



Australian Government

Austrade

Inquiry into the Export Market Development Grants Legislation Amendment Bill 2020

The Australian Trade and Investment Commission's
submission to the Senate Foreign Affairs, Defence and
Trade Legislation Committee

24 November 2020

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1. Introduction

The Australian Trade and Investment Commission (Austrade) thanks the Committee for the opportunity to make a submission in relation to its examination of the *Export Market Development Grants Legislation Amendment Bill 2020* (the Bill).

Austrade has long-standing responsibility for administering the Export Market Development Grants (EMDG) Scheme, which provides funding through a reimbursement scheme to assist exporters undertake promotion and marketing offshore and has been operating for over 45 years. Implementing the recommendations of the independent *Review of Financial Assistance to SME Exporters*, this Bill will reorient EMDG to be an entitlement based grant program. It will modernise and streamline EMDG's administration to deliver financial assistance to small and medium enterprise (SME) exporters in the most effective and efficient way, and in a way which will have the greatest impact.

2. Context for the reform of the Export Market Development Grant scheme

The EMDG scheme has been supporting exporters since 1975.

The *Export Market Development Grants Act 1997* (the EMDG Act) established the current scheme which enables Australian SME exporters to access a reimbursement for up to 50 per cent of their export-related marketing and promotion expenses. While the scheme uses the term 'grant' to describe the payments made to eligible applicants, the scheme established by the EMDG Act is actually an entitlement to a reimbursement. An applicant's eligibility is assessed against the provisions of the EMDG Act and, if eligible, they are repaid a proportion of their eligible marketing and promotion expenses.

Since it started in 1975, the EMDG scheme has supported over 50,000 SME exporters to enter and grow export markets for their goods, services, intellectual property and know-how. Those businesses have employed almost 69,000 Australians and generated exports worth \$3.7 billion. Last year alone, over 4,000 exporters accessed the scheme.

In 2019, the Government commissioned an independent *Review of financial assistance to SME exporters* (the Review) including into the administration of the EMDG scheme. The Review was led by independent reviewer Anna Fisher, co-owner of Zonte's Footstep. Released on 10 September 2020, the Review report can be viewed through the following website: <https://www.austrade.gov.au/Australian/Export/Export-Grants/review>

The Review found the EMDG scheme is valued by exporters and its policy intent remains relevant. The assistance provided to SME exporters has a strong, positive impact on their performance, and helps offset the high cost of export promotion, accelerates internationalisation, and encourages exporters to diversify and achieve more sustainable international sales.

While its underlying principles remain relevant in today's markets, the Review found the operation of EMDG should be modernised to address changes in the global economic environment and the way SMEs do business. It also found EMDG's administration needed to be streamlined, simplified and better targeted. These findings are even more important as exporters start to recover from the impact of COVID-19.

Other key findings of the Review included:

- Each SME's export journey is unique, and assistance needs to be aligned to the stages of an SME's exporter journey. Funding assistance through EMDG is more effective for those businesses which are ready to start exporting and those who are seeking to expand their export promotion activities.
- The Review recommended that SMEs be provided more certainty of funding levels. Due to the way EMDG funding is currently administered through the EMDG Act, the level of reimbursement each SME will receive is uncertain and varies from year to year dependent on the demand on the scheme and the size of the appropriation.

The Review made ten recommendations, all accepted in-principle by the Government, including:

- The Government should continue to provide financial assistance to SMEs to encourage them to enter and grow export markets.
- The principles underpinning the EMDG scheme were valued by exporters and should be retained in a simplified scheme.
- An SME should be 'export-ready' before it receives financial assistance.
- The program be re-targeted toward exporters with a turnover of less than \$20 million, with support aligned to the stages of an SME's export journey:
 - SMEs that are export-ready and will be doing business overseas for the first time; and
 - Exporters who are growing including through undertaking a strategic shift.
- That the way financial assistance is provided to SME exporters should be simplified by removing complexity, streamlining and providing more certainty.
- That should be achieved by introducing simplified legislation that incorporates the key principles underpinning EMDG with a simplified funding agreement to establish the value of the grant before the SME incurs any expenditure.
- The Government should continue to fund export-focused industry bodies or alliances promoting on behalf of members.

The Bill, along with the associated Rules, implements these recommendations and reorients the EMDG funding mechanism to provide upfront funding certainty for recipients.

The Bill will amend the *EMDG Act* and make consequential amendments to the *Australian Trade and Investment Commission Act 1985* (the Austrade Act) to simplify the legislative framework for the EMDG program to enable it to be more flexible to the current and future needs of exporters. The Bill will amend the *EMDG Act* to ensure the legislation incorporates the key EMDG principles, with operational detail provided under the Rules – a disallowable instrument – and, like other grants programs, with administrative details in the guidelines. The Rules will be released in draft form for consultation before being finalised.

3. Reorienting EMDG

3.1 MODERNISING EMDG

In line with the Review's findings and recommendations, the new legislative program will modernise EMDG, and has a number of policy objectives:

- More targeted support to eligible SMEs so funding goes where it will make the most impact for individual exporters and the Australian economy as a whole.
- Certainty of grant funding through changing from a reimbursement scheme to a grant program with grant amounts established upfront in funding agreements.
- Simplifying and streamlining EMDG.

The objective of EMDG, as expressed in the Bill, is to bring benefits to Australia by encouraging the creation, development and expansion of foreign markets for Australian products. This is achieved by providing financial assistance to Australian SMEs and their representative organisations for promotional activities and marketing skills development.

COVID-19 has fundamentally changed the global business operating environment and made life very challenging for Australian exporters of goods and services. The COVID-19 pandemic has continued to cause major economic disruption and uncertainty worldwide, which is likely to remain for some time.

Austrade will continue to support exporters through these disruptions. A modern, streamlined EMDG program providing upfront funding certainty, allowing businesses to plan with confidence, is key to assisting SME exporters to recover from the effects of COVID-19 – and grow the number of SME exporters.

3.2 BETTER TARGETED SUPPORT

The Review presented a persuasive case for the need to better target EMDG funding towards those SMEs who can make the best use of public money.

The Review looked at assistance for SMEs, particularly EMDG funding, in the context of its effectiveness and efficiency in generating additional export activity and employment opportunities for Australians, and through the public finance management lenses of transparency and value for taxpayer money.

The Review recommended financial assistance should be aligned to the different stages of an SME's exporter journey to achieve the greatest impact. It also found that different businesses don't always need Government funding to help them through that export journey. In particular, the Review found that larger exporting businesses saw the money as a 'nice to have' but it wasn't an incentive to invest in more export promotion activity.

To align funding with an exporter's journey, the Review therefore recommended that EMDG assistance be available for SMEs with a turnover under \$20 million. The Review found that for exporters with a turnover of \$20 million or over, an EMDG payment was equivalent to less than 0.15 per cent of total revenue and provided negligible effects. The Review concluded it was better value for public money to concentrate on SMEs with a turnover under \$20 million. The vast majority of current EMDG recipients fall within this category: in 2017-18, 3,572 grant recipients had turnover of less than \$20 million, with only 207 recipients with turnover between \$20 million and \$50 million. Exporters with a turnover of more than \$20 million will be able to access the general or more bespoke assistance offered by Austrade.

Export Ready SMEs

The evidence presented in the Review indicated SMEs which are not yet ready to export do not make the best use of EMDG funding. The Review therefore recommended that EMDG recipients be export-ready to ensure funding had the greatest impact, and that SMEs didn't access funding before it was useful to them.

The definition of an export-ready business will take into account Austrade's export readiness indicator or other appropriate baselines. The intention is for the parameters of an export-ready business to be applied flexibly. Establishing export-readiness will not preclude 'born global'

businesses from being eligible for the EMDG program. Export-readiness does not mean that applicants will need to have established customers in Australia.

The Three Grant Tiers

The Bill will reorient the EMDG program to target eligible, export-ready SMEs with an annual turnover of less than \$20 million at three stages of their export journey:

- Eligible SMEs who are new to export will be able to access grants of up to \$80,000 over two years (what we are calling a Tier 1 grant)
- Eligible exporters with established revenue from at least one market who are actively seeking to grow their business will be able to access grants of up to \$240,000 over three years (Tier 2 grant)
- Eligible exporters who are making a strategic shift in their business, will be able to access grants of up to \$450,000 over three years (Tier 3 grant).

Like the current EMDG scheme, eligible exporters will be entitled to receive grants for a total of eight years. However, grants do not have to be concurrent. Eligible exporters may choose to dip in and out of the program, applying for grants when they will make the maximum impact. SMEs will be able to withdraw from a grant agreement without affecting the 8 years' time period should their circumstances change.

To access Tier 2 eligible exporters will need to show that they plan to grow, and for Tier 3, that they will make a strategic shift. Recognising the very different circumstances of different exporters, growth and strategic shifts will be flexibly defined. For example, a strategic shift could be where an exporter plans to enter a new market. However, it could also be planning to market an existing product to a new customer segment in the same market. For example, if a company has been marketing beef jerky to the United States (US) military, and then decides to grow by marketing its beef jerky as a high-end product to leading US hotels, this would require different very marketing and promotion, and would signify a strategic shift in the company's approach.

It is also important to recognise a market does not necessarily equate to a country. For example, it is clear that in the US different markets operate in the east coast, the west coast and the south and that different marketing and promotion approaches might be required in each.

Maximum grant amounts for each tier

As outlined above, each grant tier will have different maximum grant amounts: \$40,000 per year over two years for Tier 1; \$80,000 per year over three years for Tier 2; \$150,000 per year over three years for Tier 3, providing a maximum entitlement of \$770,000 over eight years. This contrasts with EMDG currently, where the maximum amount available has been \$150,000 per annum or \$1.2 million over eight years.

However, in reality most applicants have not received this amount, either because of the need to manage demand on the scheme, and/or because applicants have expended less on promotion or marketing activities than would entitle them to that maximum amount. For example,

- In 2017-18, the average Year 1 EMDG grant was \$27,000
- For all recipients in 2017-18, the average maximum grant was \$72,120, and
- For all recipients in 2018-19, the average maximum grant was \$67,049.

With this trend of reducing payments, it is likely the maximum potential lifetime grant would have been around \$576,000 in reality, rather than \$1.2 million. It is also worth noting, there are no reductions to the current Budget allocation for the EMDG program.

3.3 CERTAINTY IN GRANT FUNDING

The Review found the current EMDG scheme, which reimburses exporters for expenses already paid, provides no certainty about the level of Government support prior to exporters' expenditure on promotional activities. Currently, some exporters wait up to two years to receive reimbursements, with the level of funding unknown until after completion of their promotional activities.

The Bill therefore changes EMDG from a reimbursement scheme to a more traditional grants program. This change will see eligible SMEs entering grant agreements that will provide them with upfront payment certainty over multiple years. Unlike the current scheme, a major benefit of the new program is that applicants will know how much they will receive from EMDG before they undertake their marketing and promotion activities, giving them certainty and allowing them to plan their offshore marketing and promotion activities with confidence.

We recognise it may be difficult for businesses to plan marketing a couple of years in advance, and businesses must be nimble to capitalise on opportunities that may arise. It is proposed that exporters will identify their broad plans. They will not be required to outline in detail upfront the activities they will undertake to implement those plans. Detail about those activities will be relevant for milestone payments rather than the initial grant application.

3.4 SIMPLIFYING AND STREAMLINING EMDG

Simplifying the framework

Currently, the bulk of EMDG's administrative requirements are contained within the EMDG Act, making it cumbersome and complex. By implementing the recommendations of the Review, the Bill will establish the strategic framework for the program, but remove the program's operational details into the Rules with administrative details set out in guidelines, like with other grants programs. This will create a framework Act that legislates EMDG's policy principles and enables the Minister to make program Rules through a disallowable legislative instrument.

The Review recognised the policy principles of EMDG are valued and they will be retained in the Bill, including:

- Continuing to provide financial support for eligible Australian exporters who produce substantially Australian products, whether they be goods or services.
- That EMDG does not prioritise particular industries or export markets.
- That EMDG ensures a wide range of expenditure is eligible, reflecting that businesses approach markets in different ways.
- Continuing to focus assistance on promotional activities.
- Providing access for SMEs to multi-year entitlements, reflecting the time it takes to build a presence in the market.

EMDG funding assistance remains an entitlement for eligible applicants. This means that if an applicant meets the eligibility criteria in the Bill, they are entitled to receive financial assistance under the EMDG program. It is not a competitive grants program.

The following design features will also be preserved:

- Eligible exporters must provide at least matching investment: a matching amount of their own money on eligible expenses for eligible products at a minimum.
- EMDG will continue to be subject to regular evaluation.

Attachment A provides more details about the policy principles which are contained in the Bill and the operational details which will be established in the Rules.

To simplify and streamline the program, the Bill also repeals a number of current requirements which are not considered necessary in a modern grant-based entitlement program:

- The export performance test and the requirement that recipients have a prospect of success. This is replaced with the requirement that recipients be either ready to export or have already exported their products and are seeking to grow or making a strategic shift.
- The separate approval process for industry bodies. They will no longer be required to apply to be Approved Bodies.
- Requirements about when expenses are incurred. Now, like any grant program, funding will be agreed for high-level activities prior to expenditure. If proposed activities vary during the life of the grant agreement, a simple amendment process will be co-designed with stakeholders.
- The ability to compel third parties to provide information in support of the applicant.

While the Bill will simplify the framework, it will maintain rigorous and transparent procedures. The Bill retains the right of appeal for applicants and grantees. Decisions made by Austrade's CEO or delegate within this reoriented framework will continue to be reviewable in the Administrative Appeals Tribunal.

Simplifying applications, agreements and approvals

Under the new program, eligible exporters will apply for a grant once every two or three years – not once a year like the current scheme – and grant agreements will be entered into for two years for the new to export cohort or three years for other eligible exporters, providing funding certainty over that entire period.

Like all other grant programs, administrative matters, such as how to apply for grants and what information will need to be provided to support the application, will be established through administrative guidelines.

For Tiers 2 and 3, exporters will have to show plans to grow or make a strategic shift and an applicant's marketing plan might be one way to show this. However, this requirement could be met in other ways as well and this will be co-designed with stakeholders to ensure a simple approach that is not burdensome and will work for exporters, while maintaining the necessary consistency with Commonwealth financial management requirements.

Given the multi-year length of funding agreements, the agreements will be able to be amended if necessary if exporters' plans change, as per the standard Commonwealth grants process. However, the agreements will be high-level and structured so that the need for amendment will be minimised. While this is a new process for EMDG recipients, it will be aligned closely with the standard grants process that many SMEs will be familiar with, and the terms and conditions of the grant agreement will be based on the standard Commonwealth grant agreement.

Under the new grants program, funding will flow through milestone payments. As part of the co-design process for the guidelines, Austrade will work with stakeholders to determine the frequency of those payments which could be annual, or more frequent. We will also co-design a streamlined process for demonstrating expenditure on eligible promotion and marketing activities to receive milestone payments.

3.5 OTHER REFORMS TO EMDG

Additional eligible expenditure

EMDG allows a wide range of eligible expenditure, reflecting how businesses approach markets in different ways. The reoriented program will retain a wide range of products as eligible, encompassing everything available now, along with a rule making-power in the Bill to enable more to be added if necessary.

The Review recommended that education and training also be included as an eligible activity for the EMDG grant, including for those SMEs which are too small to promote in their own right and are represented by industry bodies or alliances. The Bill implements this recommendation.

Efficient use of government funds

The Bill ensures there will be no 'double dipping' from any other government grants programs for the same activity.

3.6 FINANCIAL IMPLICATIONS OF THE BILL

EMDG is a capped program with funding provided through the annual Appropriation Acts. Administration of the program uses a proportion of EMDG funding (a maximum of five per cent under section 94 of the EMDG Act).

The commencement date for the EMDG reforms is on 1 July 2021, subject to the passage of implementing legislation and Rules being finalised. With that commencement date, the current EMDG arrangements will remain in place for this financial year, with 2020-21 being the last year to spend under the current scheme. Transitional arrangements will be in place for financial year 2021-22, to reimburse recipients for activities conducted this financial year under the current scheme (2020-21) with applications also open for the new program.

There will be additional implementation costs during the transition years, including information technology changes. These additional costs will be funded through the annual EMDG appropriation. This Bill amends section 94 of the EMDG Act to provide the CEO of Austrade with up to an additional 2.5 per cent of the EMDG annual appropriation in financial year 2020-21, and an additional 2 per cent of the EMDG annual appropriation in financial year 2021-22 for those implementation costs. After that, the EMDG administration cap reverts to five per cent.

4. Implications of new legislative framework for stakeholders

4.1 SMES

Exports make an important contribution to the Australian economy. Exporters contribute more than non-exporters to jobs and productivity, on average employing more staff, paying higher wages and achieving higher labour productivity compared to non-exporters. However, Australian SMEs only comprise 14 per cent of exporters in contrast to the G7 average of 25 per cent.

Pivoting EMDG to provide better-targeted, direct financial assistance in a more simplified and streamlined way, will enable more SMEs to access the program and support the goal of growing the number of SME exporters in Australia.

Modernising EMDG will support SME exporters on their export journey, from the start of going offshore through to market expansion.

4.2 INDUSTRY BODIES

The reoriented EMDG program will continue to provide funding to industry bodies and alliances, previously known as Approved Bodies, and enable their grant funding to extend training for members in marketing and promotion.

Assistance to industry bodies or alliances will be expanded to encompass both overseas promotion on behalf of their members and, now, to help members new to export become export ready through education and training should they decide to provide members with that service.

4.3 CONSULTANTS

SMEs can continue to use EMDG consultants' services, including to develop marketing and market expansion plans.

5. Consultation on the EMDG reforms

The Review undertook broad consultations to seek the views of exporters – consultations were promoted to over 5,000 interested parties, including past and current EMDG recipients, EMDG consultants and peak bodies.

Consultation involved a number of different avenues to ensure all interested parties had different opportunities to provide input. These included online consultation with 158 submissions received, face-to-face consultations, and general consultation sessions with SMEs during October and November 2019, meeting with peak bodies, and meetings with EMDG consultants via videoconference.

Finally, to help refine the Reviewer's thinking, a workshop was held on 13 December 2019 with SMEs who were new to exporting, more experienced SME exporters, and representatives from peak bodies. The Review report contains further detail on the data and evidence, including from these consultation processes, which was used to inform the Reviewer's recommendations.

Austrade will undertake consultation on the program Rules and will design the administrative guidelines with stakeholders.

6. Austrade's role

The Australian Trade and Investment Commission (Austrade) is the Australian Government agency which assists Australia's exporters enter into new markets overseas and find customers, and attracts productive foreign investment to Australia.

Austrade makes it easier for Australian businesses to go global by providing valuable advice on trade and investment processes, protocols and regulation. We reduce the commercial risk of exporting by providing support, contacts and advice at every step of the journey, helping Australian exporters go further, faster.

The services Austrade offers, including online, help Australian exporters across all industries, at all stages of their international journey and we continue to develop further services.

EMDG strongly complements the services that Austrade provides.

Attachment A – The new EMDG Legislative Program

GENERAL APPROACH:

The Bill establishes the framework for the new Export Market Development Grant (EMDG) program.

The Rules establish the operational policy details required to administer the program.

The Administrative Guidelines contain administrative arrangements for the program.

THE EMDG LEGISLATION AMENDMENT BILL 2020:

The *EMDG Legislation Amendment Bill* (the Bill) contains the EMDG principles, setting the strategic direction of the new EMDG grant program. The Bill:

- Establishes an **entitlement grants program** – access is based on eligibility criteria and is non-competitive
 - For Australian exporters
 - For products that are substantially Australian
 - To support export market development and promotion (and training for relevant associations)
 - In a way that does not favour an industry or export market
- Ensures a **wide range of expenditure is eligible**, reflecting how businesses approach markets in different ways
- Ensures a **wide range of products are eligible**, encompassing everything available now, with a power to add more under Rules if necessary
- Ensures SMEs have **access to entitlements over several years** – reflecting the time it takes to build a presence in the market
- Ensures **SMEs have 'skin in the game'** – they are reimbursed a proportion of their eligible expenses (maximum 50 per cent)
- Ensures there will be **no 'double dipping'** from any other grants programs for the same activity
- Ensures that the program remains subject to **regular evaluation**.

The Bill will also:

- Establish the **rule-making powers** for the operation of the program
- Streamline the program by **focusing on the relationship between the Commonwealth and the EMDG recipient** created through the grant agreement
 - The Bill therefore removes the ability to compel third parties to provide information in support of the applicant
 - It also removes provisions related to other third parties, such as associates and consultants
- Establish the **5 per cent cap on administration costs**, and to cover implementation costs, increase it to 7.5 per cent for FY20/21 and 7 per cent for FY21/22. In 2022/23 it returns back to 5 per cent.

THE EMDG PROGRAM RULES:

The Rules establish the new EMDG program's operating principles.

The main operational policies established by the Rules are:

- The **SME turnover threshold** for eligibility for the EMDG program – under \$20 million
- **Three tiers** of EMDG support
- **Multi-year grant agreements** with funding agreed up-front
- **Eligible activities:** the same as the current scheme but expanded to include training for relevant member organisations to help members become export-ready

- **Eligible products:** the same as the current scheme, including substantially of Australian origin as a condition
- **Eligible expenses:** as under the current scheme, must be for promotional activities to market eligible products overseas
 - includes the exclusion where the sale or export of a products is not permitted under a Commonwealth, State or territory law
- The **maximum amount for grants** and the **length of multi-year grant agreements** for different tiers.

Under the *Legislation Act 2003* these Rules are disallowable instruments which must be tabled in Parliament for 15 sitting days.

THE ADMINISTRATIVE GUIDELINES:

Like all other grant programs, the administrative guidelines will establish the detailed arrangements for the operation of the new EMDG program, including how to apply for grants, the information required to support applications (like the marketing plan), how funding will be paid.

The administrative guidelines will be co-designed with stakeholders to ensure they are simple and will work for exporters, while maintaining consistency with Commonwealth financial management requirements.