

Chapter 5

Audit of the award of the grant to the Great Barrier Reef Foundation

5.1 This chapter outlines the main findings of the very detailed and comprehensive audit by the Australian National Audit Office (ANAO) of the award of the grant to the Great Barrier Reef Foundation (the Foundation), which was presented to Parliament on 16 January 2019.¹

5.2 The ANAO's report largely confirms this committee's own findings: that the process by which the Foundation was selected for, and awarded, a Partnership by the Government was seriously flawed, including in the adequacy of the work that the Department of the Environment and Energy (the department) undertook as part of this process.

Departmental advice

5.3 The ANAO stated that all decisions in awarding and paying the grant were 'informed by departmental advice'. Further, that advice 'clearly recognised that funds needed to be paid and accounted for in 2017–18'. However, the report went on to comment:

There were shortcomings in aspects of the department's advice, partly as a result of non-compliance with elements of the grants administration framework.²

5.4 The ANAO noted the following:

- the 'compressed timeframe needed to meet the objective of spending the funds in 2017–18' of only 11 business days;
- a lack of consideration of any other partner for a tied fund partnership, apart from the Queensland Government which is already a partner of the Commonwealth in the Reef 2050 Plan and the Reef Trust;
- a lack of evidence and record keeping, which means decisions were poorly documented, if at all; and
- a lack of consideration given to 'opportunities to introduce some competition into the grant giving process', even though the Commonwealth's grant framework 'seeks to encourage competitive, merit-based selection processes'.³

1 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19.

2 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 8.

5.5 The ANAO also noted that the department, while it identified some of the benefits of paying the grant in full in 2017–18, it did not estimate or bring to the Government's attention the costs of doing so.⁴ The ANAO noted:

...no consideration was given to the financial cost to the Commonwealth (in terms of additional public debt interest) of paying the full grant amount in 2017–18. This upfront payment was more likely to have resulted in greater public debt interest expense than periodic payments over six years reflecting the cash flow needs of the foundation in delivering the partnership (or to specific delivery milestones).⁵

Program guidelines

5.6 The ANAO noted that the 'development of program guidelines is an important element of the Government's administrative framework' as they 'play a central role in the conduct of effective, efficient and accountable grants administration'. The Commonwealth Grant Rules and Guidelines (CGRGs) set out the requirements for grants. When measured against the CGRGs, the Partnership programs were found to contain inadequate detail, namely:

- there was insufficient detail provided regarding the desired program outcomes, and that 'there would have been benefits in guidelines setting out clear targets for what was expected to be achieved (such as how much funding the Australian Government expected to be leveraged from the private sector using the grant funding)'; and
- 'clear assessment criteria were not included', which 'did not enable an appropriate assessment of whether a partnership proposal represented value for money'. In relation to the latter matter, the audit noted that the reasons provided to the minister that the Partnership did represent value for money 'differ in important respects from the matters the program guidelines required that the proposal address'.⁶

5.7 The ANAO made two recommendations in relation to the program guidelines:

3 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 9. For additional detail on these points see pp. 10 and 22–25 for the standard of advice provided, pp. 28–30 for reasons documented for allocating funding other than through a competitive merits-based selection process, and pp. 31–32 for the adequacy of advice on costs and benefits of making the full grant payment in 2017–18.

4 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 31.

5 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 31–32.

6 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 9.

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- that the department include performance targets in program guidelines for Reef Trust grants to assist it to decide whether funding proposals represent value for money having regard to the quantum of funding that is being sought; and
 - that the department include clear assessment criteria in program guidelines for any grant proposals that are being considered through non-competitive processes.⁷

5.8 These recommendations were noted by the department.

Approval of grant funding

5.9 The ANAO found that the department had provided detailed and clear written advice to the minister as required by the content requirements of the CGRGs. However, while the minister was advised that the Foundation's proposal fully met the criteria in the program guidelines, the guidelines did not contain clear assessment criteria. Instead, the ANAO stated, the department cited six reasons as to why it supported the Foundation's proposal as representing value with money and a proper use of Commonwealth resources, but 'not all the reasons cited by the department can be adequately traced back to the program guidelines'.⁸

Evaluation of the Foundation's proposal by the department

5.10 In relation to evaluation of the proposal, the ANAO noted that the department had assisted the Foundation to develop its funding proposal, at the same time that the program guidelines were being developed and the evaluation of the proposal was taking place. While a risk management strategy was adopted, the ANAO found that the department may not have sufficiently addressed potential conflict of interest issues in its assessment of the grant. Even if it ensured that the 'senior level review of evaluation' of the Foundation's proposal was not conducted by officers who had assisted in its development, it was perceived that the department failed to address the risk that its work assisting the funding proposal 'presented to an objective evaluation of that proposal, and conflict of interest risks were not adequately addressed'.⁹

5.11 The ANAO recommended that the department develop a probity framework to manage the risks when it assists potential grant recipients to develop their funding

7 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 37 and 43.

8 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 9 and 44.

9 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 9 and 11.

proposals and applications in the future. The department agreed to this recommendation.¹⁰

5.12 The ANAO also noted deficiencies in the proposal evaluation in the following three key areas examined by the ANAO, namely the:

- 'capacity and capability of the foundation's delivery partners to scale-up their activities';
- 'foundation's past fundraising performance'; and
- 'total administration costs of the partnership model' as the department focussed only on the Foundation's costs, 'with no evaluation attention given to the administration costs of the foundation's delivery partners'.¹¹

Foundation's ability to scale-up

5.13 The ANAO found that the department applied adequate scrutiny to matters related to the Foundation's ability to scale-up its governance structures and resourcing level. It was noted that the department had identified that there was a low risk in relation to the Foundation's ability to scale-up 'on the basis that the grant agreement would set out clear early milestones relating to scaling up activities and plans'.¹² However, the audit report commented, in relation to the likely effectiveness of the Grant Agreement requirements, that the department:

- does not have any approval rights over the plans and strategies the foundation is required to prepare. Rather, the foundation is required under the grant agreement to give the department drafts of each of the plans and strategies and take into account any comments of the department in finalising the plans and strategies; and
- is not able to withhold the payment of any grant funding in the event it is not satisfied with the content of the plans and strategies. Legal advice to the department was that the up-front payment of all of the grant funding carried with it a higher risk that the grant would not achieve its intended outcomes than a grant made available progressively on the achievement of specified milestones.¹³

5.14 The ANAO found that there was insufficient scrutiny applied in the evaluation of the proposal as to whether the Foundation's delivery partners, including subcontractors, will be able to scale up their capacity and capability. The department

10 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 53.

11 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 9.

12 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 54.

13 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 54–55.

has advised the ANAO that the risks associated with subcontractors will be managed through the Grant Agreement and across the grant lifecycle by the Foundation.¹⁴

5.15 The Auditor-General recommended:

The Department of the Environment and Energy obtain assurance over the achievement of value for money in the foundation's use of delivery partners by requesting the foundation benchmark prices being offered against rates charged prior to the announcement of the \$443.3 million in grant funding. This benchmarking will be particularly important in circumstances where open competition has not been employed by the foundation when selecting delivery partners.¹⁵

5.16 The department agreed to this recommendation.

Past fundraising performance and future plans

5.17 The ANAO concluded that the department's assessment applied inadequate scrutiny to the Foundation's past performance and future plans to attract private and philanthropic investment. One matter highlighted was that the department's written assessment 'repeated statements made by the foundation in its proposal'.¹⁶

5.18 In addition, deficiencies were identified in the department's analysis of the Foundation's performance in attracting co-investment. It was observed that the Foundation's financial statements were not considered next to claims it made in the proposal and, while 10 years of financial statements were publicly available, the department only obtained the two most recent sets of financial statements. The ANAO described this as an 'inadequate' approach.¹⁷

5.19 In relation to future plans, the ANAO noted:

The decision to approach the foundation about entering into a partnership was informed by advice that a large, upfront grant would strengthen the foundation's capacity to leverage philanthropic and business funding.¹⁸

5.20 The audit report noted that the program guidelines stated that the Foundation's proposal should demonstrate how it planned to attract private and philanthropic co-

14 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 53.

15 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

16 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

17 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 58.

18 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 60.

investment to enhance delivery of the partnership. While the Foundation's proposal included three paragraphs directly related to this requirement, the audit report stated that the proposal did not demonstrate how the Foundation planned to attract co-investment.¹⁹

5.21 The ANAO concluded that 'insufficient information was obtained and analysed to assess past performance and future plans'.²⁰

Setting targets

5.22 The ANAO commented that the Grant Agreement does not include specific co-investment targets. Instead, the Foundation is required to develop a co-financing strategy which, in combination with annual work plans, 'is expected to set out how the foundation will use the grant to raise contributions from other sectors'. While the Foundation is required to consult on those plans, the department does not have approval rights over the plans.²¹

5.23 It was noted that the Collaborative Investment Strategy, provided to the department in September 2018, includes targets totalling \$300 million to \$400 million over the next six years. The feasibility of these targets has not yet been assessed, so may require adjustment. Adjustment of the targets may occur, once the Foundation has undertaken feasibility testing.²²

Administration costs

5.24 Regarding administration costs, the ANAO commented that the Foundation's proposal did not address the administration costs of its subcontractors. Similarly, the department's evaluation, including material provided to the minister, did not address subcontractor administration costs.²³ The ANAO found:

The department applied insufficient scrutiny to the likely administration costs of the partnership. In particular, the assessment work and resulting advice to the Minister focused on the foundation's administration costs (capped in the grant agreement at \$44.33 million), notwithstanding that it

19 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 60.

20 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 11.

21 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

22 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 56.

23 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 65–66.

was evident that the foundation would be relying heavily on subcontractors for program delivery.²⁴

5.25 The department agreed to the ANAO's recommendation that it develop strategies to allow it to be assured about the rigor of the Foundation's subcontracting processes.²⁵

Entity response and implications for the department

5.26 As part of the audit of the award of the Partnership grant to the Foundation, the department was given the opportunity to respond. The department's response is available in the audit report.²⁶

5.27 Mr Finn Pratt AO PSM, Secretary of the department, welcomed the findings that the department had provided detailed and clear advice to the minister and that the Partnership was informed by comprehensive policy development work spanning several years. He noted that the department agreed with the report's findings that relate to process improvements. However, Mr Pratt went on to state:

Findings in the report relating to the Department's scrutiny of the proposal and value-for-money assessment, the use of assessment criteria, and the level of detail on outcomes and performance targets are incorrect or based on an incomplete assessment of the evidence.²⁷

5.28 Mr Pratt provided further comment on these three matters including that 'Given the available timeframes, and consistent with Cabinet's decisions, the approach taken to establish the partnership was sensible and thorough'. Additionally, it was stated that the Partnership represented value for money for public resources, that the guidelines did include assessment criteria (while conceding these could have been more clearly labelled), and that Program outcomes 'were appropriately specified in the grant guidelines, in line with the outcomes of the Reef 2050 Plan'. The Foundation is required to more detailed performance measures along with appropriate reporting and evaluation process to ensure performance targets are 'further detailed, refined and reported against' over the Partnership.²⁸

24 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 11 and 48.

25 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 67.

26 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 70–71.

27 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 13.

28 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, p. 13.

5.29 The committee notes that the Auditor-General's report responded to the concerns raised by Mr Pratt.²⁹

5.30 The Foundation was also given the opportunity to respond to the proposed audit report. The Foundation addressed the following issues:

- progress against the Reef Trust Partnership Agreement;
- scaling-up activities;
- water quality;
- administrative costs;
- subcontractors; and
- fundraising.³⁰

29 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 13–14.

30 Australian National Audit Office, *Award of a \$443.8 Million Grant to the Great Barrier Reef Foundation*, Report 22 of 2018–19, pp. 73–76.