



## **Australian Government**

# Australian Government response to the Joint Committee of Public Accounts and Audit Report 495:

## **Inquiry into Commonwealth grants administration**

September 2024

## **Response to the Committee's Recommendations**

### **Recommendation 1**

2.93 The Committee recommends that the Australian Government implement the recommendation from JCPAA Report 484 to add an eighth principle to the Commonwealth Grants Rules and Guidelines that decision makers should adhere to the guidelines, which the previous Government agreed to but failed to actually implement.

### **Agreed**

The Government will implement this recommendation through the *Commonwealth Grants Rules and Principles 2024 (CGRPs)*, which come into effect on 1 October 2024. The CGRPs will replace the *Commonwealth Grant Rules and Guidelines 2017*.

The CGRPs include a new key principle for grants administration, 'Consistency with Grant Guidelines and Established Processes'. Officials involved in grants administration must have regard to the key principles (paragraph 4.4b) and entities must put in place practices and procedures to ensure that grants administration is conducted in a manner that is consistent with the key principles (paragraph 6.3).

Under this new key principle, the CGRPs make clear that:

- decisions to award grants should correspond to the guidelines and the published process for the grant opportunity, be based on merit, be transparent and well documented, and align with the objectives of the grant opportunity.

- grant opportunity guidelines should document the circumstances in which the eligibility or assessment criteria set out in grant opportunity guidelines may be waived or amended, along with the strategies that will be used to mitigate any disadvantage to potential grantees from waiving or amending selection criteria. Decisions to waive or amend eligibility and assessment criteria should be taken by the appropriate decision maker and documented.
- grant opportunity guidelines should not be changed after the grant opportunity is closed to applications. Decisions to deviate from published guidelines and any amended processes should be documented and appropriately communicated, including whether potential grantees will be provided an opportunity to apply or to revise an application, or whether a new grant opportunity will be issued.

### **Recommendation 2**

2.94 The Committee recommends that the Department of Finance amends its *Resource Management Guide No. 412 – Australian Government Grants – Briefing, Reporting, Evaluating and Election Commitments* to clarify the definition of an election commitment for the purpose of delivering grants programs.

### **Agreed**

The new CGRPs explicitly state that they apply to all forms and types of grants, including election commitments (paragraph 2.4).

The Department of Finance will update Resource Management Guide 412 to adopt the definition of election commitment used by the Parliamentary Budget Office.

### **Recommendation 3**

2.95 The Committee recommends that the Australian Government amends the Commonwealth Grants Rules and Guidelines 2017 to provide that:

- Competitive, merit-based processes must be adopted by default with program design guidelines or decision makers required to document appropriately detailed reasons when a non-competitive approach is utilised, acknowledging there are legitimate circumstances where it is appropriate or preferable to do so including urgent situations such as disasters, or instances where there are only limited suitable grant recipients to give effect to election commitments or a policy.
- The role of all stakeholders must be disclosed in the published program guidelines for competitive merits-based grants programs, including any who assess or award grant funding and how advocacy and input from MPs and stakeholders is to be considered.
- A deadline for the receipt of advocacy letters and stakeholder input should be advised, after which time such input may not be able to be considered as part of the assessment process.

- Clear recommendations must be made for each individual grant and that the pooling of ‘eligible’ recommendations for decision-makers to choose from does not meet this requirement.
- Explicit reference be made to Resource Management Guide 412 so officials are fully aware and cognisant of this guidance.
- A decision-maker’s approval of funding against the recommendations of agency officials must be:
  - clearly recorded, with any refusal or unreasonable delay by decision makers in doing so to be reported to the Minister for Finance at the earliest opportunity; and
  - reported online, including the basis for that approval. This should preferably be in a central location on GrantConnect or at least on the agency’s website and be updated within three months of announcements being made.
- Any 'other factors' by which grants will be assessed must be:
  - transparently listed and published in program design guidelines to enable applicants to address them, and
  - formally included as part of the assessment criteria and appropriately assessed and scored.

### **Agreed with qualifications**

The Government agrees with the need to strengthen and provide greater clarity in relation to: the use of merit-based processes (and to document reasons for not using such processes); the role of various stakeholders in grants administration; the process for making recommendations; and recording and reporting requirements. The Government will address the various elements of this recommendation as follows:

#### *Competitive, merit-based processes*

The CGRPs include a new key principle for grants administration, ‘Merit-based Processes’. Officials involved in grants administration must have regard to the key principles (paragraph 4.4b) and entities must put in place practices and procedures to ensure that grants administration is conducted in a manner that is consistent with the key principles (paragraph 6.3).

This new key principle maintains the existing default position that competitive merit-based selection processes should be used to inform the award of grants unless specifically agreed otherwise by a minister, accountable authority or delegate. However, noting that there are instances where non-competitive processes are appropriate, the principle provides that the rationale for using a different approach to the default should be documented and included in the grant opportunity guidelines.

#### *Clarifying stakeholder roles*

Third parties that undertake grants administration processes on behalf of the Commonwealth must adhere to the key principles and applicable requirements of the CGRPs and the published grant opportunity guidelines. The term ‘third party’ is defined in the CGRPs to include any person or entity involved in the grants administration process who

is not a minister, accountable authority or official, including parliamentarians and external committees.

Consistent with the key principle of ‘Governance and Accountability’, officials must clearly define the roles of third parties in grants administration (paragraph 14.3), including through the grant opportunity guidelines, operational guidance and entity procedures. This would include, for example, explaining the role of parliamentarians and other stakeholders who will provide advice or recommendations to decision makers (paragraphs 2.10 and 2.11).

Finance will also develop guidance to support entities to consider when it may be appropriate for other inputs such as advocacy and representations to be considered in grants decision making, consistent with the key principles of ‘Collaboration and Partnership’ and ‘Probity and Transparency’.

#### *Recommendations to decision makers and recording and reporting requirements*

The CGRPs include new mandatory requirements for strengthened briefing by officials and decision making, recording and reporting by ministers (paragraphs 4.6 and 4.7). In addition to the existing requirements under the CGRGs, officials will be required to provide ministers with clear advice on the merits of grant applications and to indicate which applications can be supported within the available funding. In addition, officials must recommend that applications that do not meet any of the selection criteria be rejected. Officials are also encouraged to make other specific recommendations regarding the grant applications. These recommendations could, for example, be based on other factors outlined in the grant opportunity guidelines (paragraph 4.7(d)). The new key principles of ‘Consistency with grant guidelines and established processes’ makes clear that grant opportunity guidelines should clearly set out how such factors will be assessed and applied ( paragraph 13.3).

In addition to the existing requirements under the CGRGs, the CGRPs will require ministers who are the approvers of grants to record the basis for approving grants that officials have recommended be rejected and the basis for not approving grants which officials have recommended be approved. Ministers must also record in writing any conflicts of interest relating to a grant that they approve (paragraph 4.10).

The CGRPs will also require the Minister for Finance to table in each House of Parliament a copy of reports received from ministers under paragraph 4.11(a) (approval of grants in own electorate) and 4.12(a) (approval of grants which officials recommended be rejected), as soon as practicable after the end of each quarter (paragraph 4.13). The decisions by ministers under paragraphs 4.11 and 4.12 must also be recorded on GrantConnect.

#### *References to guidance*

While the CGRPs do not reference specific Resource Management Guides, the CGRPs note that additional guidance, tools and templates are available on the Finance website (paragraph 2.12). This approach is appropriate to ensure guidance material can be updated as required without the need to amend the CGRPs, which is a legislative instrument. The Department of Finance is providing a range of support for officials to support implementation

of the CGRPs and exploring further education opportunities to increase awareness and understanding of the grants framework and to improve grants administration.

#### **Recommendation 4**

- 2.96 In keeping with the key principles of ‘Governance and Accountability’ and ‘Probity and Transparency’ in the administration of Commonwealth grants, the Committee recommends that the Department of Finance develops ‘good practice’ examples of record-keeping templates with an accompanying checklist that give effect to the rules and principles of the CGRGs that all Commonwealth entities be strongly encouraged to use for any grants or ‘grants-like’ programs. These templates and checklists should prompt both public officials and ministers to clearly document all decisions and decision-making processes throughout the operation of a grants program. The following requirements are recommended:
- sample templates and accompanying checklists be developed no later than six months from the date of this report
  - input on template design and accompanying checklists to be sought from the major Commonwealth entities that operate grants programs, Grants Hubs, and from the Australian National Audit Office
  - all Departments of State and other significant grant-making entities be asked to advise the Committee within 6 months of the templates and checklists being finalised how they have now embedded the guidance in their agency’s practices.

#### **Agreed with qualifications**

The CGRPs highlight that officials must retain appropriate records, consistent with their obligations under Part 2-3 of the *Public Governance Performance and Accountability Act 2013* and the *Archives Act 1963* (see CGRPs, paragraph 3.15). Entities must also ensure that they have in place appropriate internal policies and processes that are consistent with the requirements of the CGRPs (paragraph 6.3).

The Department of Finance is developing guidance to support officials to implement the new CGRPs. This guidance will include appropriate links to the support and guidance provided by the National Archives of Australia, which sets policy and standards on data management and record security.

To support consistency across government, the Department of Finance has developed a range of tools including templates for grant opportunity guidelines and agreements, a checklist for officials who are briefing ministers and templates to assist ministers to report to the Minister for Finance on decisions to award grants in their own electorates or against the advice of officials under paragraphs 4.11 and 4.12. Entities are strongly encouraged to use these templates and checklists.

### **Recommendation 6**

2.128 The Committee recommends that the Australian Government amends the Commonwealth Grants Rules and Guidelines 2017 and makes any consequential amendments to other legislation to provide that:

- The Commonwealth Grants Rules and Guidelines will apply to corporate Commonwealth entities by default unless exceptions are made via legislative instrument issued by the Minister for Finance.

### **Agreed with qualifications**

Division 6A of Part 2-4 of the PGPA Rule mirrors the existing requirements under the CGRGs where a minister is involved in the making of a Corporate Commonwealth Entity (CCE) grant.

Division 6A will be updated to reflect the new obligations applying to ministers under the CGRPs, which come into effect on 1 October 2024.

Following the implementation of these amendments, Finance will undertake further work, in consultation with CCEs, to explore whether the remaining elements of the CGRPs should apply to CCEs, and the appropriate mechanism/s to do so.

### **Recommendation 7**

3.23 The Committee requests that the Department of Finance reports back to it on its progress in implementing the recommendations of the audit into the grants hubs by the Australian National Audit Office within 12 months of the date of this report.

### **Agreed**

The Secretary of the Department of Finance wrote to the Chair of the JCPAA on 8 June 2024 providing an update and acquitting this recommendation. A copy of this letter is available on the JCPAA inquiry website.