Sector Management Act 1994 (ACT)*

Under section 8 of the *Public Sector Management Act 1994 (ACT)* (PSMA), a public servant must do the public servant's job in accordance with the best practice principles:

8 (4) **best practice principle** – a public servant does the public servant's job in accordance with the best practice principle if the public servant –

- (1) works efficiently, effectively, and constructively; and
- (2) is responsive, collaborative, and accountable; and
- (3) makes fair and reasonable decisions.

Under section 20 of the PSMA, Directors-General may delegate to a public sector officer (or position) all or any of his or her powers under the PSMA, or under any other law. Decisions made pursuant to the delegation to spend (such as committing to payment of a grant) must be made by a person holding the relevant delegated authority and must be documented in accordance with the directorate's DGIs. All authority given to Officers to incur costs under a delegation by a Director-General is set out in each directorate's delegation register or schedule.

##### *Freedom of Information Act 1989 (ACT)*

Under section 7 of the *Freedom of Information Act 1989 (ACT)* (FOI Act), every person has a legally enforceable right to obtain access to documents of an agency, in accordance with the provisions of the FOI Act.

##### *Privacy Act 1988 (Cth)*

Territory agencies must comply with the *Privacy Act 1988 (Cth)*, including the 11 Information Privacy Principles, which are set out at Section 14 in relation to personal information.

## 2. KEY POLICY REQUIREMENTS

### 2.1 Directors-General Instructions

To assist Directors-General in meeting their responsibilities under section 31 (or section 55 for Territory Authorities) of the FMA, whole of government Director-General Instructions (DGIs) have been developed.

These instructions apply to all staff within directorates and provide a framework to guide decisions around the management of public resources in an efficient, effective and transparent manner.

Of specific note for this grants policy are those instructions under *Section 3.3 Grants Administration*. This section clearly identifies the governance requirements for managers of business units administering grants programs.

Directorate DGI's are usually found on the Directorate's Intranet or by contacting the Directorate's finance section.