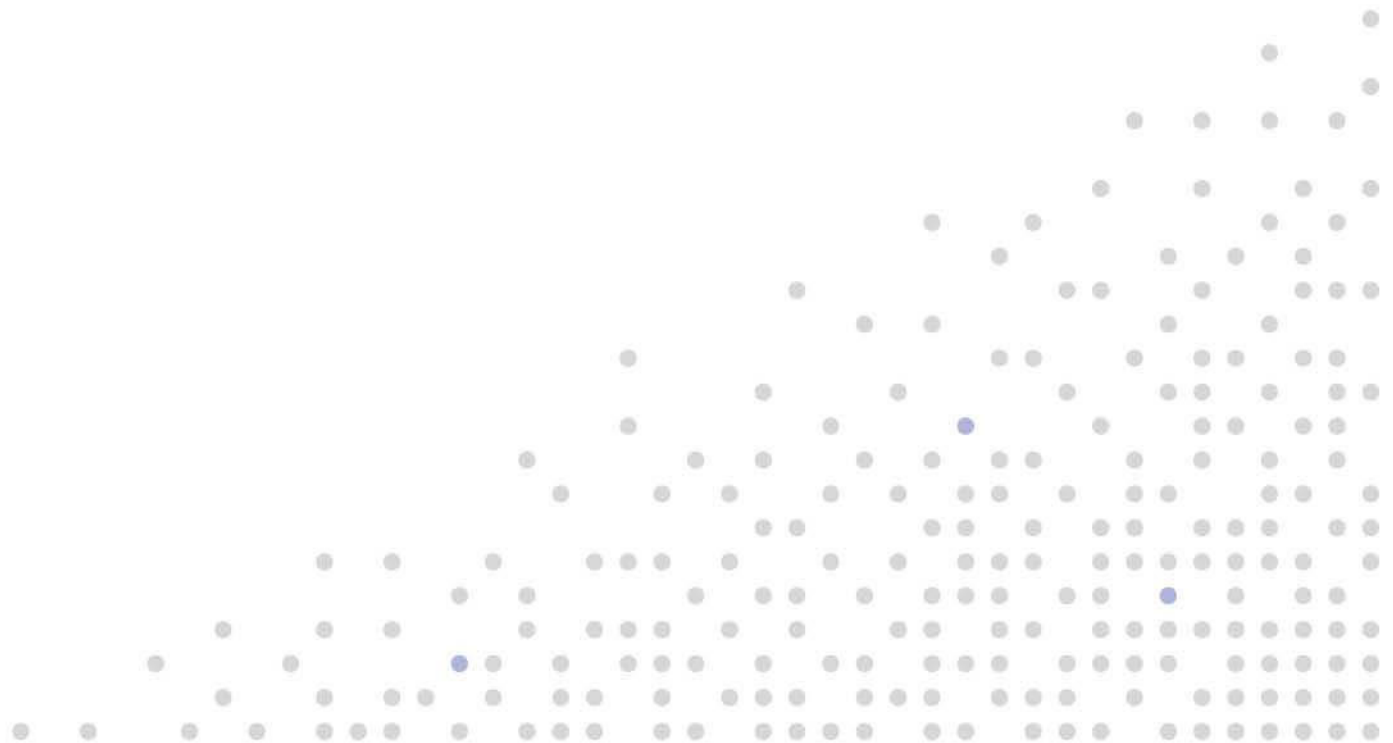




Australian Government
Department of Finance



Submission to the Joint Committee of Public Accounts and Audit

The Administration of Government Grants: Inquiry into
Auditor-General's Reports 5, 12 and 23 (2019-20)

March 2020

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Introduction

The Joint Committee of Public Accounts and Audit's (JCPAA) inquiry into The Administration of Government Grants is concerned with any matters contained and associated with the following Auditor-General's Reports:

- No. 5 of 2019-20: 2018–19: *Australian Research Council's Administration of the National Competitive Grants Program*;
- No. 12 of 2019-20: *Award of Funding under the Regional Jobs and Investment Packages*; and
- No. 23 of 2019-20: *Award of Funding under the Community Sport Infrastructure Program*.

On 14 February 2020, the JCPAA invited the Department of Finance (Finance) to provide a submission to the inquiry following the JCPAA's decision to include the recently tabled Auditor-General's Report No. 23 (2019-20) *Award of Funding under the Community Sport Infrastructure Program* in the scope of the Inquiry.

Grants Policy and Administration

Finance has responsibility for the grants policy framework. Finance also provides support to the Government in Budget decision-making and financial framework, governance and accountability matters to align with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). Additionally, Finance administers the GrantConnect system and provides a range of public material to support entities and grant applicants.

The *Commonwealth Grants Rules and Guidelines 2017* (CGRGs) are a legislative instrument issued by the Finance Minister under section 105C of the PGPA Act.

The CGRGs have been developed in line with better practice grant administration, and are intended to provide a largely principles based framework, with some specific requirements.

The CGRGs articulate the expectations for non-corporate Commonwealth entities in relation to grants administration.

The CGRGs do not apply to corporate Commonwealth entities, where the grant is awarded under the authority of the entity itself.

Under the devolved public resource management framework, accountable authorities, officials and Ministers are responsible for understanding and complying with any requirements that apply under Finance law (PGPA Act and Rules, including the CGRGs, and Appropriation Acts) and any other legal framework. In particular, section 16 of the PGPA Act imposes a duty on accountable authorities of entities to establish systems relating to risk and control for their entity. This includes implementing measures directed at ensuring officials of the entity comply with the finance law.

The CGRGs articulate seven key principles for better practice grants administration that apply to the grants lifecycle and all grant opportunities, which are:

- robust planning and design;
- collaboration and partnership;
- proportionality;
- an outcomes orientation;
- achieving value with relevant money;
- governance and accountability; and
- probity and transparency.

There is flexibility in how accountable authorities and officials apply the key principles in order to administer grants that achieve government policy outcomes.

The CGRGs include a number of specific requirements. These relate to:

- establishing and documenting whether a proposed activity is a grant;
- the development of grant opportunity guidelines;
- the provision of written advice to ministers, where they are the approver of a grant;
- the recording and reporting obligations of Ministers in particular circumstances; and
- public reporting and transparency.

These requirements are outlined in more detail below.

While Finance provides assistance to entities in relation to the framework, it is up to accountable authorities and officials to understand the application of the PGPA Act, the CGRGs and other legislation in relation to their grants programs, and to ensure that relevant requirements are met. Accountable authorities and officials are expected to seek legal advice as required in discharging their responsibilities.

Guidelines, risk assessment and publication

Under the CGRGs, entities must develop grant opportunity guidelines (guidelines) and conduct a risk assessment for all new and revised grants. Unless a grant is a one-off or ad hoc grant (CGRGs 5.2 refers), entities must provide the guidelines and risk assessment to Finance.

Finance has developed a suite of whole-of-government templates for guidelines and grant agreements for use by entities when preparing guidelines and when entering into grant agreements. A user guide for each template has been developed to provide step-by-step guidance to officials. These are available on the Finance website:
<https://www.finance.gov.au/government/commonwealth-grants/tools-templates>.

Finance provides support to entities to help them understand the *Commonwealth Grants Rules and Guidelines*.

An entity's risk assessment should consider the grant opportunity holistically. For example, it should consider grant program or grant opportunity risks, including:

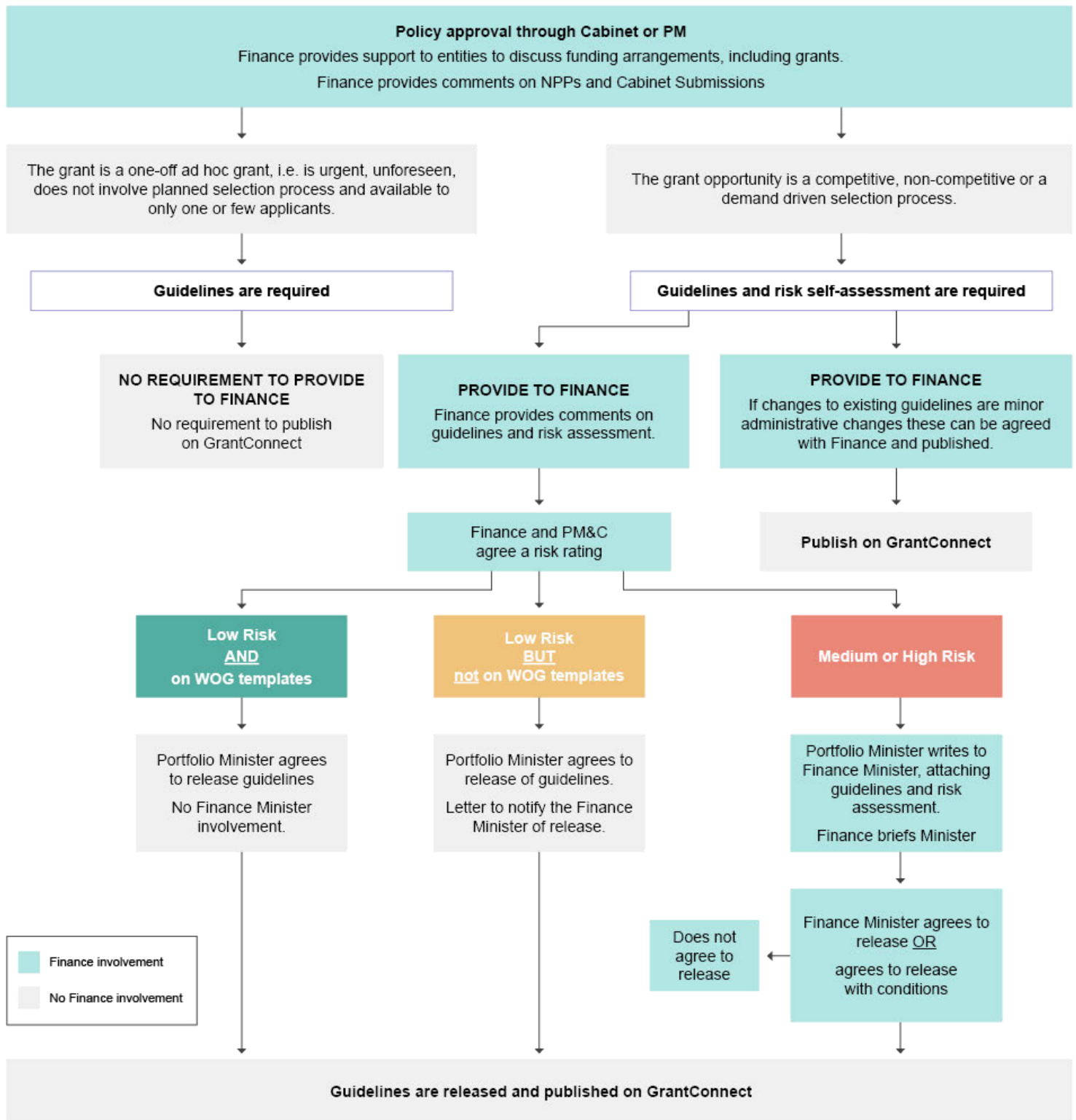
- the nature and design of the grant opportunity and the cost;
- the grantee risks (for example, the experience, capacity and past history of the grantee); and
- the grant activity risk (for example, the design of the project and the timeframe).

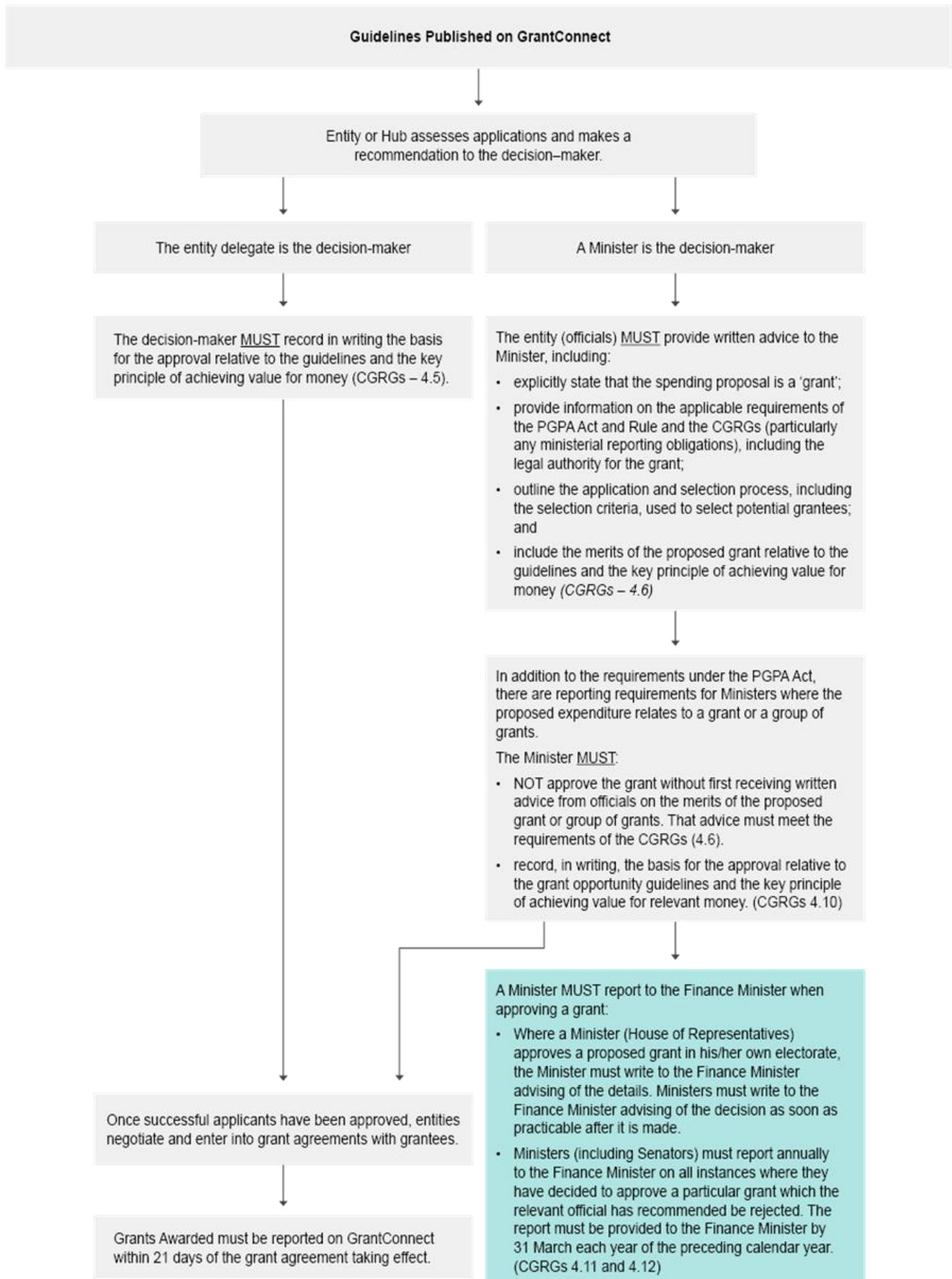
As part of this, a risk assessment will also consider mitigation strategies.

Finance and the Department of the Prime Minister and Cabinet review the entity's risk assessment, and agree to the risk rating (low, medium or high) for the grant opportunity. The risk rating informs the handling and release of the guidelines, as outlined below.

Where the grant opportunity risk rating is low and the whole-of-government guidelines templates are used, the Portfolio Minister can agree to publish the guidelines. The whole-of-government templates provide standardised and consistent information for grant applicants. If the whole-of-government templates are not used and the risk rating is low, the portfolio Minister must write to the Finance Minister to notify of the intention to publish the guidelines. Where the grant opportunity risk rating is medium to high, the portfolio Minister must also write to the Finance Minister to seek agreement to release the guidelines. When writing to the Finance Minister, the portfolio Minister must include the proposed guidelines and risk assessment.

The Finance Minister may agree to release the guidelines with or without conditions, or may not agree the release of the guidelines (see flow diagram below).





GrantConnect

If agreed, the guidelines are released and must be published on GrantConnect (<https://www.grants.gov.au/>). GrantConnect is a whole-of-government grant advertising, application and reporting system, developed by Finance. GrantConnect provides point-in-time transparency. The information is dynamic and changes as new grants are added or existing grants amended.

As at 5 March 2020, GrantConnect data shows there are approximately 30 entities using GrantConnect and around 46,000 registered users.

Finance has developed and maintains GrantConnect. Finance also provides operational and technical support for the GrantConnect system. Accountable authorities and officials are responsible for complying with the CGRGs, including ensuring information they publish on GrantConnect is accurate at the time of reporting, and complying with the conditions of use of GrantConnect.

Since 31 December 2017, grants awarded must be reported on GrantConnect no later than 21 days after the grant takes effect.

Other Finance Public Resources

As well as the tools and templates noted above, Finance has developed a suite of public resources and information on grants administration under the CGRGs, which is available on the Finance website: <https://www.finance.gov.au/government/commonwealth-grants>.

Other relevant resource materials for entities involved in grants administration on the Finance website include:

- Resource Management Guide 400 *Commitment of Relevant Money*;
 - Resource Management Guide 411 *Grants, Procurements and other financial arrangements*;
 - Resource Management Guide 412 *Australian Government Grants – Briefing, Reporting, Evaluating and Election Commitments*;
 - Resource Management Guide 415 *Commonwealth Grants and Procurement Connected Policies*; and
 - Resource Management Guide 421 *Publishing and reporting Grants and GrantConnect*.
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Auditor-General Report No. 23 of 2019-20: *Award of Funding under the Community Sport Infrastructure Program*

The Australian Sports Commission was established under section 5 of the *Australian Sports Commission Act 1989*. It is a body corporate and a corporate Commonwealth entity under the PGPA Act.

Corporate Commonwealth entities are legally separate to the Commonwealth, and generally have enabling legislation that establishes the scope of their activities. Corporate Commonwealth entities are not subject to the CGRGs where grants are awarded under the authority of the entity itself.

In March 2019, Finance provided input to the Australian National Audit Office (ANAO) on the CGRGs and its application to corporate Commonwealth entities. The ANAO noted this input in its report (p. 44, *Award of Funding under the Community Sport Infrastructure Program*, ANAO 2019-20).

The final ANAO report recommended that the Government amend the CGRGs to require that the advising, decision-making and reporting requirements that apply when a minister approves grant funding be extended to apply to corporate Commonwealth entities in situations where a minister (rather than the corporate entity) is the decision-maker (Recommendation 4).

Finance noted this recommendation and advised the ANAO that any amendment to the CGRGs are a matter for consideration by Government. The Prime Minister announced that the Government is acting on the ANAO's recommendation, with a view to implementation by the end of the year.

To give effect to the ANAO's recommendation, an amendment to the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule) has been drafted, titled the Public Governance, Performance and Accountability Amendment (Grant Rules for Corporate Commonwealth Entities) Rules 2020 (Amending Rule). The proposed Amending Rule replicates relevant mandatory requirements of the CGRGs and will apply when a Minister is the decision-maker for a grant administered by a corporate Commonwealth entity.

As adoption of the recommendation imposes additional requirements on corporate Commonwealth entities where a Minister is the decision maker for a grant activity, and as required by the *Legislation Act 2003*, Finance distributed the Amending Rule with a consultation paper to corporate Commonwealth entities for an opportunity to comment on these changes. Comments are due by 20 March 2020.

Finance provided a copy of the Amending Rule and consultation paper to the JCPAA on 3 March 2020 for information.

Conclusion

Finance seeks to establish and maintain a grant framework that encourages better practice. To this end, the CGRGs are largely principles based with some specific requirements. Finance provides assistance to entities in relation to the framework to support better practice grant administration.

Under the devolved framework, decisions regarding the classification of grants, and ensuring compliance with the CGRGs rest with accountable authorities. Finance does not have visibility of individual expenditure approvals, nor does it collect information on the administration of grants activities other than what is publicly available on GrantConnect.