



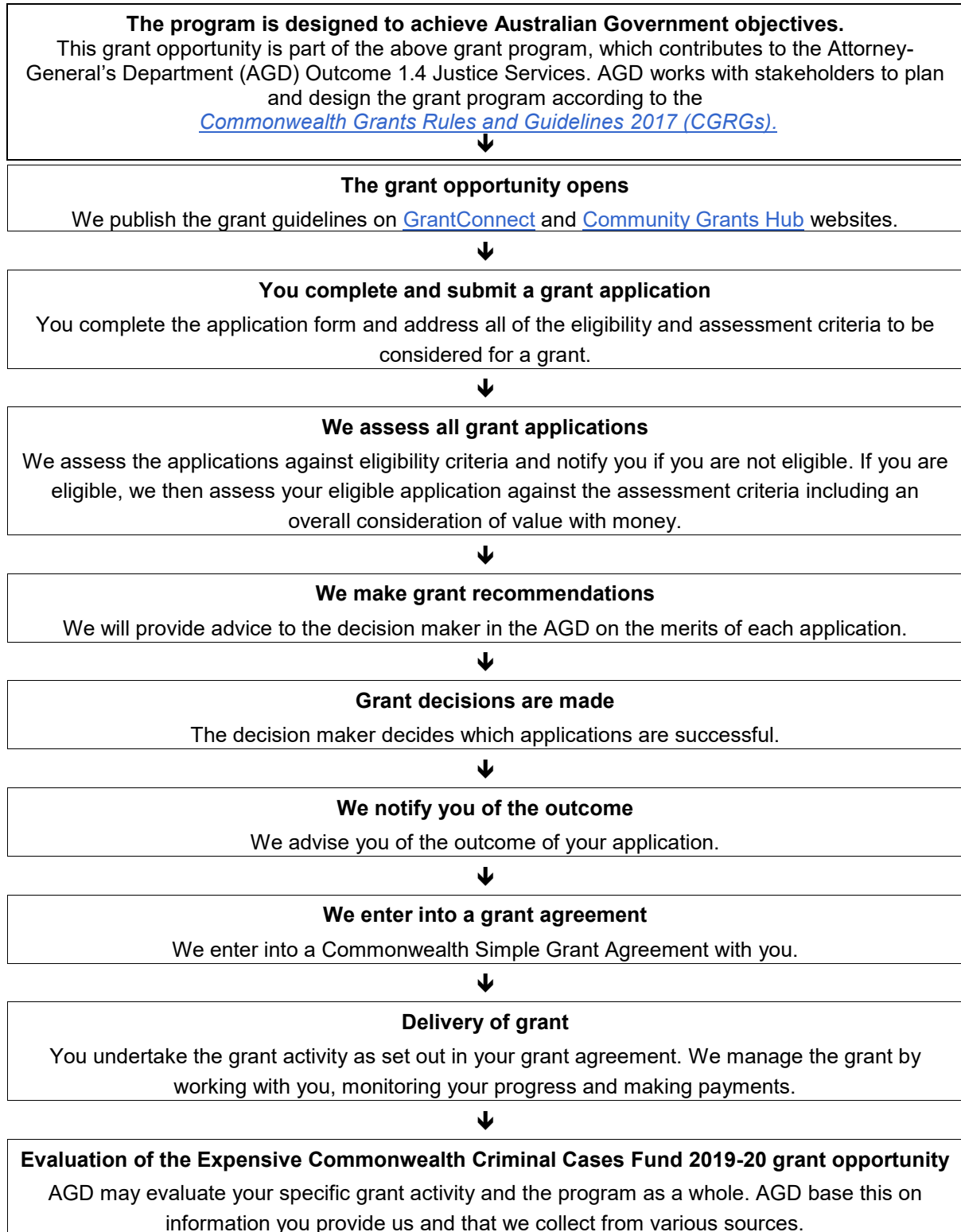
Expensive Commonwealth Criminal Cases Fund 2019-20 Grant Opportunity Guidelines

Opening date:	15 November 2019
Closing date and time:	11.00PM AEDT on 28 November 2019
Commonwealth policy entity:	Attorney-General's Department
Administering entity	Community Grants Hub
Enquiries:	If you have any questions, contact Community Grants Hub Phone: 1800 020 283 (option 1) Email: support@communitygrants.gov.au Questions should be sent no later than 5:00PM AEDT on 21 November 2019.
Date guidelines released:	15 November 2019
Type of grant opportunity:	Closed non-competitive

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1. Expensive Commonwealth Criminal Cases Fund 2019-20 processes



1.1 Introduction

These guidelines contain information for the Expensive Commonwealth Criminal Cases Fund 2019-20 grants program.

You must read these guidelines before filling out an application.

This document sets out:

- the purpose of the grant program
- the eligibility and assessment criteria
- how grant applications are considered and selected
- how grantees are notified and receive grant payments
- how grantees will be monitored and evaluated
- responsibilities and expectations in relation to the opportunity.

This grant opportunity and process will be administered by the Community Grants Hub on behalf of AGD.

2. About the grant program

The Expensive Commonwealth Criminal Cases Fund 2019-20 (the program) will run in 2019-20.

The objective of the program is to provide funding to support Legal Aid Commissions (LACs) for costs incurred defending clients in serious, high cost, Commonwealth criminal matters (such as drug importation, people smuggling, terrorism, fraud and slavery).

The intended outcomes of the program are to ensure:

1. LACs have sufficient resources to provide a legal defence for people charged with serious Commonwealth criminal offences who cannot afford private legal representation.
2. LACs do not need to reallocate funding away from other Commonwealth service priorities, such as family law matters, to meet the cost of expensive Commonwealth criminal law matters.
3. Commonwealth criminal law proceedings are prevented from being adjourned, postponed, or stayed in accordance with the principle established by the High Court's decision in *Dietrich v The Queen* (1992) 177 CLR 292 due to a lack of legal representation for an indigent accused.

The Community Grants Hub administers the program according to the [Commonwealth Grants Rules and Guidelines 2017 \(CGRGs\)](#).

3. Grant amount and grant period

The Australian Government has a total of \$7.996m (GST exclusive) available in 2019-20 for the program. Of the funding available, AGD intends to distribute \$6.746 million to LACs when the grant round opens and retain a contingency of \$1.250 million to be distributed to LACs during 2019-20 once the initial funding distributed is exhausted.

Funding will be allocated to each LAC based on the historical usage of the ECCCCF over the period 2014-15 to 2018-19 and cost estimates from LACs for 2019-20. Usage will be calculated proportionally for each LAC, with these proportions applied against the total funding available.

AGD will retain a small proportion of the total funding available in 2019-20 in the event that any LAC exceeds their original funding allocation. This funding will be distributed to LACs prior to the end of the 2019-20 financial year if it remains unutilised.

4. Eligibility criteria

We cannot consider your application if it does not meet **all** the eligibility criteria.

This grant opportunity is a closed non-competitive grant selection process, consistent with the Australian Government's decision to fund LACs in each state or territory to deliver the program. LACs are well established, highly skilled and experienced in Commonwealth criminal matters. LACs are statutory bodies established pursuant to legislation in the relevant state or territory to provide legal aid services.

4.1 Who is eligible to apply for a grant?

To be eligible to receive a grant, you must be one of the listed invited organisations and have received an invitation to apply through GrantConnect.

The list of eligible applicants was determined in line with the outcomes of the program to provide funding to the LACs for costs incurred defending clients in serious, high cost, Commonwealth criminal matters.

Invited Organisation	Service Delivery Area
Legal Aid Commission ACT	ACT
Legal Aid Commission of NSW	NSW
Northern Territory Legal Aid Commission	NT
Legal Aid Queensland	QLD
Legal Services Commission of SA	SA
Legal Aid Commission of Tasmania	TAS
Victoria Legal Aid	VIC
Legal Aid Commission of WA	WA

No further organisations will be invited to apply.

4.2 Who is not eligible to apply for a grant?

You are not eligible to apply for this grant opportunity if you have not received an invitation to apply through GrantConnect and your organisation is not listed as an eligible invited organisation at Section 4.1.

5. What the grant money can be used for

5.1 Eligible grant activities

Funding can be used for the following grant activities:

- grant activities must relate to serious, high cost Commonwealth criminal law matters
- the actual total cost or estimated total cost of each matter must be \$40,000 or more for all new matters

- funding is only to be used for the cost of appeals where counsel provides certification that there are reasonable prospects of success. This does not apply to appeals brought by the Commonwealth Director of Public Prosecutions.

5.2 What the grant money cannot be used for

You cannot use the grant for the following activities:

- costs that have been awarded in favour of the defendant
- costs that could be sought under the *Proceeds of Crime Act 2002 (Cth)*
- major capital expenditure
- costs incurred in the preparation of a grant application or related documentation
- major construction/capital works
- overseas travel
- activities for which other Commonwealth, state, territory or local government bodies have primary responsibility.

We cannot provide a grant if you receive funding from another government source for the same purpose.

6. The assessment criteria

You will need to address the following assessment criterion in the application form.

Explain how your organisation will use the requested funding to deliver services to meet the program outcomes.

The application form includes character limits – up to 6,000 characters (approx. 900 words) per criterion. The application form will not accept characters beyond this limit. Please note spaces are included in the character limit.

7. How to apply

Before applying, you must read these grant guidelines, the grant agreement terms and conditions, sample grant agreement and questions and answers prior to submitting an online application.

These documents are found on the [GrantConnect](#) website. Any changes to grant documentation are published and addenda¹ will be published on GrantConnect and will only be accessible by invitees. GrantConnect is the authoritative source for grants information.

Only invitees can access these documents and the application form.

You can only submit one application form for this grant opportunity. If more than one application is submitted, the latest accepted application form will progress (only). To apply you must:

- complete the online application form on [GrantConnect](#)
- provide all the information requested
- address all eligibility criteria and assessment criterion
- submit your application to the Community Grants Hub by 11.00PM AEDT 28 November 2019.

¹ Alterations and addenda include but are not limited to corrections to currently published documents, changes to close times for applications and questions and answers documents.

We will not provide application forms or accept applications for this grant opportunity by fax or mail.

The application form includes help information. You are responsible for making sure your application is complete and accurate. Giving false or misleading information is a serious offence under the [Criminal Code 1995](#) and we will investigate any false or misleading information and may exclude your application from further consideration.

If you need more help about the application process, submitting an application online, have any technical difficulties or find an error in your application after submission, but before the closing date and time, you should contact the Community Grants Hub immediately on 1800 020 283 (option 1) or email support@communitygrants.gov.au. The Community Grants Hub do not have to accept any additional information, or requests from you to correct your application after the closing time.

You cannot change your application after the closing date and time.

If we find an error or something missing, we may ask you for clarification or additional information. This will not change your application. However, we can refuse to accept any additional information from you that would change your application after the closing time.

You should keep a copy of your application and any supporting documents submitted.

You will receive an automated notification acknowledging the receipt of your application.

7.1 Timing of grant opportunity processes

You must submit an application between the published opening and closing dates.

Late applications

We will not accept late applications unless an applicant has experienced exceptional circumstances that prevent the submission of the application. Broadly, exceptional circumstances are events characterised by one or more of the following:

- reasonably unforeseeable
- beyond the applicant's control
- unable to be managed or resolved within the application period.

Exceptional circumstances will be considered on their merits and in accordance with probity principles.

How to lodge a late application

Applicants seeking to submit a late application will be required to submit a late application request to the Community Grants Hub. The request should include a detailed explanation of the circumstances that prevented the application being submitted prior to the closing time. Where appropriate, supporting evidence can be provided to verify the claim of exceptional circumstances.

The late application request form and instructions for how to submit it can be found on the [Community Grants Hub website](#).

Written requests to lodge a late application will only be accepted within three days after the grant opportunity has closed.

The delegate or their appointed representative² will determine whether a late application will be accepted. The decision of the delegate will be final and not be subject to a review or appeals process.

² This may be the Hub delegate or nominated staff member of the client agency at the EL2 level or above.

Once the outcome is determined, the Community Grants Hub will advise the applicant if their request is accepted or declined.

Expected timing for this grant opportunity

If you are successful, you will be expected to be able to commence your grant activity in February 2020.

Table 1: Expected timing for this grant opportunity

Activity	Timeframe
Assessment of applications	Up to 3 weeks
Approval of outcomes of selection process	Up to 2 weeks
Negotiations and award of grant agreements	Up to 2 weeks
Earliest start date of grant activity	February 2020
End date of grant activity	30 June 2020
End date of grant reporting	31 December 2020

7.2 Questions during the application process

Only invited applicants' questions will be answered during the application submission period, please contact the Community Grants Hub on 1800 020 283 (option 1) or email support@communitygrants.gov.au.

The Community Grants Hub will respond to emailed questions within five working days. Answers to questions are posted on [GrantConnect](#).

The question period will close at 5:00PM AEDT on 21 November 2019. Following this time, only questions about using and/or submitting the application form will be answered.

8. The grant selection process

8.1 Assessment of grant applications

The Assessment Centre will review your application against the eligibility criteria. Only eligible applications will move to the next stage. Eligible applications will be considered through a closed non-competitive grant process. This means AGD has identified suitable organisations and has invited them to apply.

If eligible, we will then assess your application against the assessment criteria (see Section 6). We consider your application on its merits, based on:

- how well it meets the criteria
- whether it provides value with relevant money.³

Applications are assessed on how well they meet the selection criteria for example to what degree it fully meets the selection criteria.

³ See glossary for an explanation of 'value with money'.

While officials do not have to rank all grants when briefing ministers on the merits of a specific grant or group of grants, officials should, at a minimum, indicate which applications:

- fully meet the selection criteria
- partially meet the selection criteria
- do not meet any of the selection criteria.

8.2 Who will assess applications?

The Assessment Centre will assess each eligible and compliant application on its individual merit. The Assessment Centre uses fully trained Community Grants Hub staff for consistent assessment of all applications.

AGD uses this information to help them make recommendations to their decision maker who has the final say on applications to be awarded a grant.

8.3 Who will approve grants?

The First Assistant Secretary, Legal Services Policy Division in the Attorney-General's Department (the decision maker) will make the final decision with consideration as to whether it provides value with relevant money.

The decision maker's decision is final, including:

- approval of the grant
- funding amount to be paid.

9. Notification of application outcomes

We will write to you about the outcome of your application. If you are successful, you will be advised of any specific conditions attached to the grant.

10. Successful grant applications

10.1 The grant agreement

You must enter into a legally binding grant agreement with the Commonwealth. We will offer successful applicants a Commonwealth Simple Grant Agreement for this grant opportunity.

Sample grant agreements are available on GrantConnect as part of the grant documentation. We will use a schedule to outline the specific grant requirements.

We must execute a grant agreement with you before we can make any payments. We are not responsible for any of your expenditure until a grant agreement is executed.

Your grant agreement may have specific conditions determined by the assessment process or other considerations made by the decision maker. These are identified in the agreement.

The Commonwealth may recover grant funds if there is a breach of the grant agreement.

Commonwealth Simple Grant Agreement

We will use a Commonwealth Simple Grant Agreement.

You will have twenty (20) business days from the date of a written offer to sign and return this grant agreement. The grant agreement is not considered to be executed until both you and the

Commonwealth have signed the agreement. During this time, we will work with you to finalise details.

The offer may lapse if both parties do not sign the grant agreement within this time. Under certain circumstances, we may extend this period. We base the approval of your grant on the information you provide in your application.

You may request changes to the grant agreement. However, we will review any changes to make sure they do not affect the grant as approved by the decision maker.

10.2 How we pay the grant

The grant agreement will state the maximum grant amount to be paid.

We will make an initial upfront payment on execution of the grant agreement. We will then make subsequent payments according to the agreed schedule set out in the grant agreement.

11. Announcement of grants

If successful, your grant will be listed on the GrantConnect website 21 calendar days after the date of effect as required by Section 5.3 of the [CGRGs](#).

12. How we monitor your grant activity

12.1 Keeping us informed

You should let us know if anything is likely to affect your grant activities or organisation.

12.2 Reporting

You must submit reports as agreed in your grant agreement.

We will remind you of your reporting obligations before a report is due. We will expect you to report on expenditure of the grant during and at the completion of your grant activity.

Progress reports will be requested at the discretion of the Attorney-General's Department.

Final report

When you complete the grant activity, you must submit a final report.

Final reports must:

- identify if and how outcomes have been achieved
- include the agreed evidence as specified in the grant agreement
- identify the total eligible expenditure incurred
- be submitted by the due date and in the format provided in the grant agreement.

12.3 Financial declaration

We may ask you to provide a declaration that the grant money was spent in accordance with the grant agreement and to report on any underspends of the grant money.

The Commonwealth may recover unspent funds.

12.4 Grant agreement variations

We recognise that unexpected events may affect your progress. In these circumstances, you can request a variation to your grant agreement. You can request a variation by contacting your Funding Arrangement Manager in the Community Grants Hub.

You should not assume that a variation request will be successful. We will consider your request based on provisions in the grant agreement and the likely impact on achieving outcomes.

12.5 Record keeping

We may also inspect the records you are required to keep under the grant agreement.

12.6 Evaluation

AGD may undertake an evaluation of the program to determine the effectiveness of grant activities in contributing to government objectives. Funding recipients may be required to provide information to assist in such evaluations.

13. Probity

The Australian Government will make sure that the grant opportunity process is fair, according to the published guidelines, incorporates appropriate safeguards against fraud, unlawful activities and other inappropriate conduct and is consistent with the [CGRGs](#).

These guidelines may be changed by AGD. When this happens, the revised guidelines are published on [GrantConnect](#) and the [Community Grants Hub](#) websites.

13.1 Enquiries and feedback

Complaints about this grant opportunity

The AGD [Client Service Charter](#) applies to complaints about the program. AGD will reply to complaints about the program. All complaints about the program including grant decisions must be made in writing.

Any questions you have about grant decisions for this grant opportunity should be sent to ecccf@ag.gov.au.

Complaints about the selection process

Applicants can contact the complaints service with complaints about the Community Grants Hub's service(s) or the selection process.

Details of what makes an eligible complaint can be provided by asking the Community Grants Hub. Applicants can use the [online complaints form](#) on the [Department of Social Services](#) (DSS) website, or contact the DSS Complaints line:

Phone: 1800 634 035

Email: complaints@dss.gov.au

Mail: Complaints
GPO Box 9820
Canberra ACT 2601

Complaints to the Ombudsman

If you do not agree with the way the Community Grants Hub or AGD has handled your complaint, you may complain to the [Commonwealth Ombudsman](#). The Ombudsman will not usually look into a complaint unless the matter has first been raised directly with the Community Grants Hub or AGD.

The Commonwealth Ombudsman can be contacted on:

Phone (Toll free): 1300 362 072
Email: ombudsman@ombudsman.gov.au
Website: www.ombudsman.gov.au

13.2 Conflicts of interest

Any conflicts of interest could affect the performance of the program. There may be a conflict of interest, or perceived conflict of interest, if AGD and the Community Grants Hub staff, any member of a committee or advisor and/or you or any of your personnel has a:

- professional, commercial or personal relationship with a party who is able to influence the application selection process, such as an Australian government officer
- relationship with or interest in, an organisation, which is likely to interfere with or restrict the applicants from carrying out the proposed activities fairly and independently
- relationship with, or interest in, an organisation from which they will receive personal gain because the organisation receives a grant under the program.

You will be asked to declare, as part of your application, any perceived or existing conflicts of interests or that, to the best of your knowledge, there is no conflict of interest.

If later you think there is an actual, apparent, or perceived conflict of interest, you must inform the Community Grants Hub in writing immediately.

Conflicts of interest for Australian Government staff will be handled as set out in the [Australian Public Service Code of Conduct \(Section 13\(7\)\)](#) of the [Public Service Act 1999](#). Committee members and other officials including the decision maker must also declare any conflicts of interest.

We publish our conflict of interest policy on the [Community Grants Hub](#) website.

13.3 Privacy

We treat your personal information according to the [Privacy Act 1988](#) and the [Australian Privacy Principles](#). This includes letting you know:

- what personal information we collect
- why we collect your personal information
- who we give your personal information to.

Your personal information can only be disclosed to someone else for the primary purpose for which it was collected, unless an exemption applies.

The Australian government may also use and give out information about grant applicants and grant recipients under this grant opportunity in any other Australian government business or function. This includes disclosing grant information on GrantConnect as required for reporting purposes and giving information to the Australian Taxation Office for compliance purposes.

We may share the information you give us with other Commonwealth entities for purposes including government administration, research or service delivery, according to Australian laws.

As part of your application, you declare your ability to comply with the *Privacy Act 1988* and the Australian Privacy Principles and impose the same privacy obligations on officers, employees, agents and subcontractors that you engage to assist with the activity, in respect of personal information you collect, use, store, or disclose in connection with the activity. Accordingly, you must not do anything, which if done by AGD would breach an Australian Privacy Principle as defined in the Act.

13.4 Confidential information

Other than information available in the public domain, you agree not to give out to any person, other than us, any confidential information relating to the grant application and/or agreement, without our prior written approval. The obligation will not be breached where you are required by law, Parliament or a stock exchange to disclose the relevant information or where the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation).

We may at any time, require you to arrange for you; or your employees, agents or subcontractors to give a written undertaking relating to nondisclosure of our confidential information in a form we consider acceptable.

We will keep any information in connection with the grant agreement confidential to the extent that it meets all of the three conditions below:

1. you clearly identify the information as confidential and explain why we should treat it as confidential
2. the information is commercially sensitive
3. revealing the information would cause unreasonable harm to you or someone else.

We will not be in breach of any confidentiality agreement if the information is disclosed to:

- Commonwealth employees and contractors to help us manage the program effectively
- employees and contractors of our department so we can research, assess, monitor and analyse our programs and activities
- employees and contractors of other Commonwealth agencies for any purposes, including government administration, research or service delivery
- other Commonwealth, state, territory or local government agencies in program reports and consultations
- the Auditor-General, Ombudsman or Privacy Commissioner
- the responsible Minister or Parliamentary Secretary
- a House or a Committee of the Australian Parliament.

The grant agreement may also include any specific requirements about special categories of information collected, created or held under the grant agreement.

13.5 Freedom of information

All documents that the Australian government has, including those about this grant opportunity, are subject to the [Freedom of Information Act 1982](#) (FOI Act).

The purpose of the FOI Act gives people the ability to get information held by the Australian government and its organisations. Under the FOI Act, people can ask for documents the Australian government has. People may not be able to get these documents if these documents need to

protect essential public interests and private and business affairs of persons who the information relates to.

All Freedom of Information requests must be referred to the Freedom of Information Coordinator in writing.

By mail: Freedom of Information Team
 Government and Executive Services Branch
 Department of Social Services (DSS)
 GPO Box 9820
 Canberra ACT 2601

By email: foi@dss.gov.au

14. Glossary

Term	Definition
accountable authority	see subsection 12(2) of the Public Governance, Performance and Accountability Act 2013 .
administering entity	when an entity that is not responsible for the policy, is responsible for the administration of part or all of the grant administration processes.
assessment criteria	are the specified principles or standards, against which applications will be judged. These criteria are also used to assess the merits of proposals and, in the case of a competitive grant opportunity, to determine application rankings.
commencement date	the expected start date for the grant activity.
completion date	the expected date that the grant activity must be completed and the grant spent by.
co-sponsoring entity	when two or more entities are responsible for the policy and the appropriation for outcomes associated with it.
date of effect	can be the date on which a grant agreement is signed or a specified starting date. Where there is no grant agreement, entities must publish information on individual grants as soon as practicable.
decision maker	the person who makes a decision to award a grant.
eligibility criteria	refer to the mandatory criteria which must be met to qualify for a grant. Assessment criteria may apply in addition to eligibility criteria.
Commonwealth entity	a department of state, or a parliamentary department, or a listed entity or a body corporate established by a law of the Commonwealth. See subsections 10(1) and (2) of the PGPA Act.

Term	Definition
Commonwealth Grants Rules and Guidelines (CGRGs) 2017	establish the overarching Commonwealth grants policy framework and articulate the expectations for all non-corporate Commonwealth entities in relation to grants administration. Under this overarching framework, non-corporate Commonwealth entities undertake grants administration based on the mandatory requirements and key principles of grants administration.
funding arrangement manager	the officer responsible for the ongoing management of the grantee and their compliance with the grant agreement.
grant	for the purposes of the CGRGs, a 'grant' is an arrangement for the provision of financial assistance by the Commonwealth or on behalf of the Commonwealth: <ul style="list-style-type: none"> <li data-bbox="788 763 1394 904">a. under which relevant money⁴ or other Consolidated Revenue Fund (CRF) money⁵ is to be paid to a grantee other than the Commonwealth <li data-bbox="788 920 1394 1061">b. which is intended to help address one or more of the Australian government's policy outcomes while assisting the grantee achieve its objectives.
grant activity/activities	refers to the project/tasks/services that the grantee is required to undertake.
grant agreement	sets out the relationship between the parties to the agreement, and specifies the details of the grant.
GrantConnect	the Australian government's whole-of-government grants information system, which centralises the publication and reporting of Commonwealth grants in accordance with the CGRGs.
grant opportunity	refers to the specific grant round or process where a Commonwealth grant is made available to potential grantees. Grant opportunities may be open or targeted, and will reflect the relevant grant selection process.
grant program	a 'program' carries its natural meaning and is intended to cover a potentially wide range of related activities aimed at achieving government policy outcomes. A grant program is a group of one or more grant opportunities under a single [entity] Portfolio Budget Statement Program.
grantee	the individual/organisation which has been selected to receive a grant.

⁴ Relevant money is defined in the PGPA Act. See section 8, Dictionary.

⁵ Other CRF money is defined in the PGPA Act. See section 105, Rules in relation to other CRF money.

Term	Definition
Portfolio Budget Statement (PBS) Program	described within the entity's Portfolio Budget Statement , PBS programs each link to a single outcome and provide transparency for funding decisions. These high-level PBS programs often comprise a number of lower level, more publicly recognised programs, some of which will be grant Programs. A PBS Program may have more than one grant program associated with it, and each of these may have one or more grant opportunities.
selection criteria	comprise eligibility criteria and assessment criteria.
selection process	the method used to select potential grantees. This process may involve comparative assessment of applications or the assessment of applications against the eligibility criteria and/or the assessment criteria.
selection advisory panel	provides strategic oversight, advice and recommendations to the decision maker on assessed applications from the program specific, service provider composition and service location perspectives.
value with money	<p>refers to 'value with relevant money' which is a judgement based on the grant proposal representing an efficient, effective, economical and ethical use of public resources and determined from a variety of considerations.</p> <p>When administering a grant opportunity, an official should consider the relevant financial and non-financial costs and benefits of each proposal including, but not limited to the:</p> <ul style="list-style-type: none"> • quality of the project proposal and activities • fit for purpose of the proposal in contributing to government objectives • absence of a grant is likely to prevent the grantee and government's outcomes being achieved • potential grantee's relevant experience and performance history.