



Administration of Government Grants in the ACT

Policy and Cabinet

Chief Minister Treasury and Economic Development Directorate

July 2011

This Policy progresses a government decision in relation to the development of whole of government approach to grant programs.

Updated 2019 by Chief Minister, Treasury and Economic Development Directorate

Contact:

Social Policy Commonwealth State Relations

Chief Minister, Treasury and Economic Development Directorate

ACT Government

Contents

PART I	Overview	4
Item 1	Background.....	4
Item 2	Purpose	4
Item 3	Objectives	4
Item 4	Application	4
Item 5	Definitions	4
Item 6	Exclusion Clause	5
PART II	Legislative and Policy Framework	5
Item 1	Key Legislative Requirements.....	6
1.1	Financial obligations.....	6
1.2	General Obligations	6
Item 2	Key Policy Requirements	7
2.1	Chief Executive Financial Instructions*	7
2.2	Deed of Grant Template	7
2.3	Assessment Criteria	8
Item 3	Requirements established by this Policy for certain grant programs	8
PART III	Key Principles of Grants Administration for Territory Officers	9
Item 1	General.....	9
Item 2	Principles	9
Item 3	Planning for an ACT Government Grant Program.....	10
PART IV	Resources Section	14

PART I Overview

Item 1 Background

Grants are used as a mechanism for transferring funding to external parties for the purpose of achieving particular Australian Capital Territory Government policy objectives.

Transparent grants administration aims to:

- equitably and transparently select funding recipients that best represent value for money in the context of the stated objectives of the grant-giving activity; and
- deliver Australian Capital Territory Government funding to approve recipients to achieve desired government policy outcomes.

Item 2 Purpose

- (1) This best practice policy is established for the purpose of detailing a framework for the use and administration of ACT Government grants.
- (2) Within the framework established by this document, agencies determine their own specific grants administration practices and processes.

Item 3 Objectives

- (1) The objective to be achieved through this policy is to enable consistent, efficient and effective administration of ACT Government grants in accordance with legislation and government policy objectives.
- (2) This objective is supported by:
 - (a) legislative and policy requirements as set out in Part II;
 - (b) the ACT Government Grants Portal located at <http://www.grants.act.gov.au/>; and
 - (c) the ACT Government accounting policy papers and each directorate's Directors-General Financial Instructions (**DGFIs**)

Item 4 Application

- (1) This policy applies to all Territory directorates and authorities subject to the *Financial Management Act 1996* (ACT) and that are responsible for the administration of ACT Government grants, when considering entering into a grant arrangement.
- (2) This policy applies to one-off grant payments and to short and long-term grant programs.

Item 5 Definitions

A **grant** is a sum of money given by the Territory to a recipient as a gift for a specified purpose to enable the recipient to achieve their goals and objectives that are consistent with Territory policy.

The following are examples of arrangements that are **not** grant arrangements.

1. The *procurement* (or acquiring) of goods, services, works or property by a Territory agency from a consultant or contractor by purchase, lease, rental or exchange in accordance with the *Government Procurement Act 2001* (ACT). Procurements include *Service funding arrangements*, in which the Territory enters into an agreement with a non-government organisation.

A grant is not subject to the *Government Procurement Act 2001* (ACT).

More detailed information in relation to ACT Government procurement is available on the Procurement Solutions website at <http://www.procurement.act.gov.au/>.

2. *Sponsorship arrangements* in which the Territory provides money to an organisation or individual to enable the organisation or individual to carry out a particular event or activity in return for which the Territory receives sponsorship rights.
3. *Compensation payments* made under legislation.

*If you are unsure as to whether an anticipated arrangement is a grant arrangement, please contact the ACT Government Solicitor for assistance.

Grants administration encompasses the entire process of a granting activity, and includes:

1. planning and design;
2. selection and decision-making;
3. the making and documentation of a grant;
4. the management of deeds of grant;
5. reporting; and
6. review and evaluation.

Grant program means a program in which grants are provided in funding rounds (generally yearly).

Item 6 Exclusion Clause

A **Political Party** is not eligible for government funded community grants.

A **Political Party** is defined as an organisation, incorporated or unincorporated, an object or activity registered under the ACT's *Electoral Act 1992* or registered nationally or in a State/ Territory as a political party.

PART II Legislative and Policy Framework

In summary, 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 Financial Instructions (DGFIs)
- ACT Government Solicitor's Deed of Grant template
- other ACT Government policy including, but not limited to:
 - agency risk management policy and processes;
 - insurance determinations; and
 - any universal criterion that may be developed.

It is noted that ACT Government Grants should be administered with reference to advice published by the Australian Taxation Office.

Item 1 Key Legislative Requirements

1.1 Financial obligations

FINANCIAL MANAGEMENT ACT 1996 (ACT)

- (1) The *Financial Management Act 1996* (ACT) (**FMA**) sets out the legislative basis for the financial framework under which the Territory operates.
- (2) 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.
- (3) The FMA requires directorates to provide regular service performance and financial reports to the Minister, including Annual Reports (see Part 3 of the FMA).
- (4) The ACT Treasury Directorate has issued FMA Guidance Papers..

1.2 General Obligations

PUBLIC SECTOR MANAGEMENT ACT 1994 (ACT)

- (1) 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 –
 - (a) works efficiently, effectively and constructively; and
 - (b) is responsive, collaborative and accountable; and
 - (c) makes fair and reasonable decisions.
- (2) 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 DGFI's. 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)

- (1) 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)

- (1) 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.

Item 2 Key Policy Requirements

2.1 Directors-General Financial Instructions*

- (1) To assist Directors-General in meeting their responsibilities under section 31 (or section 55 for Territory Authorities) of the FMA, Director-General Financial Instructions (DGFI's) were implemented.
- (2) These instructions were developed to provide an integral control mechanism for Directors-General to ensure the efficient and effective financial management of Territory agencies. Each directorate has their own version of DGFI's (note in particular chapter 2.6 "Grant Administration").
- (3) Senior Executives and Directors are responsible to provide the management and information that a Director-General requires for the necessary financial and general management of the directorate in accordance with the FMA, in accordance with each directorate's DGFI's including by providing appropriate records and reports on expenditures as required. Directors should use their own reports to reach appropriate decisions and to adequately discharge their financial and general management responsibilities to the Director-General with respect to grant arrangements.
- (4) Directorial DGFI's are usually found on the Directorate's Intranet or by contacting the Directorate's finance section.

2.2 Deed of Grant Template

Australian Capital Territory Government grant arrangements must be documented using the ACT Government Solicitor's Deed of Grant template.

Any decision not to use the template should be justified, documented, and approved by the relevant delegate. If alternative documentation is considered, it is recommended agencies consult with the ACT Government Solicitor.

2.3 Assessment Criteria

The following assessment criteria is applicable to all ACT Government grant programs and is aimed at directing resources to address social inclusion and reduce disadvantage to improve Aboriginal and Torres Strait Islander outcomes:

“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.”

Item 3 Requirements established by this Policy for certain grant programs

In addition to compliance with the general legislative and policy requirements discussed in Item 1 and Item 2 of Part II of this policy, ACT Government grants programs that fit into particular ACT Government grants program streams (being the *Health and Community Wellbeing* or the *City and Territory Services* programs, or such grant programs as notified from time to time) should:

- (1) be administered taking into account the key principles of grant administration set out in Part III of this policy;
- (2) be made publically available through the Grants Portal (noting any legal or policy restrictions on the publication of that information); and
- (3) comply with the ACT Government Website Policy.

PART III Key Principles of Grants Administration for Territory Officers

Item 1 General

- (1) Territory Officers responsible for the administration of a grant or grants program should refer to their DGFI.
- (2) In general, a directorate's DGFI will contain instructions in support of the legislative and policy requirements set out in Items 1 and 2 of Part II of this policy that relate to principles of grant administration as set out in Item 2 of this Part III below (noting these principles are not intended to conflict with any DGFI, but to provide general guidance to Territory Officers).

Item 2 Principles

Territory Officers should ensure grants administration is conducted soundly by taking into consideration a number of key principles for grants administration set out below.

- (1) **Robust planning and design.**
High quality planning of each step of a grant process underpins efficient, effective and ethical grants administration.
- (2) **An outcomes orientation.**
Grants administration should focus on the delivery of outcomes that implement government policy.
- (3) **Proportionality.**
The framework for a granting activity should be commensurate with the scale, nature, complexity and risks involved in the granting activity.
- (4) **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.
- (5) **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.
- (6) **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.

- (7) **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.

Item 3 Planning for an ACT Government Grant Program

Territory Officers should use established best practice when planning an ACT Government Grant Program. Planning sets out the steps and processes to ensure ***grants administration*** identifies what resources are needed and how they will be used.

Key Considerations in the Planning Process

(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.

- Undertake Risk Management

Risk management involves the systematic identification, analysis, treatment and allocation of risks. The extent of risk management required in grants administration will vary, because a variety of risks may arise during each stage of grants administration. The risk management should be developed with reference to the key principles for grants administration, particularly Principle (3) 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.

- Select Approach to Funding

While no form of funding agreement is right for all circumstances, an enforceable agreement should be established wherever possible. Advice on the forms of enforceable agreements must be sought from the ACT Government Solicitor's Office. Advice on funding strategies should be obtained from the Treasury Directorate.

- Produce Program Guidelines

Grant program guidelines should be fit for purpose and should include information on the outcomes and objectives of the grant program, governance arrangements, funding and selection processes, performance monitoring and reporting, evaluation, operational issues and complaint handling mechanisms.

(2) **Selection and decision-making**

Establish processes, and communicate them to staff, around:

- 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 processing the first application.

- 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.

- Establishing appropriate internal control mechanisms for granting activity.

The separation of duties is a fundamental internal control. No single officer should appraise an application for funding assistance, give financial approval for the expenditure and make the offer to the applicant.

It is important that appraisal and selection processes be transparent and free from the risk of political or other bias. It is better practice for all like 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.

Grant assessors should document when referring to, or relying on, knowledge or documentation other than the application form.

- **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) Making and documentation of a grant

- **Establish Deeds of Grant**

After selecting a funding strategy the form of the funding agreement 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.

- **Establish Monitoring Arrangements**

Conditions should be expressed with sufficient precision so that it can be determined whether the recipient is complying with those conditions.

(4) Management of Deeds of Grant

- **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 their intended purposes.

- **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 the Deed of Grant. 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 recover or write-off outstanding funds should be documented.

(5) Reporting

- Payment of Grants and Contract Management

Payment of grants and contract management will be as detailed in *Part II Legal and Policy Environment*.

- Contract Agreement

It may also be appropriate for proportionality principles to inform an agency's consideration of reporting requirements for recipients. It should not be assumed that the same approach will suit all circumstances, regardless of the scale or purposes of the grant in question or the performance record of the grant recipient.

(6) 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.

PART IV Resources Section

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.

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>. The Commonwealth Grant Guidelines (CGGs) have no jurisdiction in the ACT.

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

Note: References in this policy are correct as at November 2019.