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STANDING COMMITTEE ON PUBLIC ACCOUNTS

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Submission Cover Sheet

Inquiry into Grants Management

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INQUIRY INTO GRANTS MANAGEMENT: ACT GOVERNMENT SUBMISSION

The ACT Government is pleased to make this submission into the ACT Legislative Assembly's Standing Committee on Public Accounts Inquiry into Grants Management.

Definition of a grant

A grant as 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.¹

Underpinning policy and legislative framework (TOR 2e)

Grants in the ACT are governed by a range of policies. The overarching policy framework is the *Administration of Government Grants in the ACT: A framework and best practice policy* (Grants Framework) which provides a whole of government framework for the use and administration of ACT government grants. It enables the consistent, transparent, efficient, and effective grants administration in accordance with legislation and government policy objectives. Under the Grants Framework, agencies have responsibility for developing their own specific grants administration practices and processes.

Director-General Instructions identify the governance requirements for managers of business units administering grants programs. Administrators are also required to comply with the *Freedom of Information Act 1989 (ACT)* and the *Privacy Act 1988 (Cth)*.

ACT overarching legislation requires that government must ensure the efficient and effective management of public resources, including requirements under the *Financial Management Act 1996* and the *Public Sector Management Act 1994*.

Range and Availability of Grants (TOR 1)

Under the *Annual Reports (Government Agencies) Directions 2022*, agencies are required to report on Community Support Initiatives: Grants and Sponsorships and include information on the recipient, project title, project purpose and the amount of the grant provided.

The range and types of grants vary across government directorates but broadly focus on areas of health and community wellbeing, environment, arts, and economic development. In 2021-22 the following were reported:²

Chief Minister, Treasury and Economic Development Directorate (CMTEDD) – 34 programs at \$22.6 million which support arts; innovation, trade and investment; skills and jobs; events; and sport and recreation; as well as \$340.5 million in COVID-19 specific industry support payments.

Community Services Directorate (CSD) – 27 programs at \$10.8 million³ which are targeted at specific cohorts, such as women and women's safety, multicultural community, people with disability, people who are public housing tenants, Aboriginal and Torres Strait Islander people, young people, seniors, and veterans; as well as \$1.8 million in COVID-19 community support payments.

¹ Source: Administration of Government Grants in the ACT, A framework and best practice policy.

² Data sourced from the Community Support Initiatives: Grants and Sponsorship section of directorates' annual reports.

³ This amount also includes a range of other community service grants funded through Deeds of Grants.

Transport Canberra and City Services Directorate (TCCSD) – 28 programs at \$0.2 million supporting maintenance, development and restoration of parks, reserves and woodlands and their biodiversity; and promoting light rail safety and special event light rail services; as well as the ACT Road Safety Fund at \$0.4 million which supports road safety research and education, and road trauma prevention (reported separately to community support initiatives under Output Class *Transport Canberra*).

ACT Health Directorate – five programs at \$2.1 million which support children and families, enable active living and healthy eating, reducing risky behaviours and promoting healthy ageing; promoting the allied health profession to Aboriginal and Torres Strait Islander high school students; and seeks to engage marginalised and vulnerable population groups in testing and treatment for hepatitis C.

Education Directorate – 11 programs at \$1.1 million supporting P&Cs, scholarships, and for education support to Aboriginal and Torres Strait Islander students.

Environment, Planning and Sustainable Development Directorate (EPSDD) – six programs at \$2.1 million targeting a range of environmental initiatives, such as the zero emission, supporting community gardens, improving conservation outcomes, promoting the heritage of the ACT, and natural resource management, as well as \$0.1 million for the National On-farm Emergency Water Infrastructure Rebate.

Justice and Community Safety Directorate (JACSD) – programs include \$1.1 million for Diversification and Sustainability Support Fund; \$1.6 million in tailored legal services for Aboriginal and Torres Strait Islander Families; \$3.2 million in Commonwealth funding for Legal Assistance Services; \$1.2 million for various community legal services and community programs; and \$7.8 million in support funding for the racing sector.

A number of directorates do not report on financial assistance to individuals (for example concessions or other support to low-income households), service purchase payments, on-passing of Commonwealth grant funding, and payments to other government entities in the Community Support Initiatives: Grants and Sponsorships section of annual reports. For these reasons, the totals above often differ from the Grants and Purchased Services totals in financial statements.

Determining a Grant (TOR 2)

Agencies are expected to use established best practice outlined in the Grants Framework in determining a grant, with the process summarised into four stages below:

- Planning for a grant program – requires ensuring there is an identified need with clearly defined operational program objectives, as well as consideration of risk management, value for money, program guidelines, and accountability, performance, and reporting requirements.
- Selection and decision making – requires the appraisal and selection processes to be transparent, equitable, and free of bias, with appropriate controls and procedures for handling of applications and conflict of interest, adequate documentation of the process, clearly defined selection criteria to appraise applications, and transparency around outcomes.
- Managing a grant – includes determining an appropriate grant agreement, monitoring progress and payments, managing performance and acquitting funding.
- Review and evaluation – grant programs should be periodically reviewed to ensure they are continuing to meet government priorities and objectives.

The following sections provide further detail of arrangements to be followed in the management of grants programs against the committees' specific terms of reference.

Oversight of funding decisions (TOR 2a)

In making funding decisions, officials are to comply with the ACT's legislative framework and policies. The *Financial Sector Management Act 1996 (FMA)*, outlines responsibilities of Directors-General to deliver the efficient and effective management of public resources. Director-General instructions outline the core legislated resource management requirements and related whole of government policies that are relevant to all ACT Government Directorates.

The Grants Framework identifies that agencies are responsible for ensuring that there are clear lines of delegation in place for the approval of both grant funding programs and awarding of individual grants. Agencies should have appropriate internal control mechanisms in place to ensure the separation of duties where the delegate giving financial approval for the expenditure is not appraising applications.

Grant rounds may be undertaken through either a competitive or a more targeted select process with grant managers determining the best methodology or approach based on the nature and objectives of the grant program. Under either approach, the decision as to the appropriate approach must be documented and agreed by the delegate before the program is advertised.

Under Director-General Instructions, managers of business units administering grant programs must:

- investigate whether the granting activity would duplicate other sources of funding;
- consult with CFOs in relation to financial and taxation implications of grants; and
- ensure that grant agreements are only signed by officers with appropriate delegations.

A range of funding agreements are used to 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. These include using either a Deed of Grant, Letter of Offer, or a Memorandum of Understanding with the form of agreement commensurate with the scale, nature, complexity, and risks involved in the granting activity.

Monitoring of both payments and progress is an integral part of good governance and risk management and provides a measure of assurance that public funds allocated to grant recipients have been spent for the intended purpose. In addition, reliable, timely and adequate evidence is required to demonstrate that grant funds have been expended in accordance with the terms and conditions of the grant agreement. The stringency of acquittal procedures is to 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.

Transparency of decision making under grants schemes (TOR 2b)

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.

Grant managers are required to keep full and accurate records of their business activities and have regards to guidance provided by their agency concerning freedom of information requests and requirements as the *Freedom of Information Act 2016* prescribes that agencies proactively release a range of government information, including information about government grants made or administered by an agency (Part 4, 23 (1)(e)).

Agencies publish on the [ACT Government Grants Portal](#) information on their individual grants, or where appropriate, a bundle of grants. The default government position is that all agencies must report all grants awarded on the portal.

There may be circumstances where an agency determines that public reporting of grants in accordance with the government's grants policy is contrary to the *Privacy Act 1988*, other statutory requirements, or the specific terms of a Deed of Grant.

In these circumstances, agencies:

- must endeavour to publish as much information as legally possible;
- must document the reasons for not reporting fully; and
- should take all possible steps to ensure that Deeds of Grant contain provisions that do not prevent the disclosure of information in accordance with the grants policy.

As identified earlier, agencies are also required to report on Community Support Initiatives: Grants and Sponsorships in their annual reports.

Independence of the assessment of projects (TOR 2c)

The *Public Sector Management Act 1994 (PSMA)* sets out the values, principles and conduct all public sector employees are to adhere to. With all public servants being required to undertake their job with reasonable care and diligence, impartiality and honesty, taking all steps to avoid or manage conflicts of interest.

In addition, *The ACT Public Sector Code of Conduct* expands on the values, principles and conduct set out in the PSMA to ensure that all employees are aware of the conduct expected of them. This allows the government and community to be confident that public servants maintain a high degree of integrity and can be trusted to deliver services in a fair, efficient and accountable manner.

The Grants Framework identifies that appraisal and selection processes are to 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, agencies should document the reasons for this.

Agencies are required to ensure that they have clear lines of delegation for the approval of both grant programs and awarding of individual grants. Granting activities are required to be underpinned by solid governance structures and clear lines of accountability in relation to outcomes and the process of administration.

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

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.

Scope of Ministers' discretion in determining which grants are approved (Tor 2d)

Ministers in the ACT are bound by the Ministerial Code of Conduct which sets out ethical principles, including integrity, honesty, diligence, transparency, accountability, fairness, respect and respect for the law and the administration justice, and their responsibility to apply the powers and privileges of their office solely in the pursuit of the best interests of the people of the ACT.

While Ministers can and do determine grant programs and objectives, it is directorates' responsibility to plan, manage and run grants programs in line with desired government outcomes.

Throughout this process agencies are expected to comply with best practice, following standard procedures and clearly documenting the process.

Officials need to provide decision makers information on the application and selection processes followed, the criteria used to assess applications, and reasons for any recommendation as to why an applicant is considered successful.

For certain programs, Ministers are involved in the early design stage (including the development of assessment criteria) and in approving funding based on documented recommended advice. The outcomes of grants programs and successful applicants may be provided to Ministers in the form of 'for noting' briefs so that Ministers are aware of who or which groups are receiving funding under certain programs

Box 1 below provides examples of Ministers involvement and how it is managed.

Box 1: Examples of Ministerial involvement with grants

Example – Education

- Minister is more likely to be involved in the initial stages of the development of a grant program potentially including development of assessment criteria and endorsement of processes. Generally once the grant program is operational, the Directorate undertakes the management of the program. In some cases endorsements of preferred recipients may be undertaken by the Minister but this is subject to the particular grant guidelines.

Example – CSD

- Ministers are provided with an initial briefing package seeking approval to run a grant program. This includes approval of opening and closing dates, media announcement and draft Grant Guidelines.
- Ministers are provided with a final briefing package that includes a list of successful and unsuccessful applicants and reasoning and congratulation letters seeking Ministers signature prior to sending when appropriate.
- Assessment of grants and recommendations for successful applicants is undertaken by a Grant Assessment Team and approved by the financial delegate within CSD.

Example – CMTEDD, Economic Development

- Grant programs are conducted under publicly available guidelines which are generally approved by Ministers. Depending on the nature of the grant and/or level of funding available, ultimate delegates for the allocation of funding may be officials, or more commonly, the portfolio minister. Delegates are provided with recommendations for assessment panels assessed against the criteria in the guidelines.

While other jurisdictions (such as NSW and the Commonwealth) have specific policies regarding Ministers involvement in grant programs, the ACT has unique characteristics that limit the need for such policies. Having five electorates with five members each (drawn from a diverse range of parties and independent candidates) means there are reduced incentives for preferential treatment of electorates compared to other States and the Commonwealth, which have one member per region. In the ACT grants programs often provide benefits to the wider community across Canberra, the government aims to provide similar access to services and programs in each area and where this isn't possible people often traverse between electorates to access services and programs. It should

also be noted that many grants are smaller in nature than Commonwealth or State Government grants, on account of them being community focused and municipal in nature.

Measures necessary to ensure the integrity of grants schemes and public confidence in the allocation of public money (TOR 3)

The grants framework requires sound grants administration by Territory officers in line with the following key principles:

- **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 that 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.

An example of an evaluation currently being undertaken is identified in Box 2 below.

Box 2: Example of evaluation of grant schemes

Example – CMTEDD, Economic Development

- The Economic Development division of CMTEDD has procured an external consultant with relevant expertise to undertake an independent evaluation of the COVID-19 Business Support Grant Program and the Small Business Hardship Scheme. These programs were significant in scale and rapidly mobilised from August 2021, to support local business in managing the impact of public health measures, including the ACT lockdown, due to the pandemic.
- The evaluation is considering the effectiveness and efficiency of the programs including:
 - how effective they were in balancing: the cost of administration; the timeliness of commencement; efficiency of application processing; and the integrity of the programs;
 - governance documentation, systems, processes and data; and
 - the accessibility of systems, processes, and information.
- The findings are expected to provide insights on good practice and lessons learnt that could benefit and help shape future grants programs, as well as inform how the ACT Government can improve its ongoing engagement with the local business community. The evaluation is due for completion before the end of 2022.

Agencies may also undertake, from time to time, internal audits, or reviews of grants programs to provide assurance about their administration. Box 3 below provides an example of such a process.

Box 3: Example of internal audit

Example – CMTEDD, Economic Development

- Within CMTEDD, Economic Development (formally known as Enterprise Canberra) administer around \$18 million in grants. CMTEDD performed an internal audit on these grant allocations in March 2018. A follow-up audit was completed in May 2022.
- During the COVID-19 pandemic, business grants were available for eligible ACT businesses. Economic Development were responsible for administration. Given the size of the combined Commonwealth and ACT Government funding, an internal audit was completed on this grant management in May 2022.
- To provide additional assurance on internal audit findings and improvements to processes, recommendations from audit reports are tracked using the CMTEDD Recommendations Register.

This Submission has outlined the framework and range of measures the ACT Government has in place to ensure the integrity and public confidence in the administration of grants, covering the key themes from the committee’s TOR, namely oversight, independence, and transparency. Government welcomes advice from the committee on any further measures it may suggest.