



Australian Government
Department of Finance

GUIDE

Resource Management Guide No. 411

Grants, Procurements and Other Financial Arrangements

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This guide contains material that has been prepared to assist Commonwealth entities and companies to apply the principles and requirements of the *Public Governance, Performance and Accountability Act 2013* and associated rules, and any applicable policies. In this guide the: mandatory principles or requirements are set out as things entities and officials 'must' do; and actions, or practices, that entities and officials are expected to take into account to give effect to those principles and/or requirements are set out as things entities and officials 'should consider' doing.

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Grants, procurements and other financial arrangements

Audience

This Guide applies to Accountable authorities and officials of non-corporate Commonwealth entities responsible for financial arrangements.

Key points

The *Commonwealth Grants Rules and Guidelines* (CGRGs) are issued by the Finance Minister under section 105C of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

This guide:

- provides guidance to non-corporate Commonwealth entities on how to distinguish between grants, procurements and other financial arrangements
- reflects changes to the definition of a 'grant'
- replaces Finance Circular 2013-01: Grants, Procurements and other Financial Arrangements

Resources

This guide is available on the Department of Finance website at <http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/grants/additional-guidance.html>.

[Commonwealth Grants Rules and Guidelines](#)

[Public Governance, Performance and Accountability Act 2013](#)

[Financial Framework \(Supplementary Powers\) Act 1997](#)

[Financial Framework \(Supplementary Powers\) Regulations 1997](#)

[Resource Management Guide No. 400: Approving Commitments of Relevant Money](#)

[Resource Management Guide No. 412: Australian Government Grants - Briefing and Reporting](#)

[Q&As](#)

Contact information: grants@finance.gov.au

Foreword

This guide provides guidance for officials on how to distinguish between grants, procurements and other common types of financial arrangements.

It reflects the resource management framework under the PGPA Act.

This guide provides guidance on common forms of financial arrangements available to officials to achieve Australian Government policy objectives. To facilitate a particular outcome, officials may decide to use a specific financial arrangement or a combination of financial arrangements.

In determining which financial arrangement to use, officials should focus on the substantive purpose and characteristics of the financial arrangement and document the reasons for using that particular financial arrangement. It is essential that officials apply the relevant framework (i.e. policy, processes and legal requirements) that establish the requirements for different types of financial arrangements. It is also important for officials to confirm that existing arrangements are properly characterised, particularly following recent updates to the *Commonwealth Procurement Rules* and *Commonwealth Grants Rules and Guidelines*.

Attached are two tools for officials: [Attachment A](#) provides a table summarising the information contained in this circular; [Attachment B](#) contains a decision tree to assist officials to determine which type of financial arrangement they are using.

For questions relating to this Resource Management Guide, please contact the Grants Policy Team at grants@finance.gov.au.

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July 2014

Key Concepts

authority means the legal authority (whether expressed or implied) to exercise a power or function that can be given directly through legislation (e.g. accountable authorities' powers under section 23 of the PGPA Act, section 32B of the *Financial Framework (Supplementary Powers) Act 1997* or other specific legislation) or through a delegation or authorisation.

Commonwealth Grants Rules and Guidelines (CGRGs) establish the overarching Commonwealth grants policy framework within which entities develop their own specific grants administration practices. They also articulate the expectations for all non-corporate Commonwealth entities in relation to grants administration.

Commonwealth Procurement Rules (CPRs) establish the Government's policy framework under which entities govern and undertake their own procurement. The CPRs set down the rules for Australian Government procurement and articulate the requirements for officials performing duties in relation to procurement.

entity means a Commonwealth entity and includes a Department of State, a Parliamentary Department, a listed entity or a body corporate established by a law of the Commonwealth (see section 8 of the PGPA Act).

officials means officials of a Commonwealth entity. An official of a Commonwealth entity is an individual who is in, or forms part of the entity (see section 8 of the PGPA Act).

other CRF money is money that forms part of the Consolidated Revenue Fund other than relevant money or any other money of a kind prescribed by the rules (see section 105 of the PGPA Act).

ordinary services and functions of government means spending related to the running costs of an entity, such as the payment of staff salaries or building rental. Generally, payments relating to the ordinary services and functions of government will come from departmental appropriations, however there can be situations where they are paid from administered appropriations. Similarly, some payments from departmental appropriations may cover matters that are not ordinary services and functions of government, and thus the arrangement needs to be authorised by Schedule 1AA or Schedule 1AB of the *Financial Framework (Supplementary Powers) Regulations 1997* or by specific legislation.

proper when used in relation to the use or management of public resources, means efficient, effective, economical and ethical (see section 8 of the PGPA Act).

relevant money means

- a) money standing to the credit of any bank account of the Commonwealth or a corporate Commonwealth entity; or
- b) money that is held by the Commonwealth or a corporate Commonwealth entity; (see section 8 of the PGPA Act).

relevant property means

- a) property (other than relevant money) that is owned or held by the Commonwealth or a corporate Commonwealth entity; or
- b) any other thing prescribed by the rules; (see section 8 of the PGPA Act).

Part 1 – Grants

1. The *Commonwealth Grants Rules and Guidelines* (CGRGs) are issued by the Finance Minister under section 105C of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

Grants

2. For the purposes of the CGRGs, a grant is an arrangement for the provision of financial assistance by the Commonwealth or on behalf of the Commonwealth:
 - (a) under which relevant money or other CRF money is to be paid to a recipient other than the Commonwealth
 - (b) which is intended to assist the recipient achieve its goals
 - (c) which is intended to help address one or more of the Australian Government's policy objectives
 - (d) under which the recipient may be required to act in accordance with specified terms or conditions.
3. Where an arrangement meets the definition of a grant, then the CGRGs apply. The CGRGs can be found on the Finance website.
4. A granting activity can take a variety of forms, including a payment made on a one-off or ad hoc basis, payments made as a result of competitive assessment, or funding provided specified criteria are satisfied. Entities should apply the requirements and the principles of the CGRGs according to the nature of the grant they are administering.
5. Most grants do not relate to the ordinary services and functions of government and require legislative authority in addition to an appropriation Act. The authority can be established in portfolio legislation or by regulation. Many grants are authorised by section 32B of the *Financial Framework (Supplementary Powers) Act 1997* and Schedule 1AA or Schedule 1AB of the *Financial Framework (Supplementary Powers) Regulations 1997*.

Gifts of relevant money

6. A gift of relevant money is a grant. The CGRGs apply to gifts of relevant money. Like all payments of relevant money, a gift of relevant money must be a 'proper' use of public resources.

Benefit and entitlement payments, which are not established by legislation

7. Where a benefit or entitlement payment is not established through legislation (other than section 32B of the *Financial Framework (Supplementary Powers) Act 1997*, section 23 of the PGPA Act, or an appropriation Act) it should be treated as a grant and officials must comply with the CGRGs.

Sponsorships

8. Sponsorships, which provide financial assistance to individuals or organisations, whether directly to a recipient or through a third party, will generally meet the definition of a grant. However, a sponsorship may amount to procurement where it is essentially acquiring a good or service, for example, purchasing advertising space.

Scholarships

9. Scholarships, which provide financial assistance to individuals, whether directly to a recipient or through a third party, will generally meet the definition of a grant. Where there is a work placement component to a scholarship program, officials should ensure they are aware of any relevant employment related requirements in legislation.

Subsidies and rebates

10. Subsidies and rebates can involve a wide range of arrangements, such as tax concessions and entitlement payments. Subsidies and rebates which create an entitlement to financial assistance will generally meet the definition of a grant where they are not established by specific legislation. Where the authority to enter the arrangement comes from section 32B of the *Financial Framework (Supplementary Powers) Act 1997* and Schedule 1AA or Schedule 1AB of the *Financial Framework (Supplementary Powers) Regulations 1997* the arrangement will generally meet the definition a grant and the CGRGs will apply to the arrangement.

Arrangements not considered to be grants

11. There are some financial arrangements that would normally be included in the definition of a grant, but are not subject to the CGRGs for policy reasons. The CGRGs provide that certain financial arrangements are excluded from the definition of a grant. See [Attachment A](#) for the full list of exclusions in the CGRGs.
12. Generally, these arrangements are excluded because, although they may meet the definition of a grant, they are subject to separate legislative or administrative arrangements. For example, payments of financial assistance to States under section 96 of the [Australian Constitution](#) and payments made under the [Federal Financial Relations Act 2009](#) are governed by the Inter-Governmental Agreement and therefore not subject to the CGRGs.¹
13. Similarly, Official Development Assistance (ODA), administered by AusAID, has its own reporting, evaluation and transparency requirements that entities must meet.
14. Questions about the application of the CGRGs should be directed to grants@finance.gov.au.

¹ Note that payments to States and Territories that are not made under section 96 of the Constitution or the Federal Financial Relations Act 2009 may meet the definition of a grant and be subject to the CGRGs.

Part 2 – Procurements and other financial arrangements

15. The *Commonwealth Procurement Rules* (CPRs) are issued by the Finance Minister under section 105B of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

Procurements

16. Procurement encompasses the whole process of procuring goods and services. It begins when a need has been identified and a decision has been made on the procurement requirement. Procurement continues through the processes of risk assessment, seeking and evaluating alternative solutions, the awarding of a contract, the delivery of and payment for the goods and services and, where relevant, the ongoing management of the contract and consideration of disposal of goods.
17. In addition to the acquisition of goods and services by an entity for its own use, procurement includes the acquisition of goods and services on behalf of another entity or a third party.
18. The CPRs are the core procurement policy framework and articulate the Government's expectations of Commonwealth entities. The CPRs can be found on the Finance website at: <http://www.finance.gov.au/procurement/index.html>.

Memberships

19. Where the Commonwealth purchases a membership to a group, either for its own use, use by officials, or the use of a third party, this will most likely constitute procurement under the financial framework.

Arrangements not considered to be procurements

20. There are some arrangements which are not considered to be procurements, despite exhibiting the characteristics of procurement. Under paragraph 2.9 of the CPRs, statutory appointments, appointments by ministers and the engagement of employees, amongst other things, are not considered to be procurements.
21. Questions about the application of the CPRs should be directed to procurementagencyadvice@finance.gov.au.

Act of grace payments

22. The act of grace power under section 65 of the PGPA Act allows the Finance Minister or delegate to authorise one-off and periodic payments to individuals or other bodies (such as companies), if he or she considers it appropriate because of special circumstances.²

Compensation payments

23. Compensation payments include payments intended to compensate individuals or groups for financial loss or other adverse consequences caused by a decision, action or omission by the Australian Government. It also includes discretionary compensation where the Australian Government is under no legal obligation to make a payment.
24. Examples of compensation payments include: payments made under the *Scheme for Compensation for Detriment caused by Defective Administration* (the CDDA Scheme) and payments made under section 73 of the *Public Service Act 1999*.³

² See the Finance website for further guidance on act of grace payments.

³ See the Finance website for further guidance on compensation payments.

A payment to a person of a benefit or entitlement established by legislation

25. An entitlement is a right to apply for, or claim, a benefit established by specific legislation (other than section 32B of the *Financial Framework (Supplementary Powers) Act 1997*, section 23 of the PGPA Act, or an appropriation Act). The entitlement creates an obligation on the Australian Government to provide the benefit if relevant criteria are satisfied and may or may not place obligations on recipients of entitlements.
26. Examples of entitlements that operate through specific legislation include: pension payments made through the *Social Security (Administration Act) 1999*; payments to veterans through the *Veterans' Entitlements Act 1986*; and payments made under the *Pharmaceutical Benefits Scheme and Repatriation Pharmaceutical Benefits Scheme*.

Tax concessions or offsets

27. The Australian Taxation Office (ATO) administers legislation governing taxation. Any entity implementing a financial arrangement that involves matters of taxation should consult with the ATO in the first instance.

Investments

28. An investment is an arrangement that involves the purchase of an asset by the Commonwealth for the primary purpose of earning income or a profitable return.
29. Investments are made under the authority of specific enabling legislation, such as the *Future Fund Act 2006* or section 58 of the PGPA Act. However, as a general principle, relevant money administered by non-corporate Commonwealth entities should not be invested by them, as cash and debt management is generally conducted at the whole-of-government level.

Loans

30. A loan is an arrangement under which the Commonwealth advances a sum of money to an external recipient with the recipient agreeing to repay that sum (with or without interest) on a future date or on demand.
31. Loans are made for a variety of reasons, including policy purposes and as a means of facilitating repayments to the Commonwealth. Unlike an investment, the primary purpose of a loan is not to earn a commercial rate of return or profit for the Commonwealth. While interest may be payable under a loan, it may not be at commercial rates.
32. An amount of money that is required to be repaid without interest or at a concessional rate of interest should generally be considered a concessional loan, rather than a grant. However, there may be cases where a concessional component of a loan could be considered a grant (for example, as part of a granting activity or grant program design). Entities should consult with Finance if they are unsure whether the CGRGs apply in particular circumstances.
33. Loan guarantees are neither loans nor grants. They are a contingent liability incurred by the Commonwealth. Delegations under section 60 of the PGPA Act must be complied with before entering into a loan guarantee on behalf of the Commonwealth.

Gifts of relevant property

34. A gift of relevant property involves the provision of relevant property to another party. Gifts of relevant property are governed by section 66 of the PGPA Act and must be a 'proper' use of public resources.

Attachment A Financial Arrangements Matrix

Financial Arrangement	Substantive Purpose	Criteria	Authority required	Example(s)	Related Guidance
Grant	Promote policy objectives through the provision of financial assistance with or without conditions.	<p>Relevant money paid to a recipient other than the Commonwealth.</p> <p>Intended to assist the recipient achieve its goals.</p> <p>Intended to promote one or more of the Australian Government's policy objectives.</p> <p>The recipient may be required to act in accordance with specified terms and conditions.</p>	Grants that are not the ordinary services and functions of government will require either separate legislation or will need to be included within a program listed in Schedule 1AA or Schedule 1AB of the Financial Framework (Supplementary Powers) Regulations 1997.	<p>Open competitive grants rounds.</p> <p>Targeted and one-off grants.</p> <p>Entitlements programs that are not supported by their own legislation.</p> <p>Some sponsorships, subsidies and rebates.</p> <p>Gifts of relevant money.</p> <p>Ex gratia payments.</p>	<p><i>Commonwealth Grants Rules and Guidelines.</i></p> <p>RMG 412: Australian Government Grants: Briefing and Reporting</p> <p>ANAO Better Practice Guides.</p>
Procurement	Achieve policy objectives through the acquisition of goods and services for the Commonwealth's own use or for the use of third parties.	<p>The process of procuring goods and/or services.</p> <p>May be for the Commonwealth's own use or may be on behalf of third parties.</p>	Most procurement for an entity's own use will be for the ordinary services and functions of government and will not require separate legislative authority. However, a procurement may require separate legislative authority, where it is not for the ordinary services and functions of government, either through its own legislation or through Schedule 1AA or Schedule 1AB of the FMA Regulations.	Procuring supplies and equipment, consultancy services, memberships, advertising and travel.	<p><i>Commonwealth Procurement Rules.</i></p> <p>Procurement website.</p>

Financial Arrangement	Substantive Purpose	Criteria	Authority required	Example(s)	Related Guidance
Gifts of relevant property	To transfer relevant property to the recipient free of charge.	The Commonwealth must have acquired or produced the property to use it as a gift, or the gift is expressly authorised by law, or the Finance Minister (or delegate) has authorised the gift in writing, or the gift is made in accordance with any requirements prescribed by the rules.	The power to make gifts of relevant property is established under section 66 of the PGPA Act.	Gifts of relevant property to visiting dignitaries. Gifts of ex-government computers to public schools.	RMG 206: Accountable Authority Instructions – Non-corporate Commonwealth Entities.
Compensation payments	To compensate individuals or groups for financial losses or other adverse consequences caused by a decision, action or omission on the part of the Commonwealth.	The criteria for a particular compensation payment will be set out in either its enabling legislation or the Scheme for Compensation for Detriment caused by Defective Administration (CDDA Scheme).	Payments made as part of the CDDA Scheme will likely fall within the ordinary services and functions of government and not require separate legislative authority. Other compensation payment schemes will require their own legislation	Payment in accordance with the CDDA Scheme Payments made under section 73 of the <i>Public Service Act 1999</i> . Payments for the settlement of legal liability claims made in accordance with entity obligations under the Legal Services Directions.	RMG 401: Request for discretionary financial assistance under the PGPA Act
Benefit and entitlement payments established by legislation	To provide a benefit to individuals or groups that meet specified criteria as established by legislation.	An entitlement is a right to a particular payment established in legislation and generally involves no obligation on the recipient to spend the proceeds for any particular purpose, or to subsequently account for or acquit the expenditure.	Entitlements established by legislation must be supported by their own legislation.	Examples of entitlements established in legislation include pension payments made through the <i>Social Security (Administration Act) 1999</i> , payments to veterans through the <i>Veterans' Entitlement Act 1986</i> .	RMG 411: Grants, Procurements and Other Financial Arrangements.

Financial Arrangement	Substantive Purpose	Criteria	Authority required	Example(s)	Related Guidance
Tax concession or offset	Achieve policy objectives by directly reducing the amount of tax an individual or other bodies must pay.	Specific categories of tax concessions and offsets are contained in the various pieces of taxation legislation administered by the Australian Taxation Office.	All taxation legislation administered by the Australian Taxation Office.	Fuel excise rebate.	Australian Taxation Office.
Investments	Earning income or a profitable return for the Commonwealth.	An investment is an arrangement that involves the purchase of an asset by the Commonwealth for the primary purpose of earning income or a profitable return for the Commonwealth.	Investments are made under the authority of specific enabling legislation or section 58 of the PGPA Act.	Investments made under the <i>Future Fund Act 1996</i> .	RMG 301: Investment by Commonwealth entities.
Loans	May be made for a variety of reasons, including policy purposes and as a means of facilitating repayments to the Commonwealth. However, the primary purpose of a loan is not to earn a commercial rate of return or profit for the Commonwealth.	An arrangement under which the Commonwealth advances a sum of relevant money to an external recipient with the recipient agreeing to repay that sum (with or without interest) on a future date or on demand. While interest may be payable under a loan, it may not be at commercial rates.	Loans that are not the ordinary services of government will require either separate legislation or will need to be included within a program listed in Schedule 1AA or 1AB of the Financial Framework (Supplementary Powers) Regulations 1997.	Concessional loans.	RMG 411: Grants, Procurements and Other Financial Arrangements.
Act of grace payment	To provide financial relief to individuals or other bodies where there is a moral rather than a legal obligation on the Commonwealth and there are no other means of redress.	A discretionary power of the Finance Minister or delegate to make payments on behalf of individuals or other bodies due to special circumstances.	The power to make act of grace payments is established under section 65 of the PGPA Act.	Cases where legislative and administrative provisions do not take sufficient account of the special circumstances of individual cases.	RMG 401: Request for discretionary financial assistance under the PGPA Act

Decision Tree for Financial Arrangements

