

## **Joint Committee of Public Accounts and Audit**

### **Inquiry into Grants Administration**

### **Department of Finance**

### **Response to Question on Notice**

**Hearing of 31 March 2023**

#### **Question on Notice 1 (Proof Hansard Page 6)**

**Senator Canavan:** Okay. I'm sort of learning about them as we go through this committee process. I would have thought that, in your role as in implementing the framework, the question of whether or not a project has ever failed the value for money process would have been something you would ask and look for. Are you saying that the Department of Finance has never thought to ask this question of anybody? Are the rules binding in any serious way?

**Mr Williamson:** Yes, to begin with, the rules are binding. They're a legislative instrument that comes from the PJPA Act [sic]. We believe they are administered by entities on a daily basis. It is the individual entity in running a grants program who makes those assessments around projects and value for money. Those areas of departments or entities doing that, would be making those assessments and ruling projects in and ruling projects out.

**Senator Canavan:** But we haven't even established if a project has ever been ruled out. Could you take it on notice? I don't know if it's been formally taken on notice.

**Mr Williamson:** I can take it on notice, but I'm happy to answer.

**Senator Canavan:** Take on notice whether a project has ever been ruled out.

#### **Response:**

Under the *Public Governance, Performance and Accountability Act 2013*, the *Commonwealth Grants Rules and Guidelines* provide the devolved framework for grant decision-making by accountable authorities, officials and approving ministers. Decisions around value with relevant money and projects being either recommended or not recommended for funding are taken in the context of each grant program's assessment process, which is undertaken by the responsible entity.

Finance does not have visibility either of the recommendations that are made by officials or the specific decisions that are made by ministers in relation to grant programs at the time they are made. This would be difficult to monitor given the significant number of grant decisions made every year and the large bodies of advice and evidence that officials provide to support different ministers in their decision-making. For example, in 2021-22 there were over 41,000 grants awarded (excluding variations).

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#### **Question on Notice 2 (Proof Hansard Page 1)**

**Senator Canavan:** Sorry – but you’ve developed this. When did you develop the wizard? I note your submission says you have developed a wizard. It sounded to me like it was new, but maybe I’m wrong: maybe it’s been around for ages.

**Ms Frazer:** It’s been around for a couple of years.

**Mr Williamson:** It has been in place for a couple of years. If you want the date, we can take that on notice.

**Senator Canavan:** Okay, thanks. You mentioned some flow diagrams in your submission. Could we get a copy of those?

**Mr Williamson:** Yes.

**Ms Frazer:** A lot of our resources are available on our website, but we can get that to you.

**Mr Williamson:** We’ll pool those resources for you.

**Ms Frazer:** Yes, we’ll make them available.

#### **Response**

In December 2018, Finance released the grant opportunity guidelines templates to assist entities to develop grant opportunity guidelines. They are located on Finance’s website:

url: [www.https://finance.gov.au/government/commonwealth-grants/tools-and-templates](https://finance.gov.au/government/commonwealth-grants/tools-and-templates)

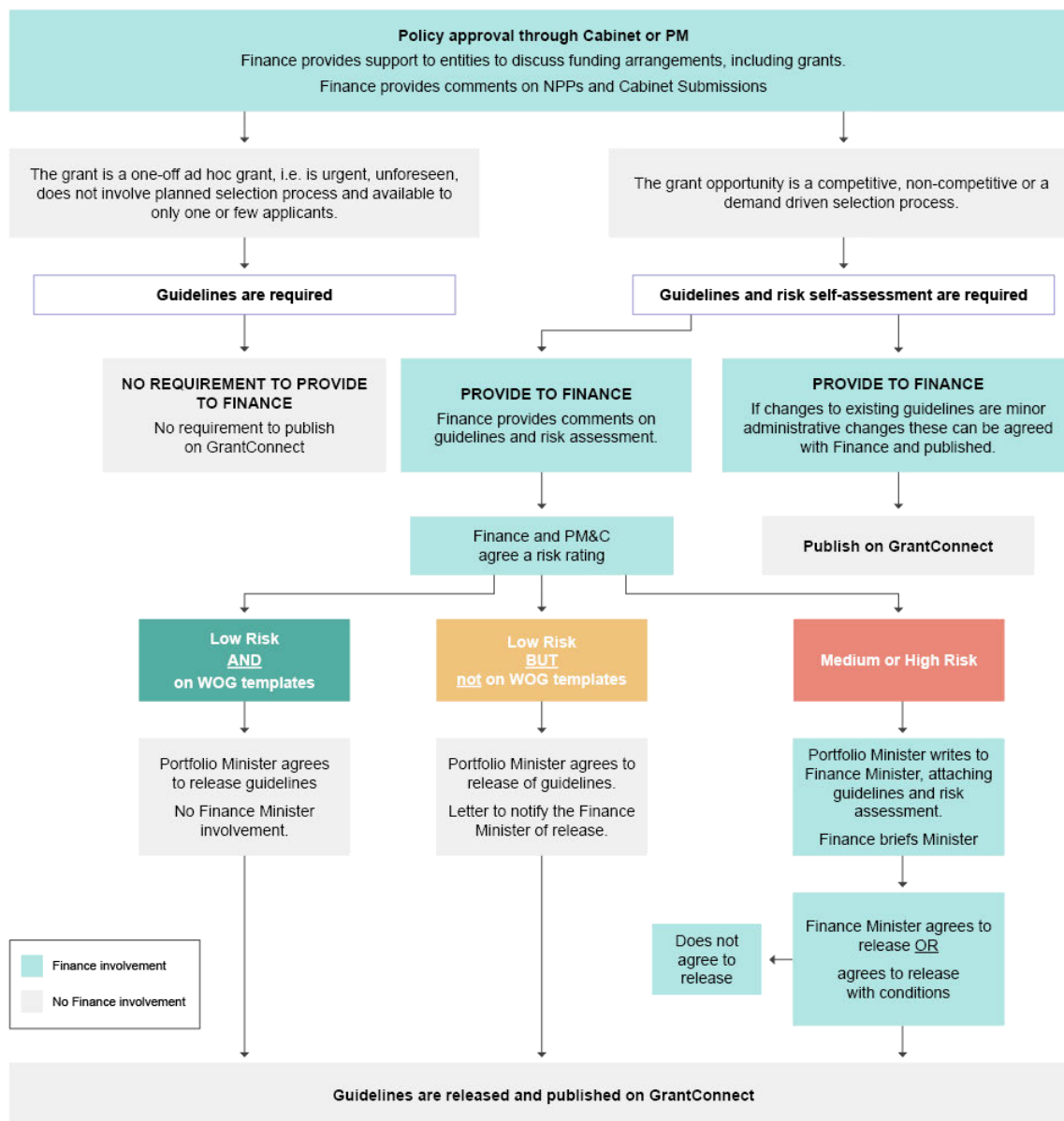
In November 2020 Finance released a Grants Wizard tool to assist entities to determine which is the appropriate template to use.

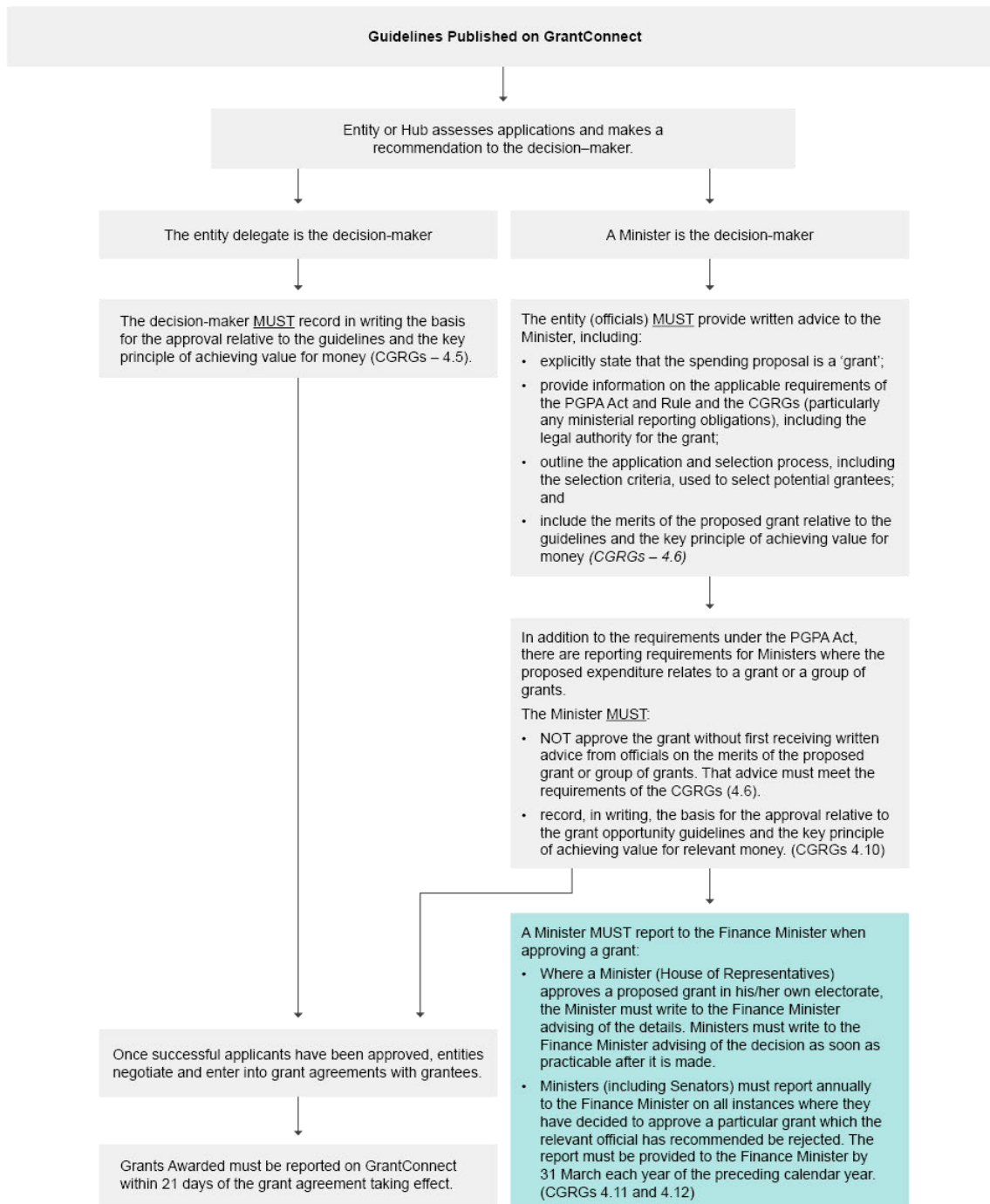
url: <https://www.finance.gov.au/publications/grants-template-wizard>

In November 2020 Finance also released a Grants Decision Tree Tool to assist entities to determine whether a financial arrangement is a grant, procurement of other financial arrangement.

url: <https://www.finance.gov.au/publications/grants/grants-decision-tree-tool>

In February 2020, Finance released flow diagrams that outline the process for grant guidelines and the decision maker's role in approving grant guidelines:





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#### **Question on Notice 3 (Proof Hansard page 2)**

**Chair:** Why would they not be subject to the grant guidelines, one may ask. I'll phrase this carefully because I'm not asking for a policy opinion: given Finance's custodianship of the grants framework, are there particular factors or issues that the committee may take into account when considering suggestions like the Auditor-General's suggestion to reverse the onus, effectively, which would see the grants rules apply to corporate Commonwealth entities and then exempt those the minister felt was not necessary?

**Mr Williamson:** I can give you an initial answer and we're happy to then provide further advice. It's a policy decision for government as to whether they would apply or not. You'd need to take into consideration any other legislation that may apply to the particular corporate Commonwealth entity that was being looked at. They have obligations under their own statutory frameworks, and you would want to ensure that the grants rules and guidelines didn't run contrary to that.

**Chair:** Taking into account other legislation could be done – if the government made the policy decision to reverse the onus, that would be the kind of factor that would be taken into account in choosing to exempt some entities, would it not?

**Mr Williamson:** It would need to be taken into consideration, yes.

**Chair:** So that's a policy decision for government. Could you take that on notice and, in a reflective way, point us towards nuance or factors, if we are ever minded to make such a recommendation?

**Mr Williamson:** Yes.

**Response:**

Corporate Commonwealth entities are established as legally separate to the Commonwealth and generally have enabling legislation that establishes the scope of their activities.

The *Public Governance, Performance and Accountability Act 2013* (PGPA Act) does not seek to alter the operational independence of entities as set out in their enabling legislation (refer paragraph 42 of the Explanatory Memorandum to the PGPA Act).

The majority of grant activity by the Government is undertaken by non-corporate Commonwealth entities, which are subject to the *Commonwealth Grants Rules and Guidelines*.

Finance does not have visibility of all grant programs administered by corporate Commonwealth entities but understands of the 71 corporate Commonwealth entities around 10 may undertake grant activities, including: Commonwealth Scientific Industrial Research Organisation (CSIRO), Australian National University (ANU), Wine Australia, Sports Australia, Australia Council, four Research and Development Corporations (RDC) (Cotton RDC, Fisheries RDC, Grains RDC and Rural Industries RDC) and the National Disability Insurance Agency.

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#### **Question on Notice 4 (Proof Hansard Page 3)**

**Chair:** Yes, they could do that in individual instances. I was just thinking: is there something more systemic in the system that would allow a government to set a default expectation or at least say, 'Here are the characteristics – if ministers are setting up these kinds of programs, they should apply this kind of framework'.

**Mr Williamson:** As I said, there are intergovernmental agreements where you can actually spell out those characteristics. I'm happy to take it on notice, and, potentially, I would consult with Treasury colleagues because of their responsibility in this domain, as I said. But there are always underpinning agreements for the particular payments that you're referring to, and they would provide the vehicle to establish those expectations and/or refer directly to the guidelines.

**Chair:** Did you have any comment, Auditor-General?

**Mr Hehir:** I think most of these programs are set up individually, and, if you had a framework sitting over the top, government could consider what sort of process to apply on an individual basis. The types of grant programs that we are talking about largely have the federal financial relations thing as an overarching agreement, with activities happening underneath, and most of what the grant guidelines go to are the activities of the Commonwealth which sit underneath those types of things. You couldn't have a blanket rule, because the vast majority of the money goes out in things which aren't – the grant guidelines just aren't relevant.

**Chair:** Of course. I think we're all agreed there. Can I leave that as a point of reflection for you and we may want to hear from Treasury. We can send them the Hansard of this and of the previous hearing because I think it's fairly well covered. I'm curious about whether there's any place in the system that can at least make decision-maker's conscious of the fact that they need to have some kind of framework if things look like this part of the spectrum, or that they should have because at the moment it seems to be a bit of a free-for-all.

**Mr Williamson:** We'll take it on notice.

**Response:**

Payments to states can be subject to either the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) or the *Commonwealth Grants Rules and Guidelines* (CGRGs). Both frameworks contain accountability requirements that reflect the nature of the funding provided and support decision-makers to consider and approve proposals to commit funding to the states.

The IGA FFR framework is focused on giving the states flexibility in achieving outcomes for which funding is provided. Under these arrangements the states are required to comply with obligations under their own financial frameworks. Additional accountability requirements can be incorporated into Commonwealth-State funding agreements to match the nature, size and purpose of each activity. Further accountability and transparency is provided through the Government publishing all agreements on the [Federal Financial Relations website](#).

The CGRGs can apply in a Commonwealth-State funding arrangement where a payment to a state is a Commonwealth Own-Purpose Expense (COPE).

A COPE is an expense made by the Australian Government in the conduct of its own general government sector activities and can include expenses for the purchase of goods and services and transfer payments, including competitive grants programs that can be applied for on the same terms and conditions as government and non-government sectors.

Commonwealth decision-makers must also operate within the overarching requirements of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). Accountable authorities of Commonwealth entities have a duty, under the PGPA Act at section 15, to promote the proper use and management of public resources for which they are responsible. Accountable authorities also have a duty, under the PGPA Act at section 16, to establish an appropriate system of internal control. This includes ensuring that officials of their entity comply with the finance law including arrangements committing to spend relevant money. Officials of Commonwealth entities must comply with their duties as officials in Chapter 2, Division 3 of the PGPA Act, including the duty to act honestly, in good faith and for a proper purpose at section 26 of the PGPA Act. If a Minister approves proposed expenditure, the PGPA Act at section 71 requires the Minister to be satisfied that the expenditure would be a proper use of relevant money.