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Performance Audit

# **Administration of Grant Reporting Obligations**

**Department of Finance and Deregulation**

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of Australia 2012

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Canberra ACT  
24 January 2012

Dear Mr President  
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit across agencies in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit, and the accompanying brochure, to the Parliament. The report is titled *Administration of Grant Reporting Obligations*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Ian McPhee', is positioned above the printed name and title.

Ian McPhee  
Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

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# Abbreviations and Glossary

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ACC	Australian Crime Commission
ANAO	Australian National Audit Office
ANAO's Better Practice Guide	ANAO Better Practice Guide, <i>Implementing Better Practice Grants Administration</i> , Canberra, June 2010
APRA	Australian Prudential Regulation Authority
ARC	Australian Research Council
ASL	Average staffing level
Certificate of Compliance	The Certificate of Compliance process requires the Chief Executive of an FMA Act agency to certify, having regard to advice provided by the agency's internal control mechanisms, management and the audit committee, the agency's compliance during the previous financial year with the requirements of the financial framework.
CGGs	Commonwealth Grant Guidelines
CPGs	Commonwealth Procurement Guidelines
DAFF	Department of Agriculture, Fisheries and Forestry
DEEWR	Department of Education, Employment and Workplace Relations
DIISR	Department of Innovation, Industry, Science and Research
ERC	Expenditure Review Committee of Cabinet
Finance	Department of Finance and Deregulation
Finance Minister	Minister for Finance and Deregulation
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FMA Regulations	<i>Financial Management and Accountability Regulations 1997</i>
GBRMPA	Great Barrier Reef Marine Park Authority
JCPAA	Joint Committee of Public Accounts and Audit

Ministerial Group	The December 2007 Finance Minister's Instructions introduced a requirement that two types of grant decisions (the approval of grants that agencies had recommended be rejected and grants within a House of Representatives Minister's own electorate) were to be referred to a group of Ministers for decision. In January 2009, this requirement was replaced by an arrangement under which responsibility for such decisions would be retained within the responsible portfolio, but with the associated requirement that Ministers will report all such instances to the Finance Minister.
Senate Order	On 24 June 2008, the Senate agreed to a motion by then Senator Minchin from South Australia requiring all Australian Government departments and agencies to produce a list of all grants approved in each portfolio or agency, including the value of the grant, recipient of the grant and the program from which the grant was made. The list provided for each round of Senate Estimates hearings is to identify grants approved in the period since the previous hearings.
Strategic Review	Strategic Review of the Administration of Australian Government Grant Programs, July 2008
Treasury	Department of the Treasury

# **Summary and Recommendations**



# Summary

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## Introduction

1. Grants administration is an important activity for many Commonwealth entities, involving the payment of billions of dollars of public funds each year.<sup>1</sup> However, prior to late 2007, there was no official guidance provided to agencies relating specifically to the administration of grant programs. In December 2007, Finance Minister's Instructions were issued providing information about the Budget and other related processes, including the decision-making processes that were to apply to grants.

2. In particular, the 2007 Instructions introduced a requirement that Ministers should not make any decisions on discretionary grants without first receiving departmental advice on the merits of the grant application relative to the guidelines for that program. The Instructions further provided that two types of grant decisions (the approval of grants that agencies had recommended be rejected and grants within a House of Representatives Minister's own electorate) were to be referred to a group of Ministers for decision.<sup>2</sup> In respect to the public reporting of approved grants, the Instructions required that the details of individual grants were to be published on agency websites within two days of the announcement of the grant.

3. In February 2008, the then Minister for Finance and Deregulation (Finance Minister) announced that a comprehensive review of the value of discretionary grants and the transparency and effectiveness of existing programs would be undertaken.<sup>3</sup> In establishing and undertaking the review, particular attention was paid to the findings and recommendations of the wide

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<sup>1</sup> In announcing the Government's intention to reform grants administration, the then Minister for Finance and Deregulation (Finance Minister) stated that, in 2006, Commonwealth expenditure on discretionary grants alone had totalled \$2.7 billion (The Hon Lindsay Tanner MP, Minister for Finance and Deregulation, National Press Club Address, 6 February 2008). The July 2008 report of the Strategic Review of the Administration of Australian Government Grant Programs estimated that Commonwealth expenditure on all forms of conditional grants (including specific purpose payments made under legislation to state, territory and local governments and discretionary grants made to a variety of funding recipients) was likely to be between \$40 billion and \$50 billion per annum, or about one sixth of total Commonwealth outlays (Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, 31 July 2008, p. 1).

<sup>2</sup> The Ministerial Group was never formed, with the then Finance Minister undertaking the role of the Group during 2008 (see further at paragraphs 3.1 to 3.7 of the audit report).

<sup>3</sup> Minister for Finance and Deregulation, National Press Club Address, op. cit.

range of audits of grants administration undertaken by the Australian National Audit Office (ANAO). In this respect, the July 2008 report of the Strategic Review of the Administration of Australian Government Grant Programs (Strategic Review) commented that many of these audits had raised significant issues going both to the overall framework for the administration of grant programs and to the quality of administration of individual programs.<sup>4</sup>

4. The Strategic Review recommended the retention of the existing requirement for public reporting of individual grants, albeit with some changes to the operation of the requirement.<sup>5</sup> In light of the findings and recommendations of the Strategic Review, the Government decided that the requirement for Ministers to refer two types of grant decisions to a Ministerial group would be replaced by an arrangement under which responsibility for such decisions would be retained within the responsible portfolio, but with the associated requirement that Ministers will report to the Finance Minister:

- all decisions to approve a particular grant which the agency has recommended be rejected; and
- for Ministers that are a Member of the House of Representatives, each instance in which they approve a grant in their own electorate.

5. These additional reporting requirements took effect in January 2009 (through revised Finance Minister's Instructions). They were subsequently retained, with some minor amendments, in the Commonwealth Grant Guidelines (CGGs)<sup>6</sup> which were issued on 1 July 2009 to give full effect to the Government's consideration of the recommendations of the Strategic Review. The reporting provisions (and related grant administration requirements) were also supported by the retention in the CGGs of the requirement that Ministers will not approve a proposed grant without first receiving agency advice on its merits. Table S 1 summarises the three key grant reporting obligations that are currently in place.

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<sup>4</sup> Strategic Review, op. cit., p. 2.

<sup>5</sup> The Strategic Review had recommended that approved grants be published on agency websites within two weeks of the relevant funding agreement being signed, instead of within two days of the grant being announced (Strategic Review, op. cit., p. 27). The requirement ultimately introduced was for grants to be published on agency websites within seven working days of the funding agreement taking effect.

<sup>6</sup> The CGGs, issued under Regulation 7A of the *Financial Management and Accountability Regulations 1997*, represent the whole-of-government policy framework for grants administration and apply to all departments and agencies subject to the *Financial Management and Accountability Act 1997* (FMA Act). The CGGs also stipulate a number of policy and statutory requirements with which Ministers must comply when performing the role of financial approver in relation to grants.

**Table S 1****Grant reporting obligations as at November 2011**

Area	Nature of reporting	Information to be reported
Approval by Ministers of grants the agency recommended be rejected.	Annual reporting to the Finance Minister by Ministers (by 31 March each year for the preceding calendar year) (CGG para 3.21).	Ministers are to report on all instances where they have decided to approve a grant which the relevant agency has recommended be rejected. The report is to include a statement of reasons (i.e. the basis for the approval for each grant).
Grants approved by a House of Representatives Minister in their own electorate.	Reporting to the Finance Minister by Ministers each time a relevant grant is approved (CGG para 3.20 and 3.21(c)).	The Minister is to write to the Finance Minister advising of the details of the grant each time such an approval is given. Where the agency did not recommend that the grant be rejected, this requirement is to be met either by copying the Finance Minister into the correspondence with the grant recipient or by the Minister writing to the Finance Minister advising of the decision as soon as practicable after it is made. Where the agency had recommended the grant be rejected, the Minister is to also include a brief statement of reasons (i.e. the basis for the approval).
Web-based reporting of individual grants.	Specified details are to be published on agency websites no later than seven working days after the relevant funding agreement takes effect, and be retained on the website for at least two financial years (CGG para 4.2–4.6).	The information to be published in respect to each grant, and template to be used for reporting purposes, is outlined in a Finance Circular published in June 2009. The CGGs stipulate the requirements that are to apply where agencies either seek an exemption from the requirements or are otherwise unable to comply with them (e.g. due to the volume of grants that would need to be reported).
<p>Note 1: In addition to this requirement for web-based reporting of grants:</p> <ul style="list-style-type: none"> <li>there is a longstanding requirement for agencies to publish, through their annual report, a list of the grant programs they are responsible for administering; and</li> <li>since June 2008, for the purposes of informing Senate Estimates hearings, there has been a requirement to report to the Senate on grants awarded in the period since the last hearings.</li> </ul>		

Source: Commonwealth Grant Guidelines, Policies and Principles for Grants Administration, July 2009.

## Audit objective

6. The objective of the audit was to assess the implementation and effectiveness of the enhanced grants administration requirements for:

- reporting to the Finance Minister on the awarding of grants within their own electorate by Ministers who are Members of the House of Representatives;

- reporting to the Finance Minister on instances where Ministers have decided to approve a particular grant which the relevant agency has recommended be rejected; and
- the website reporting of grants awarded.

7. As part of the audit, a survey was conducted by ANAO of all agencies subject to the *Financial Management and Accountability Act 1997* (FMA Act) to identify the grant programs that had been in operation since December 2007, when the first enhancements were made to the grants administration framework. Copies of all advice provided to relevant Ministerial decision-makers by agencies between 1 January 2009 and 30 June 2010 in which the Minister was asked to make a decision about whether or not to approve a grant were also requested. Based on the survey responses, ANAO examined some 800 Ministerial briefs relating to around 220 programs<sup>7</sup> across 20 agencies. Examination of the quality of the agency assessments of individual proposed grants (in terms of the relevant program objectives and guidelines) undertaken to support the advice included in each brief was not within the scope of this audit.

## Overall conclusion

8. The transparency, accountability and probity with which grant decisions are made have been matters of longstanding Parliamentary and public interest. This is because grants are a widely used means of contributing to the achievement of particular public policy objectives, and involve the use of significant levels of public money to provide financial benefits that recipients would not otherwise have received. In the context of many grant programs, this will involve some potential recipients being successful, while others are not. It is also recognised that there is the potential for electoral advantage to arise, or be sought, from the making of grants.

9. The enhanced grants administration framework that was progressively introduced between December 2007 and July 2009 had the stated aim of improving the quality of administration and ensuring Australian taxpayers receive the best possible outcomes from expenditure on Commonwealth grants. Accordingly, this framework has a particular focus on the establishment of transparent and accountable grant decision-making processes.

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<sup>7</sup> This included a number of programs for which multiple rounds were conducted within the 18 month period to June 2010 examined by ANAO, as well as a number of ad-hoc and one-off grant arrangements.

The various reporting requirements incorporated into the framework are expected to make an important contribution in these respects.

**10.** Key underpinnings of the grant reporting arrangements are that Ministers not approve a proposed grant without first receiving agency advice on its merits relative to the program's guidelines; and report to the Finance Minister all instances where they approve grants that the relevant agency recommended be rejected. These requirements, together with other related enhancements to the grants administration framework, do not affect a Minister's right to decide on the awarding of grants. Rather, they provide for an improved decision-making framework encouraging Ministers to be as well informed as possible when deciding whether to approve grants, and promoting transparency around the reasons for decisions.

**11.** Providing Ministers with a recommendation as to whether a proposed grant should be approved or rejected enhances the capacity of agencies and Ministers to meet related reporting obligations. It also assists Ministers to identify those occasions where it will be necessary to separately record the basis for any decision to approve a grant to comply with their broader obligations when acting as a financial approver in relation to grants.<sup>8</sup>

**12.** Consistent with the grants administration framework, it is usual for agencies to provide Ministers with written briefing material to inform decisions about whether to approve or reject proposed grants. However, the quality and nature of agency briefing practices was variable, with a significant proportion of the briefs examined in the course of this audit not clearly identifying those proposed grants that the agency recommended be approved, and those that it recommended be rejected. In particular, while some programs performed well, a clear recommendation was not included in one or more briefs provided in relation to 20 per cent (or one in five) of the programs reviewed, across ten agencies (involving about a third of all briefs provided in respect to the affected programs in the 18 month period examined). In addition, it was relatively common for agency briefings to not clearly identify to the Minister that the spending proposal under consideration

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<sup>8</sup> One of the statutory requirements introduced as part of the new grants administration framework was the amendment of FMA Regulation 12 from 1 July 2009 to require that, when approving a grant, approvers (including Ministers) must record the reasons for the approval. This does not apply to other types of spending proposals (in respect to which approvers are only required to record the terms of the approval). Between January 2009 and 30 June 2009, Finance Minister's Instructions required Ministers to record the basis of any approval of a grant the relevant agency had recommended be rejected, and that this should take the form of a written statement of the reasons for the decision.

involved a grant (more than a third (37 per cent) of the briefs examined); and/or to not outline the decision-making and record-keeping obligations that apply when the approval of grants is being considered.<sup>9</sup>

13. As a consequence, shortcomings in reporting to the Finance Minister have included that:

- while the incidence of Ministers approving grants within their own electorates is quite low, there were 33 instances in the briefs examined by ANAO where grants approved in a Minister's own electorate were not reported to the Finance Minister (indicating an underreporting in the relevant period of some 38 per cent<sup>10</sup>); and
- there have only been a very small number of instances reported to the Finance Minister as involving a Minister approving a grant that the relevant agency had 'recommended be rejected.'<sup>11</sup> A key factor in this outcome has been the practice of agency briefings not clearly identifying the grants the agency recommends be approved, and those that it recommends be rejected (including where more applications are assessed as being meritorious than can be accommodated within the available funding).

14. There would be benefits in the Grants Framework Unit in the Department of Finance and Deregulation (Finance) engaging more extensively with agencies so as to promote improvements in important aspects of grants administration, including by articulating the minimum standards expected of agencies when advising Ministers on the merits of proposed grants and the interaction of this advice with the reporting of certain types of grant decisions to the Finance Minister.

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<sup>9</sup> Specifically, more than half (55 per cent) of the briefs examined did not refer the Minister to the FMA Act and/or Regulations, and fewer than 29 per cent of the briefs prepared after 1 July 2009 (when the CCGs took effect) contained any reference to the CCGs. In this respect, the CCGs stipulate that: 'Agencies are responsible for advising Ministers on the requirements of the CCGs, and *must* take appropriate and timely steps to do so where a Minister exercises the role of a financial approver in grants administration.' (*Commonwealth Grant Guidelines, Policies and Principles for Grants Administration*, Department of Finance and Deregulation, July 2009, paragraph 3.23) [Emphasis as per CCGs].

<sup>10</sup> See paragraph 24.

<sup>11</sup> Specifically, a total of 11 such grants were reported to the Finance Minister as having been approved over the first two years to 31 December 2010 that the reporting requirement had been in place. All 11 reported grants had been approved in the 18 month period to June 2010 examined and represented 0.05 per cent of all proposed grants considered by Ministers in the same period as documented in the briefs provided to ANAO (or nearly one in every two thousand grant proposals).

15. Public reporting of grants by agencies could also be improved. In particular, a small number of agencies had not presented data on individual grants on their websites. There was also mixed performance among agencies in providing the full range of data required to be reported within the required timeframe. This situation was reflected in more than a quarter of the total instances of non-compliance reported by agencies as part of the 2009–10 Certificate of Compliance process relating to the website reporting arrangements.<sup>12</sup> Currently, agencies are required to comply with three separate grant reporting regimes requiring different information to be reported at different points in time. In that context, there would be benefits in seeking to align the various public reporting requirements (where this is practical) in a way that will promote more accurate, timely and complete reporting of grants while not diminishing the availability of quality public information.

16. The promulgation of advice to agencies on the administration of grants, culminating with the issuing of the Commonwealth Grant Guidelines in July 2009, was a significant advance in this aspect of public administration. For the first time, the Government's expectations for Ministers, agencies and officials when performing duties in relation to grants administration were clearly articulated. However, given the passage of some two-and-a-half years since the CCGs took effect and the findings of this audit, it is timely for aspects of its implementation to be reviewed as there is certainly room for improvement on the part of agencies with assistance and leadership from Finance (as the relevant central agency). Within this context, ANAO has made three recommendations aimed at enhancing the quality of advice provided to Ministers and compliance with the associated reporting obligations. It is also recommended that opportunities for improving the accuracy, completeness and cost-effectiveness of public reporting on grant programs and the awarding of individual grants be examined.

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<sup>12</sup> In 2006–07, the Australian Government introduced the Certificate of Compliance process for FMA Act agencies. Agency Chief Executives must certify, having regard to advice provided by the agency's internal control mechanisms, management and audit committee, the agency's compliance during the previous financial year with: the FMA Act and Regulations; *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010*, as amended from time to time; the Australian Government's foreign exchange risk management requirements; the legal and financial requirements for the management of Special Accounts; and selected financial management policies of the Commonwealth.

## Key findings by chapter

### Agency Advice on the Merits of Grant Spending Proposals (Chapter 2)

17. A key focus of the new grants administration framework has been the establishment of specific legislative and policy requirements in relation to the grant assessment and approval process. These include an explicit requirement that Ministers obtain advice from the relevant agency on the merits of a proposed grant before any decision is taken as to whether to approve the grant. This requirement, and other related enhancements to the grants administration framework (including those requiring certain types of grant approvals to be reported to the Finance Minister) are designed to assist Ministers to be appropriately informed when deciding whether to approve grants, and enhances accountability for those decisions. The Joint Committee of Public Accounts and Audit recently reiterated the importance of agencies providing advice on the merits of proposed grants before any funding decisions are taken.<sup>13</sup>

18. ANAO's examination of Ministerial briefs for proposed grants prepared over the period January 2009 to June 2010 identified a number of areas in which agency briefing practices could be improved. In particular, providing a clear recommendation as to whether a proposed grant should be approved or not is important in the context of promoting the desired improvements to grants administration, as well as assisting Ministers to consistently and demonstrably comply with their obligations. However, within the 800 Ministerial briefs examined by ANAO, briefing practices were variable across agencies and programs. While some programs performed well in this respect, in others it was relatively common for the brief not to incorporate a clear funding recommendation from the agency.

19. A significant factor that influences the necessary content of agency briefings on the merits of proposed grants is the process by which potential funding recipients are identified and are able to access the program. In particular, different issues arise when advising Ministers on the merits of proposed grants depending upon whether the relevant program involves a competitive merit-based selection process or non-competitive and/or non-

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<sup>13</sup> Joint Committee of Public Accounts and Audit, *Report 423: Review of Auditor-General's Reports Nos 39 2009–10 to 15 2010–11*, Canberra, July 2011, p. viii.

application based process. ANAO identified significant shortcomings in the briefing practices adopted by agencies in relation to both types of grant selection processes.

20. Over the 18 month period examined, a clear recommendation was not included in one or more of the briefs provided to a Ministerial decision-maker in relation to one in five of the programs reviewed, across ten agencies. These instances represented 34 per cent of the total number of briefs provided to ANAO in respect to the affected programs. Also of relevance to the terms of the reporting requirement set out in the CGGs<sup>14</sup> is that fewer than 10 per cent of the briefs examined included an explicit recommendation that specified proposed grants be rejected by the Minister. It was also relatively common for agency briefings to:

- not clearly identify that the spending proposal on which the agency was advising involved a grant, with this being the case in more than a third (37 per cent) of the briefs examined that were provided to Ministers between 1 July 2009 (when the CGGs came into effect) and June 2010; and/or
- not outline the decision-making and record-keeping obligations that apply when proposed grants are being considered. Specifically, more than half of the briefs examined (55 per cent) did not refer the Ministerial decision-maker to the FMA Act and/or Regulations, and fewer than 29 per cent of briefs prepared after 1 July 2009 contained any reference to the CGGs.

21. In addition to agencies improving these aspects, there would also be benefits if:

- for competitive, merit-based grant programs<sup>15</sup>, agency briefings more consistently rated applications in terms of suitability for funding and ranked each competing application in priority order. This ranking would then form the basis of the agency's advice to the Minister as to which applications are recommended to be approved and which to be rejected, having regard to the program's objectives and the funding available. In this respect, providing Ministers with groups of similarly-

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<sup>14</sup> Which requires that Ministers report approved grants that the relevant agency 'recommended be rejected'.

<sup>15</sup> Which the CGGs state should be adopted, unless specifically agreed otherwise.

rated proposals without identifying which of those proposals the agency is recommending be approved (and why) is not sufficient to support the Minister's various obligations in relation to considering, recording and reporting grant approvals (particularly where the projects rated as meritorious under the relevant guidelines exceed the available funding);

- for non-competitive grant programs, clear rules are specified and applied in relation to determining the order in which potential funding recipients will be considered for access to the available funding; and the responsible agency appropriately evaluates, and advises the decision-maker on, the value for money offered by each project under consideration in formulating funding recommendations;
- in circumstances where an agency considers there is merit in providing a Minister with various funding options, the agency advice include a clear recommendation as to which option is preferred, and why. In the absence of such a recommendation, it will be difficult to ensure that all relevant decision-making and reporting obligations that arise under the financial framework and the CGGs are consistently observed; and
- where initial agency assessments are updated and/or changed through a series of two or more agency advices (for example, as further information is obtained and/or further analysis is undertaken), that the reasons for any such changes are clearly documented to enhance the accountability of both agencies and decision-makers.

**22.** These findings indicate that enhancements to the CGGs and associated guidance and in the role played by Finance in relation to promoting improvements in the application of the grants administration framework would be beneficial. However, they also highlight the importance of agencies understanding the essential elements of the CGGs; and putting in place appropriate arrangements for the preparation, oversight and submission of briefs seeking Ministerial consideration of the approval or otherwise of proposed grants that apply the intent of the Government's requirements for the administration of grants, which was to improve transparency and accountability.

## Reporting to the Finance Minister (Chapter 3)

23. Since January 2009, there has been a requirement for Ministers to report two types of grant decisions that were seen as 'sensitive and potentially controversial'. Specifically, the Finance Minister is to be advised in writing:

- each time a Minister who is a Member of the House of Representatives awards a grant within his or her own electorate; and
- by 31 March of each year, outlining all instances in the prior calendar year where decisions were taken by Ministers to approve grants that the agency had recommended be rejected.

24. The incidence of Ministers approving grants in their own electorate is quite low, with a total of 77 such instances being reported over the 30 months between January 2009 and July 2011. Of those, 54 had been approved in the 18 month period to June 2010 examined by ANAO. However, within the briefs provided in response to the audit survey, ANAO identified a further 33 grants approved in the same period that should also have been reported to the Finance Minister, but were not. This indicates an underreporting of own-electorate grants in the relevant period of at least 38 per cent. In October 2011, Finance advised ANAO that it agreed that there is merit in reviewing the own-electorate reporting arrangements with a view to advising the Finance Minister of any opportunities for improvement.

25. A potentially more significant issue relates to the identification and reporting of instances where Ministers have not accepted a recommendation that a proposed grant be rejected. In respect of such decisions, the Strategic Review noted<sup>16</sup> that different conclusions about whether to approve a grant can be legitimately drawn from any given set of information and evidence, and it is open to a Minister to reach a decision different from that recommended in an agency's advice. In this context, the requirement for agencies to provide prior advice to Ministers on the merits of each proposed grant was seen as a prudent control intended to ensure that, where Ministers elect to assume a decision-making role, they are well-informed of the relevant agency's assessment of the merits of grant applications and suitably briefed on any other relevant considerations.<sup>17</sup>

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<sup>16</sup> Strategic Review, op. cit., p. 8.

<sup>17</sup> *ibid.*, pp. 7 and 62.

26. In the first two years in which this reporting obligation applied, only a small number of instances were reported to the Finance Minister as involving a Minister approving funding for a 'recommended be rejected' project. Specifically, a total of 11 individual grant approvals were reported across all portfolios for the two years to 31 December 2010. While there was variability in the extent and manner in which Ministers recorded the basis for the relevant decisions at the time of approval<sup>18</sup>, in each case the Minister provided the Finance Minister with a brief statement of the reasons for having approved the grant (as required under the CGGs). In none of the 11 instances where Ministers had reported the approval of grants in such circumstances did the reporting to the Finance Minister result in Finance recommending to its Minister that any further action be taken, or the Finance Minister otherwise initiating any action in response to the reporting.<sup>19</sup>

27. All of the reported instances had been approved in the 18 month period to June 2010 examined in this audit, and represented 0.05 per cent of all proposed grants considered by Ministers in the same period as documented in the briefs provided to ANAO (or nearly one in every two thousand grant proposals). In that context, accurate and complete reporting of instances where a Minister has not accepted a recommendation that a grant be rejected depends upon agencies providing a clear recommendation in that regard, and accurately recording the nature of the subsequent Ministerial decision. As indicated, there remains considerable scope for improvement in that aspect of grant program administration, with the shortcomings in briefing practices identified in this audit having played a significant role in the low level of reported instances.

28. Without detracting from the clear responsibilities of individual agencies, and consistent with the objectives underpinning the Government decision to establish a grants framework unit, there would be benefits in Finance working collaboratively with agencies to assist them in implementing the grants administration framework, including in relation to more effectively meeting the obligation to advise Ministers on the merits of proposed grants. In particular, it would be beneficial for Finance to pursue opportunities to:

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<sup>18</sup> See footnote 8.

<sup>19</sup> Similarly, no further action resulted from the 77 reported instances of Ministers approving grants in their own electorates.

- clarify aspects of the CCGs, either within the Guidelines themselves or in related advisory circulars. This is particularly the case in respect to articulating the minimum standards expected of agencies when advising Ministers on the merits of proposed grants, and the interaction of this advice with the reporting of certain types of funding decisions to the Finance Minister; and
- actively encourage improvements in agency practices, such as providing forums for interaction with, and between, agencies on important aspects of grants administration. A role of this nature was clearly envisaged in establishing the Grants Framework Unit and in the associated funding provided.<sup>20</sup>

29. In addition, while the existing framework requires that records be kept, and the Finance Minister informed, of instances where public money is approved for grants an agency had recommended be rejected, it does not address the situation of funding not being approved for a grant that the agency recommended be approved based upon its assessed merits. ANAO's examination of Ministerial briefs indicated that this situation may be more common than the form of decision taken contrary to agency advice that is currently required to be reported, with such decisions representing 2.2 per cent of grants considered between January 2009 and June 2010 (compared to the reported instances of 'recommended be rejected' grants being approved representing 0.05 per cent of grant proposals in the same period).<sup>21</sup> Consequently, there may also be benefits in Finance examining, for Ministerial consideration, whether there are opportunities for expanding the kind of Ministerial grant decisions made contrary to agency recommendations that are to be reported to the Finance Minister.

<sup>20</sup> In particular, in recommending that the Government provide funding to establish a grant framework unit, the Strategic Review commented favourably on the resources invested by Finance in supporting the development and implementation of the procurement policy framework. The Review considered that the cost of a corresponding investment in relation to developing and implementing the new grants framework would be outweighed by the long-term benefits which will accrue from a robust whole-of-government framework for the administration of grants. Similarly, in agreeing to fund the unit, the Government was advised that the establishment of a dedicated unit within Finance would support agencies by providing a single point of contact on the new grants framework, and would be a key factor in mitigating the risk of the new framework not meeting its policy objectives or not being implemented in a consistent and robust manner across agencies.

<sup>21</sup> In this respect, as outlined in ANAO's Better Practice Guide on the administration of grants, it is important to recognise that, in the context of a grant program, transparency of the reasons for not approving funding for individual applications is as important to accountability as it is in relation to decisions to approve other applications (ANAO Better Practice Guide.—*Implementing Better Practice Grants Administration*, June 2010, p. 81.)

## Public Reporting of Grants (Chapter 4)

30. The Strategic Review identified that easily accessible information on the availability of grants and the details of grants awarded is a precondition for public and parliamentary confidence in the quality and integrity of grant program administration.<sup>22</sup> In this context, there are three separate, but related, public disclosure arrangements for grants:

- a longstanding requirement for agencies to publish, through their annual report, a list of grant programs for which they are responsible (with the Joint Committee of Public Accounts and Audit being responsible for approving annual report requirements);
- from December 2007, reporting on agency websites of the details of individual grants. Since January 2009, approved grants do not have to be reported until the relevant funding agreement has been signed and (from 1 July 2009) takes effect; and
- since June 2008, for the purposes of informing Senate Estimates hearings, reporting to the Senate on grants approved in the period since the last hearings (with this requirement having been established by way of a Senate Order).

31. The Senate Order approach of reporting on grants within close proximity to the time of approval, rather than delaying public reporting until (and if) a funding agreement takes effect (the CGGs approach), provides more complete and timely information to the Parliament and other stakeholders on Commonwealth granting activity. The inconsistent approaches taken to the grant reporting 'trigger' also do not promote efficiencies in agency reporting. In particular, meeting the obligation to publish the details of each grant within seven working days of the relevant funding agreement taking effect requires agencies to monitor and continuously update web-based reporting of individual grants approved under a single program or funding round over a longer period than would be required if all grants were to be published on agency websites within a nominated period following approval.

32. The website reporting arrangements were intended to play an important role in promoting a 'pro-disclosure culture'<sup>23</sup> in Commonwealth

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<sup>22</sup> Strategic Review, op. cit., p. 10.

<sup>23</sup> Department of Finance and Deregulation, *Certificate of Compliance 2009-10: Report to the Parliament*, Foreword by the Minister, December 2010, p. iii.

granting activity. However, public reporting by agencies is not always accurate and complete. Of particular note is that:

- not all grant programs are being reported—13 grant programs administered by five agencies had not been reported in the grants reporting section of their website (where relevant) or annual reports or in response to the Senate Order; and agencies informed ANAO that some 11 per cent of the programs identified as having been previously reported as a grant program (either in the relevant agency's annual report, website reporting or to the Senate) did not actually involve the provision of grants;
- a small number of agencies (four of the 40 agencies that advised ANAO they administered grant programs) did not present grants on their website in the format prescribed for website reporting, and there was also mixed performance amongst agencies in providing the full range of grants data required to be reported on websites; and
- non-compliance with the website reporting arrangements for grants comprised 28 per cent of the total instances of non-compliance reported by agencies as part of the 2009–10 Certificate of Compliance process.

## Summary of agency responses

33. In addition to responding to one or more of the audit recommendations, a number of agencies provided summary comments on the audit report, as follows.

### *Department of Finance and Deregulation*

The Department of Finance and Deregulation supports Recommendations No. 1, No. 2 and No. 3.

### *Attorney-General's Department*

The Attorney-General's Department supports the recommendations within the report and will review internal controls, guidance and training material to ensure the better practice outlined within the report is incorporated into the department's practices.

### *Department of Climate Change and Energy Efficiency*

The department strongly supports the view that Ministerial briefing practices for the administration of grant programs should be sufficiently robust to ensure that advice to Ministers is comprehensive and unambiguous. The department is currently reviewing its grant management framework and

intends to incorporate the practices expressed in Recommendation No. 1 into departmental Ministerial briefing practices.

The department also welcomes proposed improvements to the clarity and utility of the CGGs with regard to agency advice to Ministers and other important aspects of grants administration.

### ***Department of Families, Housing, Community Services and Indigenous Affairs***

The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) has reviewed the proposed report and supports all of the recommendations within. We also welcome the opportunity to work closely with Finance on Recommendations No. 2 and No. 3.

My department takes its grant reporting obligations seriously and provides detailed policy and instructions to staff to inform them of their obligations under the CGGs, relevant Finance Circulars and the FMA Act. This is done through many formats including information on the department's intranet, Fact Sheets on relevant topics, and advice to program areas as issues arise.

FaHCSIA will review its instructions and ensure that they clearly state the policy and statutory framework, the merits of adhering to these, and staff will be reminded of their obligations.

### ***Department of Infrastructure and Transport***

I agree with the recommendations that are made in the report, and note that a reference has been made to the findings of the audit of the Regional Partnerships program which was administered by a predecessor of this department. I am pleased to advise that the department has continued to improve its processes since then. In particular, work is being undertaken across the department in improving program development, delivery and management, including through a Program Manager's Toolkit and the development of internal processes such as Review Ready Workshops. The guidance provided by the Program Manager's Toolkit includes links and references to the CGGs and the Finance circulars about grant reporting obligations.

With regard to Recommendation No. 2 in relation to the strengthening of the grants administration framework by Finance, additional clarity and guidance would be most welcome. I will ensure that my department actively contributes to any consultation processes.

I also strongly support Recommendation No. 3 in seeking alignment of the various reporting obligations as this will streamline a currently duplicated workload on agencies and, importantly, clarify for the audience of these reports the timing and context of the information.

### ***Department of Regional Australia, Regional Development and Local Government***

The department agrees with Recommendation No. 1, as provided for in the CCGs, for all future programs. The department also agrees with Recommendations No. 2 and No. 3 as they provide for greater consultation, improvements in the clarity, reporting and awarding of grants.

### ***The Treasury***

Treasury is broadly supportive of the recommendations. The report will assist with transparency and accountability surrounding the administration of grant programs, especially with regards to reporting obligations.

### ***Department of Veterans' Affairs***

The Department of Veterans' Affairs (DVA) agrees with the recommendations of the ANAO report and its current practices are consistent with the enhancements proposed. The ANAO report highlights the need for transparency in agencies' decision-making in relation to grants administration and approval processes. This needs to be considered in line with the Government agenda on reducing red tape for the not-for-profit sector. DVA will work closely with Finance to achieve these outcomes.

# Recommendations

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*Set out below are ANAO's recommendations and agencies' abbreviated responses. More detailed responses are shown in the body of the report immediately after each recommendation.*

## **Recommendation No. 1**

### **Paragraph 2.74**

ANAO recommends that agencies review the Ministerial briefing practices used in the administration of grant programs to ensure that Ministers are provided with comprehensive advice on:

- the policy and statutory framework that applies to such decisions; and
- the merits of individual proposed grants, including a clear recommendation as to whether each grant should be approved or rejected having regard to the program objectives and available funding.

**Agreed:** All responding agencies.

## **Recommendation No. 2**

### **Paragraph 3.45**

To further improve the grants administration framework, ANAO recommends that the Department of Finance and Deregulation pursue opportunities to:

- (a) improve the clarity and utility of the requirements set out in the Commonwealth Grant Guidelines and associated guidance relating to agencies advising Ministers on proposed grants, and the recording of reasons in circumstances where agency recommendations are not accepted by Ministers; and
- (b) actively encourage improvements in agency practices in respect to important aspects of grants administration.

**Agreed:** All responding agencies.

**Recommendation  
No. 3**

**Paragraph 4.27**

ANAO recommends that the Department of Finance and Deregulation, in consultation with agencies and other key stakeholders, examine opportunities for improving the accuracy, completeness and cost-effectiveness of public reporting on grant programs and the awarding of individual grants, including by seeking to align reporting requirements (where this is practical) in a way that will not diminish the quality of the reported information.

*Agreed:* All responding agencies.



# Audit Findings



# 1. Introduction

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*This chapter outlines the changes made in recent years to the framework for Commonwealth grants administration, including the various reporting requirements that are the subject of this performance audit. The chapter also outlines the audit objective, scope and criteria.*

## Background

**1.1** Grants administration is an important activity for many Commonwealth entities, involving the payment of billions of dollars of public funds each year.<sup>24</sup> Commonwealth grant programs are subject to applicable financial management legislation. Specifically, the *Financial Management and Accountability Act 1997* (FMA Act) provides a framework for the proper management of public money. That framework includes requirements governing the process by which decisions are to be made about whether public money should be spent on individual grants, as well as various accountability requirements.

**1.2** Prior to late 2007, there was no official guidance to agencies relating specifically to the administration of grant programs. In December 2007, Finance Minister's Instructions were issued providing information about the Budget and other related processes, including in respect to grants.<sup>25</sup> The key grants-related instructions required that:

- Ministers were not to make any decisions on discretionary grants<sup>26</sup> without first receiving departmental advice on the merits of the grant application relative to the guidelines for the program;

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<sup>24</sup> In announcing the Government's intention to reform grants administration, the then Minister for Finance and Deregulation stated that, in 2006, Commonwealth expenditure on discretionary grants alone had totalled \$2.7 billion (Hon Lindsay Tanner MP, Minister for Finance and Deregulation, National Press Club Address, 6 February 2008). The July 2008 Strategic Review of the Administration of Australian Government Grant Programs estimated that Commonwealth expenditure on all forms of conditional grants (including specific purpose payments made under legislation to state, territory and local governments and discretionary grants made to a variety of funding recipients) was likely to be between \$40 billion and \$50 billion per annum, or about one sixth of total Commonwealth outlays (Mr Peter Grant PSM, *Strategic Review of the Administration of Australian Government Grant Programs*, 31 July 2008, p. 1).

<sup>25</sup> As part of *Estimates Memorandum 2007/50*, dated 21 December 2007.

<sup>26</sup> Discretionary grants were defined as: 'grants where the minister or agency has discretion in determining whether or not a particular application receives funding and may or may not impose conditions in return for the funding' and not including 'entitlement-based and demand-driven payments or rebates.'

- if a Minister decided not to follow departmental advice, a Ministerial Group would decide whether to award or reject a grant following a submission from the requesting Minister outlining why a decision should be taken to award the grant against departmental advice;
- Ministers who were members of the House of Representatives were not to make any decisions in relation to grants in their own electorate, even on the basis of departmental advice. These decisions were to be taken by the Ministerial Group;
- guidelines for any new discretionary grant programs were to be considered by the Expenditure Review Committee of Cabinet (ERC);
- agencies were to have adequate arrangements in place to manage discretionary grant programs in accordance with relevant legislation, regulations and guidance; and
- agencies were to publish details of individual grants on their website within two days of the announcement of the grant.

## Strategic Review of the Administration of Australian Government Grant Programs

**1.3** In February 2008, the then Minister for Finance and Deregulation (Finance Minister) announced that a comprehensive review of the value of discretionary grants and the transparency and effectiveness of existing programs would be undertaken.<sup>27</sup> In establishing and undertaking the review, particular attention was paid to the findings and recommendations of the wide range of audits of grants administration undertaken by the Australian National Audit Office (ANAO). In this respect, the July 2008 report of the Strategic Review of the Administration of Australian Government Grant Programs (Strategic Review) commented that many of these audits had raised significant issues going both to the overall framework for the administration of grant programs and to the quality of administration of individual programs.<sup>28</sup>

**1.4** The Strategic Review identified as the four key framework requirements that need to be in place to support the effective administration of grants across the Commonwealth:

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<sup>27</sup> Minister for Finance and Deregulation, National Press Club Address, op. cit., 6 February 2008.

<sup>28</sup> Strategic Review, op. cit., p. 2.

- a standard framework of concepts, definitions and classification principles, providing a common understanding of the meaning of terms and a clear basis for the interpretation and application of policy guidance;
- a clear framework of policy principles governing the administration of grant programs across the Commonwealth;
- a strong financial management framework, with clear links drawn between the requirements of that framework and the responsibilities of decision-makers and others involved in the administration of grant programs; and
- a robust framework for the collection and reporting of statistical and other information on Commonwealth grants, designed to meet both administration requirements and public accountability objectives.<sup>29</sup>

**1.5** The review noted that there were important gaps and weaknesses in respect to each of these elements and made 26 recommendations for improvements to the existing policy framework for the administration of grants. More broadly, it also identified seven high level principles to guide the process of reform: robust planning and design; an outcomes orientation; collaboration and partnership; proportionality; governance and accountability; probity and transparency; and value for money.<sup>30</sup>

**1.6** After considering the Strategic Review, in December 2008 the Government agreed to a range of measures to reform the administration of grants.<sup>31</sup> Consistent with the recommendations of the review, some of the previous requirements were to be removed<sup>32</sup>, and new requirements added. The changes made included removing the requirement to refer proposed grants in a Minister's own electorate or in respect to which the Minister did not wish to follow departmental advice to a Ministerial Group for decision. Under

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<sup>29</sup> Strategic Review, op. cit., p. 3.

<sup>30</sup> In this respect, the report of the Strategic Review noted that experience gained in the procurement area and elsewhere had demonstrated the value of establishing a set of high-level principles to help guide the process of whole-of-government reform (ibid., p. 21).

<sup>31</sup> The Hon Lindsay Tanner MP, Minister for Finance and Deregulation, *Improving Government Grants*, Media Release, 9 December 2008.

<sup>32</sup> For example, the review had recommended that the requirement that Ministers seek the Finance Minister's approval before awarding certain multi-year discretionary grants (which had been contained in the December 2007 Finance Minister's Instructions as a continuation of a practice introduced under the previous Government) be abolished (Strategic Review., op. cit., p. 26).

the revised requirements, decisions of this type would remain within the remit of the responsible Minister or other approver in the portfolio or agency concerned, supported by the introduction of associated requirements that:

- Ministers and officials record the basis of the approval (in addition to the terms), which was required to take the form of a written statement of the reasons for the decision; and
- that all instances of a Minister approving a grant in their own electorate or contrary to departmental advice be reported to the Finance Minister.

1.7 The Strategic Review had also recommended that the existing requirement for agencies to publish details of individual grants on their website within two days of the announcement of the grant (see paragraph 1.2) be replaced with a requirement to publish details of awarded grants within a specified period following the execution of a funding agreement for the grant.<sup>33</sup> Table 1.1 outlines the requirements in relation to Ministerial reporting to the Finance Minister and web-based reporting of awarded grants, which took effect from January 2009 through the promulgation of revised Finance Minister's Instructions.

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<sup>33</sup> Strategic Review, op. cit., p. 27. The review had recommended that grants be published on agency websites within two weeks of the funding agreement being signed. As illustrated in Table 1.1, the requirement ultimately introduced was for grants to be published on agency websites within seven working days of the funding agreement taking effect (see further at paragraphs 4.5 to 4.8).

**Table 1.1****Grant reporting requirements in Finance Minister's Instructions of January 2009**

Area	January 2009 reporting requirement
Reporting on grant approvals that agencies recommended be rejected	Ministers are to report annually to the Finance Minister on all instances where they have decided to approve a particular grant which the relevant department or agency has recommended be rejected. <sup>1</sup> The report should include the statement of reasons prepared as part of the decision-making process. The report must be provided to the Finance Minister by 31 March each year for the preceding calendar year.
Reporting of grants approved in a Minister's own electorate	Each time a Minister (House of Representative members only) approves a grant in respect to their own electorate, the Minister should write to the Finance Minister advising him of the details. <sup>2</sup> Where there is correspondence to the relevant grant recipient, a copy of this letter would be sufficient. If there is no correspondence, Ministers will need to write to the Finance Minister advising him of the decision as soon as practicable after it is made.
Public reporting of individual grants	<p>Agencies are required to publish, on their websites, information on their individual grants no later than seven working days after the funding agreement for the grant is signed by both parties. Funding agreements include contracts, deeds, letters of offer or any other instrument used to detail the terms and conditions of the grant.</p> <p>The information to be published, and a template to be used by agencies, was outlined in an attachment to the Finance Minister's Instructions. The Instruction required that the information contained in the template must also be able to be extracted from the agency's website.</p>
<p>Notes:</p> <ol style="list-style-type: none"> <li>1. In recommending that grant decisions be taken within the portfolio or agency with functional responsibility for the program in question, including where a Minister does not wish to follow departmental advice, the Strategic Review had recommended that public assurance on the integrity of decision-making in grant programs should be provided by means of a new policy framework for the administration of grants; a stronger assurance framework governing the establishment of new grant programs; greater clarity of roles and responsibilities in relation to decision-making and approval processes; stronger requirements in relation to the documentation of the reasons for decisions taken on the award of grants; and stronger disclosure and public reporting requirements.</li> <li>2. In recommending that decisions involving the awarding of grants within a Minister's own electorate should remain within the remit of the responsible Minister or other approver in the portfolio or agency concerned, the Strategic Review had recommended that, should additional assurance be required in these cases, beyond the recommended assurance mechanisms noted in Note 1 to this Table, Ministers who are members of the House of Representatives could be required to report periodically to the Finance Minister on such decisions, together with a summary statement of their reasons for those decisions.</li> </ol>	

Source: Finance Minister's Instructions in Estimates Memorandum 2009/09, 16 January 2009.

## Amendments to the financial framework for grants

**1.8** The Strategic Review found that the lack of any Commonwealth-wide policy guidance on grants was a major gap in the overall framework and recommended that a whole-of-government policy framework be developed for the administration of grant programs.<sup>34</sup> It was further recommended that the new grants policy framework be established under the *Financial Management and Accountability Regulations 1997* (FMA Regulations) in the form of guidelines issued by the Finance Minister, with a requirement that Ministers and officials performing functions in relation to the administration of grants should have regard to those guidelines, and comply with any mandatory requirements.<sup>35</sup>

**1.9** Other areas where the Strategic Review recommended changes to the existing FMA Regulations related to:

- the approval of spending proposals, where it was recommended that the Regulations be reviewed and restructured with a view to improving their logical sequence, increasing clarity and promoting consistency of interpretation and application across FMA Act agencies; and
- recording the basis of a grant approval, where it was recommended that the Regulations be amended to require all approvers of grant spending proposals to record in a document the basis on which the approver was satisfied that the proposed expenditure represented an efficient and effective use of public money, and was in accordance with relevant Commonwealth policies.<sup>36</sup>

**1.10** These recommendations were accepted by the Government. Accordingly, on 1 July 2009, the FMA Regulations were amended to:

- insert a new FMA Regulation 3A that defined the meaning of the term ‘grant’ based on an arrangement exhibiting each of four specified characteristics.<sup>37</sup> In general, all arrangements that satisfy that definition

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<sup>34</sup> *ibid.*, p. 45.

<sup>35</sup> *ibid.*, Recommendation 2, p. 47.

<sup>36</sup> *ibid.*, p. 50 (Recommendation 3) and p. 68 (Recommendation 9).

<sup>37</sup> FMA Regulation 3A(1) defines a *grant* as an arrangement for the provision of financial assistance by the Commonwealth:

- a. under which public money is to be paid to a recipient other than the Commonwealth; and
- b. which is intended to assist the recipient achieve its goals; and
- c. which is intended to promote one or more of the Australian Government’s policy objectives; and

Footnote continued on the next page...

are subject to the grants administration framework. However, Regulation 3A(2) specifies certain arrangements that are to be taken not to be grants and which are, therefore, exempt from the requirements of the grants framework. With effect from 1 July 2010, Regulation 3A(2) was amended to identify an additional type of arrangement that will be taken not to be a grant, being a payment of assistance for the purposes of Australia's international development assistance program, which is treated by the Commonwealth as official development assistance;

- insert a new FMA Regulation 7A, providing that the Finance Minister may issue *Commonwealth Grant Guidelines* (CGGs) for matters relating to grants administration, and requiring officials to act in accordance with the CGGs; and
- amend FMA Regulation 12 to require that, where a spending proposal relates to a grant, the approver must record the basis on which they are satisfied that the proposal complies with Regulation 9<sup>38</sup> (as well as the terms of the approval, which were already required to be recorded for all approved spending proposals).

**1.11** The Strategic Review had further recommended that Finance develop and promulgate whole-of-government guidance covering the definition of each major class of Commonwealth financial transaction and the principles to be applied in determining the appropriate classification of individual transactions.<sup>39</sup> As discussed in paragraph 1.10, with effect from 1 July 2009, the FMA Regulations were amended to, for the first time, include a definition of a grant, and the Department of Finance and Deregulation (Finance) issued associated guidance to assist agencies in the classification of various financial transactions.<sup>40</sup>

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- d. under which the recipient is required to act in accordance with any terms or conditions specified in the arrangement.

This is similar to the definition of a grant included in the Finance Minister's Instructions of 16 January 2009 being: 'an arrangement for the payment of public money, with conditions, to an external recipient for a specified purpose. Grants are provided to recipients to assist them to achieve their goals, while furthering the policy objectives of the Australian Government'.

<sup>38</sup> FMA Regulation 9 prohibits approval of a spending proposal unless the approver is satisfied, after making reasonable inquiries, that it would be a proper use of Commonwealth resources.

<sup>39</sup> Strategic Review, op. cit., p. 45.

<sup>40</sup> See Finance Circular 2009/03, *Grants and other common financial arrangements*, Department of Finance and Deregulation, 29 June 2009.

## Promulgation of the Commonwealth Grant Guidelines

**1.12** The CGGs, issued under new FMA Regulation 7A, took effect from 1 July 2009 and represent the whole-of-government policy framework for grants administration. They apply to all agencies subject to the FMA Act and also include a number of process requirements that apply to Ministers where they exercise the role of financial approver in relation to grants.

**1.13** The CGGs are in two parts. Part One outlines the legislative and policy framework for grants administration, including certain mandatory process requirements<sup>41</sup> which are categorised as:

- Ministerial requirements;
- Expenditure Review Committee requirements;
- agency requirements; and
- web-based reporting requirements.

**1.14** These mandatory requirements retained some of the obligations contained in the January 2009 Finance Minister's Instructions, but also placed additional requirements on agencies (including the requirement to develop guidelines for new grant programs). In relation to reporting obligations, the CGGs retained the requirements that had applied since January 2009 (see Table 1.1), with some minor amendments. Specifically, from July 2009 the CGGS have stipulated that:

- the annual report to the Finance Minister on all instances in which a Minister has decided to approve a grant which the relevant agency had recommended be rejected 'will include a brief statement of reasons (i.e. the basis of the approval for each grant)'. The obligation applying between January and June 2009 had required that the report 'should

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<sup>41</sup> In issuing the CGGs, the then Finance Minister stated that: 'The Guidelines are intended to improve the transparency and accountability of grants administration. The Government has mandated transparent and accountable decision-making processes and timely public reporting through agency websites.' (*Commonwealth Grant Guidelines, Policies and Principles for Grants Administration*, Department of Finance and Deregulation, July 2009, Foreword, p. v.) The CGGs further highlight the mandatory nature of certain requirements set out in Part I of the Guidelines (including process requirements that apply to Ministers when exercising the role of approver), advising that: 'Obligations that *must* be complied with, in all circumstances, are denoted by the use of the term *must* or *mandatory* in these CGGs. The use of the term *should* denotes matters of sound practice. The matters dealt with in Part I generally relate to mandatory requirements, while the matters dealt with in Part II generally relate to sound practice.' (*Commonwealth Grant Guidelines*, op. cit., p. 2).

include the statement of reasons prepared as part of the decision-making process'; and

- information on grants must be published on an agency's website no later than seven working days after the relevant funding agreement takes effect (with the CGGs noting that the date of effect will depend on the particular arrangement—it can be the date on which the funding agreement is signed, or a specified starting date, or may relate to a specified event). The requirement applying between January and June 2009 had been to publish the information no later than seven working days after the funding agreement had been signed by both parties.

**1.15** Part Two of the CGGs provides guidance on sound practice in grants administration that agencies should have regard to in implementing grant programs. The guidance is presented in relation to each of the seven key principles for grants administration established by the Australian Government.<sup>42</sup> Part Two of the CGGs was based, in large part, on guidance provided by the Australian National Audit Office (ANAO) in the 2002 version of a grants administration Better Practice Guide.<sup>43</sup> The guidance set out in the CGGs is supplemented by associated Finance Circulars issued by Finance.<sup>44</sup>

## Audit objective, scope and criteria

**1.16** The objective of the audit was to assess the implementation and effectiveness of the enhanced grants administration requirements for:

- reporting to the Finance Minister on the awarding of grants within their own electorate by Ministers who are Members of the House of Representatives;
- reporting to the Finance Minister on instances where Ministers have decided to approve a particular grant which the relevant agency has recommended be rejected; and

<sup>42</sup> See *Commonwealth Grant Guidelines*, op. cit., p. 14. These key principles reflect the seven high-level principles to guide the process of reform identified by the Strategic Review (see paragraph 1.5).

<sup>43</sup> Following the promulgation of the CGGs, ANAO issued a revised Better Practice Guide on grants administration (ANAO Better Practice Guide, *Implementing Better Practice Grants Administration*, Canberra, June 2010 (referred to in this audit report as ANAO's Better Practice Guide)).

<sup>44</sup> The relevant grants-specific circulars are currently Finance Circular 2009/03, op. cit., and Finance Circular 2009/04, *Grants—Reporting Requirements*, 29 June 2009. There is also a range of other Finance Circulars on the application of the financial framework—see for example, Finance Circular 2011/01, *Commitments to spend public money (FMA Regulations 7 to 12)*, 31 March 2011.

- the website reporting of grants awarded.

1.17 The high level audit criteria are outlined in Table 1.2.

**Table 1.2**

**Audit criteria**

Applicable element of the audit objective	Criteria
Reporting to the Finance Minister of each instance of the approval by Ministers of grants within their own electorate. (para. 3.20 of CGGs)	<ul style="list-style-type: none"> <li>• Does agency advice to Ministers on the merits of awarding each potential grant clearly identify those instances where the grant relates to the Minister's own electorate?</li> <li>• Are all grants approved by Ministers within their own electorates being reported to the Finance Minister?</li> <li>• Is the advice provided to the Finance Minister in relation to grants approved in a Minister's electorate complete and accurate?</li> </ul>
Annual reporting to the Finance Minister of Ministerial decisions contrary to agency recommendations. (para. 3.21 of CGGs)	<ul style="list-style-type: none"> <li>• Does agency advice to Ministers on the merits of each proposed grant include a clear recommendation as to whether or not the agency recommends that it be approved?</li> <li>• Are annual reports relating to relevant Ministerial decisions being provided to the Finance Minister as required?</li> <li>• Are the annual reports provided to the Finance Minister an accurate and complete record of all relevant grant decisions?</li> </ul>
Website reporting of approved grants. (paras. 4.2–4.6 of CGGs)	<ul style="list-style-type: none"> <li>• Have agencies that have administered grants reported them on their website?</li> <li>• Is the information reported accurate and complete?</li> </ul>

1.18 As part of this audit (and a related audit on the Development and Approval of Grant Guidelines that is also currently underway), ANAO conducted a survey of all FMA Act agencies, which sought to identify the grant programs that had been in operation since December 2007 (when the first enhancements were made to the grants administration framework). As part of the survey, ANAO provided each agency with a list of all grants identified from publicly available information as having been administered by the agency, and asked them to confirm the accuracy and completeness of this information. In total, 40 agencies advised ANAO that they had administered grants in the period from December 2007.

1.19 With respect to the grant reporting obligations which have been in place since January 2009 and are the focus of this audit, the purpose of the survey was to identify and analyse instances where a Minister had, in the relevant time period:

- approved grants located within his/her own electorate (where the Minister was a Member of the House of Representatives);

- approved grants which the agency had recommended be rejected; and
- rejected any grants which the agency had recommended be approved.

**1.20** In this context, ANAO requested copies of all agency briefs provided to relevant Ministerial decision-makers between 1 January 2009 and 30 June 2010 in which the Minister was asked to make a decision about whether or not to approve a grant. Responses were received from agencies<sup>45</sup> between October 2010 and March 2011. Further questions were sent to a number of agencies between December 2010 and March 2011 to obtain supporting documentation and/or clarify aspects of the original responses. The final follow-up response was received in June 2011. Based on the survey responses, ANAO examined some 800 Ministerial briefs relating to around 220 programs<sup>46</sup> across 20 agencies. Examination of the quality of the agency assessments of individual proposed grants (in terms of the relevant program objectives and guidelines) undertaken to support the advice included in each brief was not within the scope of this audit.

**1.21** The audit was conducted in accordance with ANAO auditing standards, at a cost to the ANAO of \$462 000.

## Report Structure

**1.22** The audit findings are reported in the following chapters.

Chapter	Chapter Overview
2. Agency Advice on the Merits of Grant Spending Proposals	<i>Examines the quality of agency advice on grant spending proposals provided to Ministerial decision-makers in the period between January 2009 and June 2010.</i>
3. Reporting to the Finance Minister	<i>Identifies and analyses the extent to which instances of Ministerial decisions to approve grants that the relevant agency had recommended be rejected and the awarding of grants within a Minister's own electorate have been reported to the Finance Minister.</i>
4. Public Reporting	<i>Examines how the various grant and grant program reporting requirements have evolved over the period covered by the audit, as well as agency compliance with these requirements.</i>

<sup>45</sup> As noted, 40 agencies advised ANAO in their survey responses that they had administered grants in the period since December 2007. For some programs, decisions about whether to approve grants are made by officials, rather than Ministers. In this context, 20 agencies provided ANAO with copies of agency advice provided to Ministerial decision-makers in the period relevant to the reporting obligations being examined (1 January 2009 to 30 June 2010).

<sup>46</sup> This included a number of programs for which multiple rounds were conducted within the 18 month period to June 2010 examined, as well as a number of ad-hoc and one-off grant arrangements.

## 2. Agency Advice on the Merits of Grant Spending Proposals

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*This chapter examines the quality of agency advice on grant spending proposals provided to Ministerial decision-makers in the period January 2009 to June 2010.*

### Background

**2.1** Providing advice to government is a core function of the Australian Public Service. The quality of agency advice provided in the administration of grant programs has been raised in a number of ANAO performance audit reports, and by a number of Parliamentary Committees. In this context, the July 2008 report of the Strategic Review supported the retention of the requirement that had been in place since December 2007 (through Finance Minister's Instructions) that Ministers not approve a proposed grant without first receiving agency advice on its merits relative to the guidelines for the relevant program. The Review's report described this process as:

a prudent control, designed to ensure that where Ministers elect to assume a decision-making role in relation to the award of grants, they are well-informed of the department's assessment of the merits of grant applications and suitably briefed on any other relevant considerations.<sup>47</sup>

**2.2** The Government subsequently agreed to the Strategic Review's recommendation that:

where Ministers assume the role of an approver under FMA Regulation 9, they should be required to receive and consider agency advice on the merits of grant applications, as assessed against the relevant program guidelines, before taking any decisions on the award of individual grants; this requirement should apply to all grant spending proposals, including proposals designed to satisfy commitments made in the context of an election campaign.<sup>48</sup>

**2.3** Accordingly, the requirement for Ministers to obtain agency advice before considering whether to approve a grant was incorporated into the January 2009 Finance Minister's Instructions, and subsequently reflected in the CGGs as follows:

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<sup>47</sup> Strategic Review, op. cit., pp. 7 and 62.

<sup>48</sup> *ibid.*, Recommendation 2(b), p. 66.

The Australian Government has agreed that where a Minister exercises the role of a financial approver relating to a grant, they will not approve the grant without first receiving agency advice on the merits of the proposed grant.<sup>49</sup>

**2.4** As is reflected in the related provisions of the CCGs, this requirement does not affect a Minister's right to decide on the awarding of grants.<sup>50</sup> Rather, together with other related enhancements to the grants administration framework, it provides for an improved decision-making framework that assists Ministers to be appropriately informed when deciding whether to approve grants and promotes transparency around the reasons for decisions.

**2.5** Against this background, the Joint Committee of Public Accounts and Audit (JCPAA) recently reiterated the importance of agencies providing advice on the merits of proposed grants before any funding decisions are taken.<sup>51</sup> The committee further observed that, in circumstances where agencies have not met their obligation to provide such advice, Ministers should take the initiative to secure the necessary advice.<sup>52</sup>

**2.6** In this context, ANAO examined some 800 briefs that had been prepared across 20 agencies between January 2009 and June 2010 seeking Ministerial consideration of proposed grants under some 220 programs. The objective was to identify the extent to which agencies were appropriately advising Ministers when they were performing the role of financial approver for a grant program. This included consideration of the extent to which agencies had:

- satisfied the requirement to advise Ministers of the relevant requirements of the grants administration and broader financial frameworks; and
- appropriately advised Ministers on the merits of a particular grant proposal, relative to the guidelines for a particular program.

<sup>49</sup> *Commonwealth Grant Guidelines*, op. cit., paragraph 3.19, p. 10.

<sup>50</sup> Specifically, inclusion of the obligation for Ministers to advise the Finance Minister of grants they have approved that the relevant agency had recommended be rejected implicitly acknowledges that Ministers are not required to agree with agency recommendations when considering whether to approve a grant.

<sup>51</sup> Joint Committee of Public Accounts and Audit, *Report 423: Review of Auditor-General's Reports Nos 39 2009–10 to 15 2010–11*, Canberra, July 2011, p. viii.

<sup>52</sup> *ibid.*

## Promoting adherence to the grants administration framework

2.7 The administration framework for the consideration of potential grants comprises both the general requirements of the financial management framework that regulates all expenditure of public money, and a number of specific requirements that only apply to grants.

2.8 The principal obligation applying to the approval of all spending proposals is set out in FMA Regulation 9, which requires an approver to make reasonable inquiries in order to be satisfied that a proposal would be a proper use of Commonwealth resources and would not be inconsistent with the policies of the Commonwealth. For grant spending proposals, the relevant policies include the CCGs and the specific guidelines established for the relevant program.<sup>53</sup>

2.9 The additional grant-specific obligations arise in relation to:

- decision-making processes (as noted at paragraph 2.3, the CCGs require that Ministers not approve a proposed grant without first receiving agency advice on its merits; there is no equivalent requirement in respect to other spending proposals<sup>54</sup>);
- recording the basis on which a grant has been approved, in addition to the terms of the approval (as noted at paragraph 1.10, this is required only where a spending proposal relates to a grant; for other spending proposals, approvers are only required to record the terms of approval); and
- accountability for decisions. Specifically:
  - it is only in respect to grants that Ministers are required to advise the Finance Minister of spending proposals they have approved within their own electorate and any instances where they approve proposals the agency had recommended be rejected;

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<sup>53</sup> See *Commonwealth Grant Guidelines*, op. cit., p. 9.

<sup>54</sup> As noted, Regulation 9 requires approvers of all spending proposals to undertake reasonable inquiries in order to be satisfied as to certain matters before approving the proposal. However, the Regulations do not specify the nature of inquiries an approver is to undertake or the sources of advice he or she may choose to utilise in fulfilling that obligation.

- the CCGs state that grant program guidelines are required to be approved by the ERC, with no equivalent requirement applying in respect to other types of funding programs<sup>55</sup>; and
- specific public reporting arrangements apply for all approved grants. Public reporting requirements also apply in relation to procurement activity, but differ from those applying to grants.

## **Informing Ministerial decision-makers of the requirements of the financial and grants administration frameworks**

**2.10** In order to promote adherence to the grants administration framework, it is important that the advice provided by agencies to decision-makers (including Ministers where they perform this function) clearly identifies the:

- nature of the transaction being considered, including when it relates to a grant as defined by the FMA Regulations; and
- requirements that apply to the decision-maker's consideration and, if relevant, approval of the relevant transaction; how those requirements have been complied with by the agency in formulating its advice; and any actions or other matters the decision-maker should take into account in making and recording his or her decision.

**2.11** Reflecting the importance of appropriately advising Ministers in this regard in relation to grants, the CCGs stipulate that:

Agencies are responsible for advising Ministers on the requirements of the CCGs, and *must* take appropriate and timely steps to do so where a Minister exercises the role of a financial approver in grants administration. [Emphasis as per CCGs]<sup>56</sup>

**2.12** Providing Ministers with comprehensive advice on the requirements of the CCGs necessarily involves advising on both the policy aspects set out in the Guidelines themselves and the statutory obligations set out in the FMA Regulations. This is particularly the case given this obligation to advise specifically arises in circumstances where Ministers are exercising the role of

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<sup>55</sup> In September 2010, the Government agreed that program guidelines for new grant programs were to be submitted to the ERC on a case by case basis. In August 2011, Finance advised ANAO that it was planning to update the CCGs to provide for recent amendments to the FMA Act and related Regulations, and the revised ERC processes relating to the approval of program guidelines (see ANAO Audit Report No.7 2011–12 *Establishment, Implementation and Administration of the Infrastructure Employment Projects Stream of the Jobs Fund*, Canberra, 22 September 2011, p. 140).

<sup>56</sup> *Commonwealth Grant Guidelines*, op. cit., paragraph 3.23, p. 11.

approver for the purposes of the financial framework.<sup>57</sup> As is noted in ANAO's Better Practice Guide, *Implementing Better Practice Grants Administration* (ANAO's Better Practice Guide), it would ordinarily be prudent for agencies to provide this advice each time a grant proposal is put forward for Ministerial consideration, given there are steps for the Minister to follow should he or she choose not to follow departmental advice.<sup>58</sup> Such advice can be incorporated into the standard briefing template used in relation to the relevant program or grant programs generally (if the agency has adopted such an approach).

**2.13** However, ANAO's analysis of grants-related briefs provided to Ministerial decision-makers in the period January 2009 to June 2010 highlighted that there is significant room for improvement in this aspect of agency briefing practices.

**2.14** For example, as noted at paragraph 2.10, clearly identifying the nature of a proposed transaction is an important first step in ensuring compliance with the associated obligations. In this respect, more than a third (37 per cent) of the briefs examined that were provided to Ministers in the period between July 2009 (when the CGGs and statutory definition of a grant came into effect) and June 2010 did not even indicate that the briefing related to a proposed grant.<sup>59</sup> This represented only a small improvement over earlier practices, with 38 per cent of the briefs prepared in the period 1 January 2009 to 30 June 2009 failing to indicate to the Minister that the proposal under consideration involved a grant.

**2.15** Further, only 45 per cent of the briefs provided to ANAO referred the Ministerial decision-maker to the FMA Act and/or Regulations.<sup>60</sup> This meant that more than half (55 per cent) of all briefs examined did not advise the

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<sup>57</sup> In this respect, the Strategic Review had observed that a key issue to be covered in departmental advice to Ministers on the merits of grant proposals concerned the application of the financial framework to the decision-making process. The Review noted that the requirements of two regulations (Regulations 9 and 10 (as the latter then applied)) were of particular import, and that departmental recommendations and related briefing material on the award of grants should explicitly address the requirements of these regulations [Strategic Review, op. cit., p. 63].

<sup>58</sup> ANAO Better Practice Guide, op. cit., p. 28.

<sup>59</sup> The other 63 per cent of briefs either explicitly advised the Minister that he/she was considering approval of a grant, or implicitly advised the Minister by using the word 'grant' to refer to the spending proposal at some point in the brief.

<sup>60</sup> Of those, 82 per cent referred to Regulation 9 or Section 44 of the FMA Act (which sets out the obligation on agency Chief Executives to manage the affairs of their agency in a way that promotes the proper use of the Commonwealth resources). The requirement for approvers to be satisfied that a spending proposal will make 'proper use' of resources is based on the definition included in section 44.

relevant Minister on the financial framework requirements applying to the decision he or she was being asked to make. Again, there was little evidence of a substantial improvement occurring in this aspect of agency briefings following the release of the CGGs in July 2009. Specifically, the FMA Act or Regulations were not referred to in:

- 57 per cent of the briefs that had been prepared prior to 1 July 2009; and
- 53 per cent of the briefs that had been prepared after 1 July 2009.

**2.16** Similarly, fewer than 29 per cent of the briefs examined that had been prepared by agencies after 1 July 2009 contained any reference to the CGGs. Such an approach does not sit comfortably with the obligation on agencies to advise Ministers on the requirements of the CGGs where they exercise the role of financial approver.

## Recording grant approvals

**2.17** As noted at paragraph 2.9, when approving grants, an approver is required to record both the terms of the approval (as applies to all spending proposals), as well as the basis on which the grant had been approved.

### *Recording the terms of approved grants*

**2.18** Since the current financial framework was introduced in January 1998, the FMA Regulations have required decision-makers to document the terms of any approval of a proposal to spend public money. Since June 2004<sup>61</sup>, Finance has provided advice to agencies on this obligation and how it can be met. This guidance has been updated a number of times, with the current guidance<sup>62</sup> outlining that the terms of an approval to spend public money include:

- the key elements of the spending proposal, such as the item, amount, parties, timeframes and any risks associated with the proposal; and
- any conditions on the approval.

**2.19** The significant majority (more than 94 per cent) of the Ministerial briefs analysed by the ANAO did include the terms of each recommended grant. However, some six per cent of briefings did not identify either the proposed funding amount, proposed recipient and/or the purpose of the grant.

<sup>61</sup> Finance Circular 2004/05, *Regulation 12 of the Financial Management and Accountability Regulations 1997*, 10 June 2004.

<sup>62</sup> Finance Circular 2011/01, op. cit.,

### *Recording the basis on which a grant was approved*

**2.20** As outlined at paragraph 2.9, since July 2009 Regulation 12 has required the approver of a grant to include in the approval record the basis on which he or she was satisfied that the spending proposal met Regulation 9, being that it would:

- make efficient, effective, ethical and (from March 2011) economical use of Commonwealth resources; and
- not be inconsistent with the policies of the Commonwealth (which include the CGGs and the specific program guidelines).

**2.21** In this context, guidance from Finance, reflected in ANAO's Better Practice Guide, is that where decision-makers:

- agree with the agency recommendation in respect to a proposed grant (irrespective of whether the recommendation was that it be approved or not approved), they are able to point to the agency assessment against the program guidelines as documenting the basis on which they have concluded whether or not the grant satisfied the requirements of Regulation 9 (as long as they are satisfied that the assessment was conducted with rigour);
- agree with an agency recommendation to approve the grant, but for reasons different from, or additional to, those put forward by the agency as the proposed basis for approval, they will need to document the basis on which they reached any decision to award funding; or
- decide to approve a grant that the agency had, based on its assessment, recommended be rejected or in respect to which the agency did not make a clear recommendation for approval, they will be required to separately document the substantive reasons for the approval, either at the time of giving the approval or as soon as practicable thereafter.<sup>63</sup>

**2.22** Against this background, based on the results of the audit survey, 13 per cent (across 12 agencies) of the briefs provided to Ministers in the period July 2009 (when the CGGs and amendment to Regulation 12 took effect) to June 2010 did not identify the basis upon which the agency was making its funding recommendation. For example, for recommended grants, this

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<sup>63</sup> As noted, the CGGs require that Ministers report annually to the Finance Minister on all instances where they have decided to approve a grant that the agency recommended be rejected, including a brief statement of the basis for the approval (see further in Chapter 3 of this audit report).

included briefs that did not identify the relevant agency's reasons for supporting the proposed grant, such as the perceived benefits of the project or why the agency considered the project to be worthwhile in terms of the relevant program's stated objectives and guidelines.

**2.23** In the instances examined in which the agency brief did not outline the substantive reasons as to why a grant should be approved, the relevant Minister had not otherwise annotated the brief with his or her substantive reasons for approving the grant. This circumstance emphasises the importance of agency advice appropriately addressing this issue, including by advising Ministers in relation to the obligation to record the basis for grant decisions.

## Agency briefing practices in providing grant recommendations to Ministerial decision-makers

**2.24** When releasing the CCGs, the then Finance Minister observed that, in his view, the administration of grant programs had become significantly debased. The then Minister expressed the desire that the new grants framework would improve the quality of grants administration and ensure taxpayers receive the best possible outcomes from Commonwealth grants.<sup>64</sup> At this time, the then Minister drew particular attention to the findings of ANAO's audit of the former Regional Partnerships Program.<sup>65</sup>

**2.25** Under that program, there were a relatively small number of occasions where Ministers made a funding decision that differed from the formal departmental recommendation.<sup>66</sup> Rather, the more significant issue in respect to decision-making processes related to departures from the published guidance, including: an absence of departmental assessments prior to a funding decision being taken; poor quality departmental assessments and

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<sup>64</sup> The Hon. Lindsay Tanner MP, Minister for Finance and Deregulation, *New Guidelines for Government Grants*, Media Release 38/2009, 1 July 2009.

<sup>65</sup> ANAO Audit Report No.14 2007–08, *Performance Audit of the Regional Partnerships Program*, Canberra, 15 November 2007.

<sup>66</sup> A total of 1 366 funding decisions were taken between 1 July 2003 and 30 June 2006 where there was a departmental recommendation before the Ministerial decision-maker. The Ministerial decision differed from the recommendation on 88 occasions (6.4 per cent of decisions), of which 50 (3.7 per cent of decisions) related to the Minister approving funding for a project not recommended by the department or approving higher funding than recommended. See: *ibid.*, Volume 1—Summary and Recommendations, pp. 45–46.

briefings being provided to Ministers; and/or briefings and the associated departmental funding recommendation being changed.<sup>67</sup>

**2.26** In the context of examining another ANAO audit of a grant program, the JCPAA has recently reiterated the importance of clear, published criteria for grant programs and, as noted at paragraph 2.5, agencies providing advice on the merits of proposed grants before any funding decisions are taken.<sup>68</sup> In this context, the Strategic Review had observed that:

Different conclusions can be drawn, quite legitimately, from any given set of information and evidence, and it should be open to a Minister to reach a decision different from that recommended in a department's or agency's advice. In view of the sensitivity likely to attach to such decisions, however, special care will be needed in these cases in order to demonstrate that the relevant program guidelines and selection criteria have been observed, that all grant applicants have been treated fairly, and that the requirements of the financial framework have been met.

In these circumstances, where a Minister disagrees with an agency's assessment and recommendation on a particular grant application, the Review considers that it would be appropriate for the Minister to clearly over-rule the department and document the basis on which the Minister has reached an alternative view. It should no longer be acceptable, as has happened in the past:

- for a Minister to decline to document reasons in such circumstances;
- for a Minister to ask the department to restructure its advice and recommendations to accord with the Minister's views and preferred outcomes; or
- for a department to 'retro-fit' its documentation or records merely to comply with a Minister's wishes or proposed changes, rather than to execute a Ministerial decision.<sup>69</sup>

**2.27** As noted, the Government agreed with the Review's recommendation that the briefing material provided to Ministers on grant approvals should explicitly address the requirements of the FMA Regulations and make a clear recommendation.<sup>70</sup> This was reflected in the CGGs by requiring that Ministers

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<sup>67</sup> *ibid.*, pp. 21–22.

<sup>68</sup> Joint Committee of Public Accounts and Audit, *op. cit.*, pp. viii and 48.

<sup>69</sup> Strategic Review, *op. cit.*, p. 8.

<sup>70</sup> Strategic Review, *op. cit.*, Recommendation 7(d).

not approve a grant without first receiving agency advice on its merits. As noted in ANAO's Better Practice Guide<sup>71</sup>, Finance has confirmed that, reflecting the policy intent underpinning that requirement, advice on the merits of a proposed grant will, in practice, include a clear agency recommendation as to whether or not the grant should be approved under the relevant program guidelines.

**2.28** In addition, as noted, the requirement for approvers of grants to record the basis for their decisions is particularly relevant in circumstances where they reach a decision that is not consistent with the agency assessment of the proposal against the program guidelines. Inclusion in the advice provided to decision-makers of formal recommendations that a proposed grant be approved or rejected, and the reasons for the recommendation, will assist in highlighting to approvers those instances in which it will be necessary for them to document the basis for any decision to approve the grant.<sup>72</sup> Against this background, based on audit experience, ANAO's Better Practice Guide outlines a range of other practices that would also not sit comfortably with the new policy framework for grants decision-making, including:

- an approach under which the agency assesses an application as having little merit against the program guidelines, but makes no formal recommendation that it not be approved<sup>73</sup>;
- the decision-maker being provided with a list of projects variously rated against qualitative ratings (for example, *high*, *medium*, *low*) but with no recommendation or advice, based on the assessed capacity to contribute to program objectives and in comparison to other eligible applications, as to:
  - which individual projects were ranked highest and should be preferred for approval within the available funding; and/or
  - which projects the agency recommends should not be funded;
 or

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<sup>71</sup> ANAO Better Practice Guide, op. cit., p. 77.

<sup>72</sup> *ibid.*

<sup>73</sup> The Better Practice Guide notes that such an approach may result in a Minister not reporting approval of the grant to the Finance Minister on the basis that the agency had not formally recommended that it be rejected; and also raises the potential for inconsistent practices to develop across grant programs, which is contrary to the purpose of promulgating a standard grants policy framework (*ibid.*). The obligation to report Ministerial decisions to approve grants that the agency advice recommended be rejected is discussed further at paragraphs 3.17 to 3.36.

- a minimum threshold approach under which the decision-maker is provided with a list of all applications the agency considers could be funded subject to available funding, but without any recommendation as to which individual applications were ranked highest and should be preferred within the program funding that is actually available.<sup>74</sup>

## **Framing agency advice to reflect the nature of the grant program**

**2.29** A significant factor that influences the necessary content of agency briefings on the merits of proposed grants is the process by which potential funding recipients are identified and are able to access the program. Depending upon the policy objective that is to be addressed, there are a number of options available in this respect. These include:

- competitive funding rounds which open and close to applications on nominated dates, with eligible applications received by the closing date being assessed against the selection criteria set down for the program and then prioritised against competing, eligible applications for the available funding;
- a non-competitive, open process under which applications may be submitted at any time over the life of the program and are assessed individually against the selection criteria set down for the program, with funding decisions in relation to each application being determined without reference to the comparative merits of other applications;
- a demand-driven process under which all applications that satisfy stated eligibility criteria receive funding, up to the limit of available appropriations; or
- one-off grants to be determined on an ad-hoc basis (usually by Ministerial decision, including by Cabinet).<sup>75</sup>

**2.30** The primary objective is to implement a process by which projects most likely to contribute to the cost-effective achievement of the program objectives will be consistently and transparently selected for funding consideration. In this respect, the CGGs outline that, unless specifically agreed otherwise, competitive, merit based selection processes should be used, based upon

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<sup>74</sup> *ibid.*, pp. 77–78.

<sup>75</sup> *ibid.*

clearly defined selection criteria.<sup>76</sup> In the context of a recent ANAO performance audit of a grant program, Finance advised ANAO in August 2011 that:

Whilst competitive, merit-based selection processes are not a mandatory requirement of the CCGs, they represent best practice and as such agencies are strongly encouraged to employ such processes.<sup>77</sup>

**2.31** However, the results of ANAO's survey of grant programs undertaken as part of this audit indicate that a significant proportion of granting activity is operating through processes other than those based on competitive, merit-based selection. Specifically, while nearly 37 per cent of grant selection processes undertaken since July 2009 (as identified in the briefs provided to ANAO) were competitive in nature, some 63 per cent were not.<sup>78</sup>

### *Advising on the merits of proposed grants under competitive grant programs*

**2.32** Particular issues arise when advising Ministers on the merits of competing applications to a competitive grant program. As is outlined in ANAO's Better Practice Guide, an appropriately conducted competitive, merit-based grant selection process involves all eligible, compliant applications being assessed in the same manner against the same criteria, with the outcome of these assessments then being used to rank each application in priority order.<sup>79</sup> This ranking then forms the basis of the agency's recommendations as to which applications should be approved and which should be rejected. These recommendations, together with the ranking and underlying assessment information, are provided to the decision-maker for his or her consideration.

**2.33** In this context, Figure 2.1 illustrates one way of presenting a clear summary of agency advice to a decision-maker in respect to a hypothetical program for which \$100 million in grant funding was available to applicants;

<sup>76</sup> *Commonwealth Grant Guidelines*, op. cit., p. 29.

<sup>77</sup> ANAO Audit Report No.7 2011–12, op. cit., p. 36. In this respect, in December 2011 Finance advised ANAO that it 'generally brings to the attention of agencies the better practice requirement to employ competitive, merit-based processes, through written advice provided to Agency Advice Units (AAUs) and agency staff on draft guidelines; and/or through meetings or other discussions with AAUs and agency staff regarding grants administration. In response to the report, Finance will revise its internal checklist for assessing draft grant guidelines to formally include consideration of the type of application and selection process, noting that competitive merit-based selection processes are better practice.'

<sup>78</sup> The administration and impact of the preference outlined in the CCGs for the use of competitive, merit-based selection processes in grant programs will be examined further in the separate performance audit of the Development and Approval of Grant Guidelines currently underway.

<sup>79</sup> ANAO Better Practice Guide, op. cit., p. 75.

and where the program guidelines had outlined that all eligible proposals would be rated as either 'Highly Suitable, 'Suitable or 'Not Suitable, and ranked in order of merit.<sup>80</sup>

**Figure 2.1**

**Illustrative example of ranking competing applications in an order of merit and associated agency recommendation to decision-maker**

Rank	Applicant	Project ID	Amount sought	Cumulative total	Assessment rating	Recommendation
1	Applicant C	Project 3	\$200,000	\$200,000	Highly suitable	Approve
2	Applicant Y	Project 25	\$6,500,000	\$6,700,000	Highly suitable	Approve
3	Applicant N	Project 14	\$12,000,000	\$18,700,000	Highly suitable	Approve
4	Applicant S	Project 19	\$5,000,000	\$23,700,000	Highly suitable	Approve
5	Applicant B	Project 2	\$7,500,000	\$31,200,000	Highly suitable	Approve
6	Applicant T	Project 20	\$20,000,000	\$51,200,000	Highly suitable	Approve
7	Applicant R	Project 18	\$25,000,000	\$76,200,000	Highly suitable	Approve
8	Applicant A	Project 1	\$10,000,000	\$86,200,000	Highly suitable	Approve
9	Applicant M	Project 13	\$800,000	\$87,000,000	Highly suitable	Approve
10	Applicant O	Project 15	\$8,000,000	\$95,000,000	Highly suitable	Approve
11	Applicant P	Project 16	\$5,000,000	\$100,000,000	Highly suitable	Approve
<b>Limit of available funds</b>						
12	Applicant D	Project 4	\$10,000,000	\$110,000,000	Highly suitable	Reject
13	Applicant I	Project 9	\$800,000	\$110,800,000	Highly suitable	Reject
14	Applicant Q	Project 17	\$1,700,000	\$112,500,000	Highly suitable	Reject
15	Applicant E	Project 5	\$25,000,000	\$137,500,000	Suitable	Reject
16	Applicant K	Project 11	\$10,000,000	\$147,500,000	Suitable	Reject
17	Applicant G	Project 7	\$7,000,000	\$154,500,000	Suitable	Reject
18	Applicant W	Project 23	\$500,000	\$155,000,000	Suitable	Reject
19	Applicant X	Project 24	\$950,000	\$155,950,000	Suitable	Reject
20	Applicant Z	Project 26	\$16,000,000	\$171,950,000	Not suitable	Reject
21	Applicant H	Project 8	\$2,000,000	\$173,950,000	Not suitable	Reject
22	Applicant U	Project 21	\$2,000,000	\$175,950,000	Not suitable	Reject
N/A	Applicant F	Project 6	\$3,250,000	Not applicable	Ineligible	Reject
N/A	Applicant J	Project 10	\$750,000	Not applicable	Ineligible	Reject
N/A	Applicant L	Project 12	\$6,500,000	Not applicable	Ineligible	Reject
N/A	Applicant V	Project 22	\$30,000,000	Not applicable	Ineligible	Reject

Source: ANAO analysis.

**2.34** Of the Ministerial briefs examined in this audit that had been prepared since July 2009 and where a competitive selection process was documented, only just over a quarter (28 per cent) involved the agency providing the Minister with a ranked or prioritised list of grants for consideration. However, it was more common for the advice provided to the Minister not to provide a

<sup>80</sup> Under such an approach, the detailed assessment underpinning the overall rating and ranking is able to be provided to the decision-maker in supporting attachments, including outlining the results of the assessment of each proposal against the published threshold and assessment criteria.

ranked or prioritised list of grants. This was the case with nearly three-quarters (72 per cent) of the briefs relating to a competitive grant process provided to ANAO for the period 1 July 2009 to 30 June 2010.

**2.35** It is usual for a limited pool of funding to be available through a particular round of a competitive grant program. It is also not uncommon for more applications to be assessed as being meritorious against the program guidelines than can be accommodated within the available funding. In this context, having regard to the associated Ministerial reporting obligations, even where the agency advice rates and ranks the assessed applications, it is also important that it clearly identifies which of the ranked applications are recommended for approval and which the agency is recommending be rejected, having regard to the available program funding.

**2.36** ANAO observed some instances of good practice in this regard. For example, in March 2010 the then Department of the Environment, Water, Heritage and the Arts provided the then Minister for Climate Change, Energy Efficiency and Water with its advice and funding recommendations in respect to the \$100 million first round of the \$300 million On-Farm Irrigation Efficiency Program.<sup>81</sup> The Minister was informed that the department had assessed the applications against the published eligibility and merit criteria, with 26 projects from eight applicants passing all criteria. However, the Minister was also advised that insufficient funds were available to fund all 26 projects. Accordingly, the eligible projects were ranked in a merit list, with the department recommending that the Minister:

- approve the 16 highest ranked projects, to the value of \$100 million, with these 16 projects being identified in an attachment to the brief; and
- agree that the ten remaining eligible and ranked projects (also identified in an attachment to the brief), which the department advised were not recommended for funding, not receive funding.

**2.37** In other cases, agencies provided the relevant Minister with advice that grouped applications into rating categories (with some categories being prioritised for funding over others). However, the agency advice did not rank applications within each category or provide a clear recommendation as to which applications the agency considered should be approved and those that it

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<sup>81</sup> The October 2009 program guidelines had stated that the \$300 million would be awarded through three competitive funding rounds over the four-year duration of the program, commencing in 2009–10.

was recommending not be approved, based on the program objectives and available funding.

**2.38** An example of this approach being employed involved the Department of Agriculture, Fisheries and Forestry's (DAFF) January 2010 briefing to the then Minister for Agriculture, Fisheries and Forestry concerning the second round of grants under the Next Gen Farmers program. Specifically, DAFF provided the Minister with a list which, based upon an external assessment, grouped projects into five categories: AA–highly recommended; A–very competitive; B–have potential but not competitive; C–should not be funded; and D–not at all aligned with program outcomes. In total, eight projects were rated 'AA' (and listed first) and 11 projects were rated 'A' (and were shown as the second group on the list provided to the Minister). The remaining projects rated 'B' or 'C' were then also listed. The total funding sought by the projects rated 'AA' and 'A' exceeded the notional funding allocation for the round previously agreed by the Minister.

**2.39** DAFF advised the Minister that it had indicated a suggested limit, based on the notional allocation, with a grey line on the approval sheet. All eight 'AA' rated projects and seven 'A' rated projects were above this indication line, with the remaining four 'A' rated projects being below the line. However, DAFF did not recommend against the projects listed below the indicative line being approved. Rather, the projects were all presented to the Minister as being capable of approval and DAFF recommended to the Minister that he approve individual grant proposals by annotating the form provided.<sup>82</sup> Ultimately, the Minister chose to approve all of the projects above the indicative line, together with one of the remaining 'A' rated projects below the line. Because the department's advice had included identical, generic wording against each of the 'AA' and 'A' rated projects as the 'funding basis' for the purposes of the Minister's obligations under Regulations 9 and 12, there was no record maintained identifying the reason for a number of the 'A' rated projects being approved and others not being approved. Due to the format of the department's advice, the decision to approve the 'A' rated project listed below the department's indicative line was not seen as being a 'recommended

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<sup>82</sup> DAFF advised the Minister that should he wish to approve funding for projects below the line indicating where the notional funding allocation was fully spent, he should consider not supporting a project 'above the line' due to the limit on the available funds.

be rejected' proposal that the Minister would need to report to the Finance Minister (see further in relation to this brief at paragraph 3.26).<sup>83</sup>

**2.40** This was one of a number of instances where the relevant agency did not provide a clear recommendation to the Ministerial decision-maker as to which of the ranked and/or rated grant proposals the agency considered should be approved for funding and why. Particularly in circumstances where the grant proposals provided to a Minister exceed the available funding, the provision of lists of projects without a clear agency recommendation does not support the improvements in transparency and accountability intended to be achieved through the grant decision-making processes set out in the CCGs.

**2.41** Clearly identifying which of the competing proposals are recommended for approval, and which it is recommended not be approved, is also necessary to support the requirement to report to the Finance Minister instances where a Minister approves a grant that the agency has recommended be rejected. This is because, where the agency does not make a clear recommendation, it is not possible for a Minister to make a decision that differs from the agency recommendation (an approach that may similarly be contrary to the policy intent underpinning the reporting obligation). This issue is examined further at paragraphs 3.17 to 3.31.

*Advising on the merits of proposed grants under non-competitive grant programs*

**2.42** In advising Ministers as to whether grants proposed under a non-competitive program are recommended for approval or not, agency briefs are able to be focused solely upon the merits of each individual grant, as assessed against the relevant program guidelines and in accordance with the requirements of the grants and financial framework (as discussed at paragraphs 2.7 to 2.28). However, non-competitive grant programs can take a number of forms, each of which can provide particular issues in relation to formulating sound agency advice.

**2.43** For example, it is relatively straightforward to provide clear advice to decision-makers where a program operates through a demand-driven process. Specifically, all applications that satisfy stated eligibility criteria should receive

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<sup>83</sup> In the first round of this program, DAFF provided a ranked list of applications to the Minister but did not indicate which of those it recommended for funding. Instead, the department had asked that the Minister make a decision about the quantum of funds he wished to allocate to the round, and which applications he wished to approve within such an allocation. Ultimately, the Minister approved each of the 52 applications that had been assessed as eligible and rated highly against the program guidelines.

funding, up to the limit of the available funding. However, an important aspect in these circumstances is specifying, and applying, clear rules as to which applications will be funded in circumstances where demand exceeds the funding available (for example, the program guidelines may provide that applications are considered in the order in which they are received).<sup>84</sup>

**2.44** A similar risk exists for grant programs under which applications and approvals are made on a continuous basis, rather than through structured funding rounds.<sup>85</sup> For example, the Promoting Australian Produce (Major Events) program, administered by DAFF, was launched on 19 December 2008, with the program guidelines stating that applications were open and would be assessed continuously until 31 May 2009. The guidelines indicated that, in the event of over-subscription, applications may only receive partial funding.<sup>86</sup> The guidelines did not, however, outline the process by which it would be decided which events would receive full funding and those that would receive partial funding; and whether applicants would be offered the opportunity to outline the effect on their event of not receiving the full grant that had been sought.<sup>87</sup>

**2.45** Program grants were not allocated in the order in which applications were received, or in the order in which departmental recommendations (which had been completed in the order in which applications were received) were provided to the Minister. In this respect, the first and third applications received were funded in full; but the second, fourth and fifth applications received were partially funded. In no instance did DAFF provide a clear recommendation to its Minister concerning whether the department considered the grant amount sought should or should not be awarded to the relevant applicant. Rather, in each brief, DAFF recommended that the Minister

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<sup>84</sup> See further in ANAO Better Practice Guide, op. cit., p. 64.

<sup>85</sup> For example, the Strategic Review observed that: 'The alternative of using non-competitive 'continuous assessment' methods, under which each funding decision is taken separately from the consideration of other applications, poses significant challenges in ensuring transparent, accountable and cost-effective administration, and in demonstrating that all applicants have been treated equitably.' Source: Strategic Review, op. cit., p. 56.

<sup>86</sup> The guidelines further stated that: 'The amounts of grants provided will be based on the size of the proposed event, its cost structure and the likely return to the industry and Australian agriculture, as well as availability of funds. It will be expected that proponents will fund a share of project costs. Proposals that fund 50 per cent or greater will be viewed more favourably.'

<sup>87</sup> In addition, one of the program merit criteria was 'the extent to which you have the resources and capability to carry the project through to finality'. The award of partial funding could, potentially, have impacted upon a proponent's ability to meet this criterion or, alternatively, led to reductions in the scope or quality of the event (which, in turn, could have impacted upon the assessment of the application against other criteria).

‘note’ the assessment of the application in terms of the program’s criteria, and that he then ‘decide’ whether or not to approve a grant. Once the quantum of approved applications and applications on hand exceeded the available program funding, DAFF informed the Minister that not all applications could be funded in full. However, it did not recommend to the Minister the order in which applications on hand should receive grant funding, or how much each application should be awarded (where the department considered an application could be partially funded).

**2.46** Advising on the merits of grant proposals can also be challenging for other types of non-competitive programs, including in relation to appropriately evaluating the value for money offered by each project under consideration. One possible approach is to compare candidate proposals against relevant benchmarks. Under such an approach, there is value in the program guidelines identifying the benchmarks that will be applied. Another approach may be to compare the merits of a proposal currently being considered to those of previously successful and unsuccessful proposals. However, it is not uncommon for the assessment methodology applied in formulating funding recommendations under non-competitive grant programs to fail to adequately address such issues.<sup>88</sup> In this respect, of the briefs provided to ANAO that were prepared in the period 1 July 2009 to 30 June 2010 and which had failed to identify the basis upon which the agency was making its funding recommendation (see paragraph 2.22), more than half related to non-competitive grant programs.

**2.47** Against this background, Finance has recently agreed to an ANAO recommendation<sup>89</sup> that it improve its existing guidance on grants administration so as to promote the effective application of the seven key principles outlined in the CCGs to all forms of granting, including where a program operates through a non-competitive and/or a non-application based process.

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<sup>88</sup> For example, a recent audit report which examined a non-competitive grant program reported that the responsible department had not addressed value for money considerations in its assessment work undertaken in respect to each candidate proposal so as to support its advice to the Ministerial decision-maker that the approval of grants represented an efficient, effective and ethical use of public money (ANAO Audit Report No.7 2011–12, op. cit., p. 29).

<sup>89</sup> *ibid.*, p. 140.

## Providing decision-makers with options

**2.48** Depending upon the nature of the grant program, and the results of the agency assessment, there may be circumstances where there are various funding options reasonably open for consideration. For example, in a competitive merit-based program, there may be insufficient proposals that meet all selection criteria to a high standard such that the decision-maker could consider approving less than the available program funding. Alternatively, the decision-maker could consider waiving one or more criteria (providing the program guidelines permit this to occur) in order to fully allocate program funding, where he or she was satisfied that this would still make proper use of the public money and be consistent with Commonwealth policies. In such circumstances, it is appropriate for an agency to canvass the relative merits of the available options with a Minister. Nevertheless, in order to meet the requirements of the CGGs, it is important that the agency advice also includes a clear recommendation as to which option is preferred, and why.

**2.49** In this context, there were 35 instances examined by ANAO where a Minister was presented with one or more approval options for consideration. These instances involved eight agencies and 24 different programs over the 18 months examined (representing some eleven per cent of programs reviewed). In just over half of those instances (18 occasions, 51 per cent), the advice indicated which option was recommended for approval, and on ten occasions the Minister agreed with the recommended option.<sup>90</sup> In the remaining 17 instances, the agency did not identify which option was recommended. Accordingly, it was not possible to identify whether or not the relevant Ministers had agreed with the agency's recommendation for the purposes of the reporting obligations under the CGGs.

**2.50** One program examined by ANAO where the provision to the relevant Minister of funding options was common was requests for funding under the exceptional circumstance provisions of the Automotive Industry Structural Adjustment Program. Between March 2009 and October 2009, the Minister for Innovation, Industry, Science and Research was provided with 11 separate briefings by the Department of Innovation, Industry, Science and Research (DIISR) in respect to this program. On five occasions, DIISR advised the Minister that the relevant application did not meet the requirements of the

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<sup>90</sup> One of the remaining eight instances (involving two grants) resulted in a report to the Finance Minister of a grant having been approved that the agency had recommended be rejected.

program, and provided a clear recommendation that it be rejected (which the Minister agreed to on each occasion). On the remaining six occasions, DIISR provided the Minister with between two and five options for his consideration. On each occasion, one of the options was that no funding be provided, with another being the awarding of the full amount requested.<sup>91</sup> However, DIISR did not adopt a consistent approach of identifying which option it recommended. In this respect:

- on two occasions, DIISR identified one of the options as being the ‘best’, as follows:
  - on the first such occasion, the recommended option was that no assistance be provided, but the Minister approved the option of approving a grant for the full amount of eligible expenditure identified in the proposal. However, in preparing the Minister’s annual report to the Finance Minister on any instances where he had approved a grant which his department had recommended be rejected, DIISR advised the Minister that a review of records had not identified any instances that required reporting. As a result, the Finance Minister was not informed of the Minister’s decision to award a grant where the department had recommended that the best option was to provide no funding; and
  - on the second such occasion, DIISR recommended that the Minister agree with the second of three options presented, being approval of a grant for the total amount of eligible expenditure from the application. The Minister approved this option; and
- on the remaining four occasions, DIISR did not identify which option it was recommending. On three of those occasions, the recommendation from the department was that the Minister advise it as to which, if any, of the presented options, or any other options, the Minister wished it to pursue. In the remaining instance, which involved a request for further assistance from one company, the department’s recommendation was that the Minister indicate on the brief whether he preferred the option of providing no further funding to the applicant or the option of providing the full amount of the requested additional assistance.

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<sup>91</sup> Where more than two options were put forward, the other options related to partial funding.

**2.51** Advice provided to the then Minister for Education by the Department of Education, Employment and Workplace Relations (DEEWR) in August 2009 in respect to the second round of the Local Schools Working Together Pilot Program was another example examined by ANAO where the departmental advice canvassed funding options. DEEWR advised the then Minister that the National Assessment Panel had assessed 11 projects as ‘highly suitable for funding’ and three projects as ‘suitable for funding’, with these 14 projects being advised to the Minister in ranked order (together with a further 50 projects that had been assessed<sup>92</sup>, none of which were rated as either highly suitable or suitable for funding). In respect to possible funding options, the briefing to the Minister outlined that the \$24.1 million in funding for this round would enable:

- all 11 ‘highly suitable’ projects to be approved. However, two applicants (involving the fourth and sixth ranked) of projects rated as ‘highly suitable’ had been assessed as high risk, but DEEWR further advised that these ‘projects are unique and represent models for funding that, if successful, could be particularly innovative’ and had been ‘highly regarded’ by the National Assessment Panel. Accordingly, one option identified was to approve all 11 ‘highly suitable’ projects, including these two applications (for which DEEWR indicated it would then implement ‘more stringent monitoring and reporting requirements’); or
- approval of the nine ‘highly suitable’ projects not assessed as high risk, together with the two highest ranked ‘suitable’ projects. The brief outlined that, if the Minister chose not to award funding to the two projects rated as ‘highly suitable’ but with an assessed high risk, DEEWR would recommend that the Minister approve the remaining nine ‘highly suitable’ projects as well as the two highest ranked ‘suitable’ projects.

**2.52** DEEWR advised the Minister that the balance of funds available under either option was insufficient to permit another ‘suitable’ project to be approved. The departmental recommendation was that the Minister approve the 11 ‘highly suitable’ projects. The Minister approved these 11 projects, and

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<sup>92</sup> The departmental briefing noted that 75 applications had been received and that, after validation checks, 64 were presented to the National Assessment Panel for assessment. DEEWR further advised that, of those 64 applications, one was deemed to be ineligible against the program guidelines and ten were assessed as being non-compliant and, therefore, also ineligible for assessment.

also approved all three projects assessed as 'suitable'. The Minister did not annotate the relevant brief to identify the basis for the approvals given. The department subsequently recommended that the Minister withdraw the approval for the three projects assessed as 'suitable' as the funds allocated to the funding round was insufficient to permit all 14 projects originally approved to be funded. The Minister agreed with the recommendation.<sup>93</sup>

## **Evolving departmental advice**

**2.53** Within the briefs examined by ANAO, there were more than 200 instances where the briefing material provided by the agency indicated that the relevant Minister's decision had been informed by more than one agency briefing. In that context, it is reasonable under a staged assessment process for initial assessments to be updated, and potentially changed, as further information is obtained and/or further analysis is undertaken in respect to projects that progress to a subsequent stage of assessment. It is also recognised as being good public administration practice for any changes in grant program assessments, and the reasons for such changes, to be documented to enhance the accountability of both agencies and decision-makers.<sup>94</sup>

**2.54** However, once the relevant agency has completed its assessment of grant proposals, the agency advice and related recommendation should not be changed to accord with the decision-maker's views and preferred outcomes. Rather, as noted by the Strategic Review (see paragraph 2.26), better practice in terms of promoting transparency in decision-making is for the program documentation to clearly record that the decision-maker disagreed with the agency and for the decision-maker to document the basis on which he or she reached an alternative view. This approach allows agencies to meet their obligation to provide advice to Ministers on the merits of proposed grants. It also ensures that all instances where a Minister approves a grant not recommended by the agency are identified for reporting to the Finance Minister.

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<sup>93</sup> This issue is discussed further at paragraphs 3.28 to 3.31 in relation to the obligation for Ministers to report to the Finance Minister all instances in which they have approved a grant that the relevant agency had recommended be rejected.

<sup>94</sup> See, for example, Queensland Crime and Misconduct Commission, *Report on an Investigation into the Alleged Misuse of Public Monies, and a Former Ministerial Adviser*, December 2010.

**2.55** An example of good practice in such circumstances identified by ANAO involved advice provided to the then Assistant Treasurer by the Department of the Treasury (Treasury) in relation to a proposed grant of \$2.5 million to the Responsible Investment Association Australia to establish a Responsible Investment Academy. Treasury's January 2009 advice to the then Minister was that he should not agree to provide the proposed grant. Shortly afterwards, the Minister's Office informed Treasury that the Minister wished to proceed with funding for the Academy. Treasury subsequently provided the Minister with a further brief that clearly recorded that the department's earlier briefing had recommended against approval of the grant, as well as advising the Minister that it would be open to him to exercise his discretion to allocate funding under provisions of the *Australian Securities and Investments Commission Act 2001*. Consistent with the requirements of the CGGs, the then Assistant Treasurer reported to the Finance Minister in March 2010 that this approval represented an occasion on which he had approved a grant that his agency had recommended be rejected.

**2.56** However, the briefs examined by ANAO also included a number of examples in which agency advice to Ministers on the merits of proposed grants evolved over the course of multiple briefs, but in which the basis for the changing advice and/or agency recommendation was not clearly identified within the sequence of briefs. This included examples in which the subsequent agency advice had been provided following communication from the Minister and/or his or her Office as to the relevant Minister's preferred approach.<sup>95</sup> This also included examples in which a clear recommendation was not included in the final agency advice, but in which the agency advised on risk management arrangements it proposed to apply should the Minister choose to approve a particular grant.

**2.57** Neither the CGGs, nor associated guidance issued by Finance, contemplates circumstances in which two or more briefings on the merits of a proposed grant are provided to a Minister through an iterative process of

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<sup>95</sup> ANAO has observed practices of this nature in previous audits of grant programs. See, for example, ANAO Audit Report No.39 2006–07, *Distribution of Funding for Community Grant Programmes*, Canberra, 24 May 2007, p. 34. That audit identified that under two funding rounds of the relevant program, for each of the applications in respect to which the Minister's decision differed from the recommendation as set out in the submitted brief, the department had changed the entry in its database such that the recommendation recorded for each application aligned with the Minister's final decision rather than the original recommendation put forward in the relevant Ministerial brief. These changes involved previously recommended applications no longer being recommended for approval, and other previously not recommended applications now being recommended for approval.

deciding which proposals will be approved. Accordingly, there is no guidance to agencies on the development and implementation of administrative procedures that are to apply in such circumstances, and which are consistent with the seven key principles of grants administration set out in the CGGs. In addition, there is currently no guidance on how to identify Ministerial decisions to approve grants that are to be reported to the Finance Minister in circumstances where the Minister did not accept the initial advice but, through an iterative briefing process, the final advice from the agency was supported or the grant was otherwise approved in circumstances in which the agency did not make a clear final recommendation.

**2.58** While these are matters that Finance may wish to contemplate for subsequent reviews of the CGGs, there is a limit to the guidance that should be necessary for agencies to apply the intent of the Government's requirements for the administration of grants, which was to improve transparency and accountability. The above examples highlight the importance of agencies understanding the essential elements of the CGGs; and putting in place appropriate arrangements for the preparation, oversight and submission of briefs seeking Ministerial consideration of the approval or otherwise of proposed grants.

## Grants Framework Unit

**2.59** The conceptual basis for the grants administration framework was drawn from the framework already in place for Commonwealth procurement. In particular, the *Commonwealth Procurement Guidelines* (CPGs) are issued under authority of the FMA Regulations so as to establish the core procurement policy framework and articulate the Government's expectations of FMA Act agencies and their officials when performing duties in relation to procurement.

**2.60** In this context, the Strategic Review commented favourably on the resources invested by Finance in supporting the development and implementation of the procurement policy framework.<sup>96</sup> This included observing that Finance had established a Procurement Division and, within that Division, a Procurement Policy Branch with responsibility for procurement policy development, providing advice to government on the procurement policy framework and developing supporting guidance for

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<sup>96</sup> Strategic Review, op. cit., p. 52.

agencies. The Procurement Division also includes a Procurement Implementation Branch that is responsible for managing AusTender (the Australian Government's procurement reporting information system) and for building procurement expertise and capability across Australian Government agencies.<sup>97</sup> Against this background, the Strategic Review commented that to improve grants administration:

A significant investment of resources will be needed to address the serious framework deficiencies identified in [the Strategic Review report], and to put in place more robust and effective arrangements for the future. Having regard to the scale of work required, the Review considers that a dedicated unit should be established within [the] Finance to coordinate the development of a new policy framework for grants administration and to oversee its implementation across the Commonwealth. The new unit should consult closely with line departments and agencies during the development phase of its work; moreover, when a new policy framework for grants has been fully developed and endorsed by government, the unit should actively engage with agencies both to explain the terms of the new framework and to assist them in implementing its requirements. On an ongoing basis, the unit should serve as a 'port of call' and source of expert assistance and advice on any matters relating to the interpretation of the framework or the administration of grant programs more generally.<sup>98</sup>

**2.61** The Review acknowledged that there would be a cost associated with this proposal, but considered that it would be significantly outweighed by the long-term benefits which would accrue from a robust whole-of-government framework for the administration of grants, commenting that:

The corresponding investment made some years ago in the development of a procurement policy framework provides supporting evidence for this view. By dint of that investment, as noted [in the report of the Strategic Review], there is now a much clearer understanding of procurement policy requirements across agencies; far greater consistency in the interpretation and application of that policy; a higher level of transparency and accountability in the management of procurement processes; a well-designed reporting system for procurement, closely linked to agencies' own information systems; and more generally, a

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<sup>97</sup> For example, some years after the introduction of the current procurement framework, Finance's Procurement Division provides support to procurement officers and contract managers to perform their roles through information sharing, informal and formal training, improving the framework for career development and providing contextual advice (see <http://www.finance.gov.au/procurement/Training.html>) [accessed 1 November 2011].

<sup>98</sup> Strategic Review, *op. cit.*, p. 51.

marked improvement in the professionalism of procurement activity across the Commonwealth as a whole.<sup>99</sup>

**2.62** Accordingly, the Strategic Review recommended that:

- Finance establish an identifiable unit within its structure to take responsibility for developing and implementing the new policy framework for grants administration and for co-ordinating action on government decisions arising from the Review;
- the unit established within Finance should work collaboratively with portfolios and agencies to explain the terms of the new grants policy framework and to assist them in implementing its requirements; and
- the Government provide funding for Finance to perform these two functions.<sup>100</sup>

**2.63** Government decisions in respect to the Strategic Review were taken in December 2008, with this recommendation being agreed in-principle, noting that funding for the unit would be considered in the 2009–10 Budget. Subsequently, the May 2009 Budget included an expense measure of \$3.5 million over four years (comprising \$1 million in both the 2009–10 and 2010–11 financial years, \$0.8 million in 2011–12 and \$0.7 million in 2012–13) for Finance to establish a Grants Framework Unit. The staff resources for that unit are part of the Financial Framework Policy Branch within Finance’s Financial Framework Division. The expected staff resources on which the funding of \$3.5 million was based involved an average staffing level (ASL) of eight in both 2009–10 and 2010–11, reducing to an ASL of five in both 2011–12 and 2012–13.

**2.64** In September 2011, Finance advised ANAO that a total of \$1.926 million had been appropriated to the department over 2009–10 and 2010–11 in relation to this measure, of which \$0.875 million (45 per cent) had been allocated to the Financial Framework Policy Branch. Of that funding, \$0.233 million (27 per cent) had been allocated to internal corporate overhead charges. In relation to staffing levels for the Grants Framework Unit, Finance’s September 2011 advice to ANAO was that:

...there was initially three ASL for the first six months in 2009/10 then 2 ASL after that. For 2010/11, there was one ASL for the first 4 months and then two

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<sup>99</sup> *ibid.*, pp. 51–52.

<sup>100</sup> *ibid.*, Recommendation 5, p. 52.

ASL for the remainder on the year. At this stage, in 2011/12 there are now three ASL.

**2.65** As previously noted (see paragraphs 2.60 to 2.62), the Strategic Review envisaged that the unit would play an active and ongoing role in assisting agencies to understand and implement the new framework (similar to the role performed by Finance's Procurement Division in respect to promoting improvements in procurement practices). Similarly, in agreeing to its formation, the Government was advised that the establishment of a dedicated unit within Finance would support agencies by providing a single point of contact on the new grants framework, and would be a key factor in mitigating the risk of the new framework not meeting its policy objectives or not being implemented in a consistent and robust manner across agencies.

**2.66** As Finance's advice<sup>101</sup> to ANAO indicates, the actual level of resources that has been made available to the Grants Framework Unit and, therefore, the associated level of activity in relation to engaging with agencies to support the effective and consistent implementation of the new grants policy framework, have been substantially less than that envisaged and funded through the Budget.<sup>102</sup> In particular, in the first two years of operation of the CGGs, the staffing level of the Grants Framework Unit was nearly three quarters lower than that budgeted.

## Conclusions

**2.67** A key focus of the new grants administration framework has been the establishment of specific legislative and policy requirements in relation to the grant assessment and approval process. These include an explicit requirement that Ministers obtain advice from the relevant agency on the merits of a proposed grant before any decision is taken as to whether to approve the grant. This requirement and other related enhancements to the grants administration framework (including those requiring certain types of grant approvals to be reported to the Finance Minister) are designed to provide for

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<sup>101</sup> See paragraph 2.64.

<sup>102</sup> For example, a Grant Funding Agreement Working Group was established by Finance in June 2011 with the objective of streamlining agreements with grant recipients, particularly the not-for-profit sector, by developing model funding agreement templates in consultation with agencies and grant recipients; piloting and evaluating the templates through one or more agencies; and disseminating them and accompanying guidance to FMA Act agencies. Despite the importance placed on agency advice to Ministers by the various mandatory requirements set out in the CGGs, no similar action has been taken in relation to coordinating improvements in briefing practices.

an improved decision-making framework to assist Ministers to be appropriately informed when deciding whether to approve grants and to enhance accountability for those decisions.

**2.68** ANAO's examination of Ministerial briefs in respect to proposed grants prepared over the period January 2009 to June 2010 identified a number of areas in which agency briefing practices in relation to grant programs can be improved. Within the 800 Ministerial briefs examined by ANAO, briefing practices were variable across agencies and programs.

**2.69** A significant factor that influences the necessary content of agency briefings on the merits of proposed grants is the process by which potential funding recipients are identified and are able to access the program. In particular, different issues arise when advising Ministers on the merits of proposed grants depending upon whether the relevant program involves a competitive merit-based selection process or non-competitive and/or non-application-based process. ANAO identified significant shortcomings in the briefing practices adopted by agencies in relation to both types of grant selection processes.

**2.70** Over the 18 month period examined, a clear recommendation was not included in one or more of the briefs provided to a Ministerial decision-maker in relation to 20 per cent (or one in five) of the programs reviewed, across ten agencies. These instances represented 34 per cent of the total number of briefs provided to ANAO in respect to the affected programs. Also of relevance to the terms of the reporting requirement set out in the CGGs is that fewer than 10 per cent of the briefs examined included an explicit recommendation that specified proposed grants be rejected by the Minister.<sup>103</sup>

**2.71** It was also relatively common for agency briefings to:

- not clearly identify that the spending proposal on which the agency was advising involved a grant, with this being the case in more than a third (37 per cent) of the briefs examined that were provided to Ministers between 1 July 2009 (when the CGGs came into effect) and June 2010; and/or
- not outline the decision-making and record-keeping obligations that apply when proposed grants are being considered. Specifically, more than half of the briefs examined (55 per cent) did not refer the

<sup>103</sup> This issue is discussed further at paragraphs 3.23 to 3.27.

Ministerial decision-maker to the FMA Act and/or Regulations, and fewer than 29 per cent of briefs prepared after 1 July 2009 contained any reference to the CGGs.

**2.72** In addition to agencies improving these aspects, there would also be benefits if:

- for competitive, merit-based grant programs<sup>104</sup>, agency briefings more consistently rated applications in terms of suitability for funding and also ranked each competing application in priority order. This ranking would then form the basis of the agency's advice to the Minister as to which applications are recommended to be approved and which to be rejected, having regard to the program's objectives and the total funding available. In this respect, providing Ministers with groups of similarly-rated proposals without identifying which of those proposals the agency is recommending be approved (and why) is not sufficient to support the Minister's various obligations in relation to considering, recording and reporting grant approvals (particularly where the projects rated as meritorious under the relevant guidelines exceed the available funding);
- for non-competitive grant programs, clear rules are specified and applied in relation to determining the order in which potential funding recipients will be considered for access to the available funding; and the responsible agency appropriately evaluates, and advises the decision-maker on, the value for money offered by each project under consideration in formulating funding recommendations;
- in circumstances where an agency considers there is merit in providing a decision-maker with various funding options, that the agency advice includes a clear recommendation as to which option is preferred, and why. In the absence of such a recommendation, it will be difficult to ensure that all relevant decision-making and reporting obligations that arise under the financial framework and the CGGs are consistently observed; and
- where initial agency assessments are updated and/or changed through a series of two or more agency advices (for example, as further information is obtained and/or further analysis is undertaken), that the

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<sup>104</sup> Which the CGGs state should be adopted, unless specifically agreed otherwise by the Government.

reasons for any such changes are clearly documented to enhance the accountability of both agencies and decision-makers.

**2.73** These findings indicate that enhancements to the CGGs and associated guidance and in the role played by Finance in relation to promoting improvements in the application of the grants administration framework would be beneficial. However, they also highlight the importance of agencies understanding the essential elements of the CGGs; and putting in place appropriate arrangements for the preparation, oversight and submission of briefs seeking Ministerial consideration of the approval or otherwise of proposed grants that apply the intent of the Government's requirements for the administration of grants, which was to improve transparency and accountability.

## Recommendation No.1

**2.74** ANAO recommends that agencies review the Ministerial briefing practices used in the administration of grant programs to ensure that Ministers are provided with comprehensive advice on:

- the policy and statutory framework that applies to such decisions; and
- the merits of individual proposed grants, including a clear recommendation as to whether each grant should be approved or rejected having regard to the program objectives and available funding.

**2.75** All 13 agencies that responded to this recommendation agreed with it.<sup>105</sup> Four agencies also provided the following comments on the recommendation:

- Department of Agriculture, Fisheries and Forestry (DAFF) stated that it 'has implemented changes to departmental guidelines for the provision of Ministerial advice and recommendations relating to grant approvals. DAFF agrees with this recommendation and agrees that improvement in this regard will focus on putting in place appropriate arrangements for the preparation, oversight and submission of briefs seeking

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<sup>105</sup> Namely: Department of Finance and Deregulation; Attorney-General's Department; Australian Research Council; Department of Agriculture, Fisheries and Forestry; Department of Climate Change and Energy Efficiency; Department of Education, Employment and Workplace Relations; Department of Families, Housing, Community Services and Indigenous Affairs; Department of Innovation, Industry, Science and Research; Department of Infrastructure and Transport; Department of Regional Australia, Regional Development and Local Government; Department of Resources, Energy and Tourism; The Treasury; and Department of Veterans' Affairs.

Ministerial consideration of the approval or otherwise of proposed grants that apply the intent of the Government's requirements for the administration of grants, which was to improve transparency and accountability';

- Department of Innovation, Industry, Science and Research (DIISR) stated that, as part of work being undertaken to support the Model Chief Executive's Instructions which were developed by Finance, it was reviewing the templates used to provide advice to, or seek a decision from, its Minister on a grants matter. DIISR further advised that, in accordance with this recommendation, the new templates will clearly set out the applicable statutory framework that the portfolio's Ministers need to be aware of in making their decision;
- Department of Resources, Energy and Tourism advised that it will review its procedural documentation to ensure it provides appropriate guidance to departmental officials for the provision of advice to its Minister on proposed grants; and
- Department of Veterans' Affairs stated that it already follows this approach to a considerable extent, but that it would review all grant administration procedures and the documentation that is currently provided to its Minister to ensure that all the detail required by this recommendation is being provided.

### 3. Reporting to the Finance Minister

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*This chapter identifies and analyses the extent to which instances of Ministerial decisions to approve grants that the relevant agency had recommended be rejected and the awarding of grants within a Minister's own electorate have been reported to the Finance Minister.*

#### Ministerial Group

**3.1** With a view to strengthening the quality of decision-making in grant programs, and improving public confidence in the granting process, the Finance Minister's Instructions issued in December 2007 outlined a number of new interim controls on Ministerial approval of discretionary grants. As discussed at paragraph 1.2, two of the three main elements to the new decision-making rules were to involve two types of 'sensitive and potentially controversial decisions'<sup>106</sup> being referred to a committee of Ministers (Ministerial Group) for decision.<sup>107</sup> This process was first announced by the then Opposition Leader during the 2007 election campaign. Specifically, the Finance Minister Instructions stated that:

- Ministers who were members of the House of Representatives were not to make any decisions in relation to grants in their own electorate, even on the basis of departmental advice, with these decisions to be taken by a Ministerial Group; and
- if a Minister decided not to follow departmental advice (on the merits of the grant application relative to the guidelines for that grant program), a Ministerial Group would decide whether to award or reject the grant following a submission from the requesting Minister outlining why a decision should be taken to award the grant against departmental advice.

**3.2** The December 2007 Instructions did not specify the make-up of the Ministerial Group, nor its proposed operation. Rather, the Instructions stated:

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<sup>106</sup> See Strategic Review, op. cit., p. 8.

<sup>107</sup> The third main element was that Ministers were not to make decisions on discretionary grants without first receiving departmental advice on the merits of the grant application.

Ministers who are required to refer grants to the Ministerial Group will need to write to the head of the Ministerial Group. Further guidance will be provided to Ministers on this process.

**3.3** The then Minister for Home Affairs wrote to the then Finance Minister on 21 February 2008, in the context of an election commitment that had been made in his own electorate, requesting advice on how the Ministerial Group was to function. In his response of 19 March 2008 (a copy of which was provided to the then Prime Minister), the then Finance Minister proposed that, as an interim arrangement pending the establishment of the Ministerial Group, in such cases the relevant Minister would need to write to the Finance Minister regarding proposed grants in his or her own electorate.<sup>108</sup> The Finance Minister outlined that the relevant Minister would need to expressly authorise the Finance Minister to approve the spending proposal, under the FMA Regulations, on his/her behalf and that the Finance Minister would then decide whether to approve or not approve the grant.

**3.4** It was not until late July 2008 that Finance provided the then Finance Minister with options for establishing the Ministerial Group proposed in the December 2007 Finance Minister's Instructions. Finance's advice to the then Minister set out two possible roles for the Ministerial Group in which it would operate as either:

- a substantive decision-making body, with the Finance Minister acting as the approver for the purposes of Regulation 9, having regard to the views of the other members of the group; or
- a process assurance role, in order to be satisfied that the proposed funding decisions were merit-based and defensible. Under this model, the responsible Minister and agency would continue to make all necessary substantive decisions (including financial approvals under Regulation 9) but could not release funds to grant recipients until the Ministerial Group had conducted its review. This option was recommended by Finance.

**3.5** The then Finance Minister wrote to the then Prime Minister on 7 August 2008 regarding the establishment of the Ministerial Group. He proposed that the Group comprise himself (as Chair), the then Minister for

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<sup>108</sup> The then Finance Minister's correspondence did not address whether he would also perform the role of the Ministerial Group in respect to proposed decisions to award a grant against departmental advice.

Human Services and the then Assistant Treasurer. The Group would be involved in instances where:

- a Minister had decided not to follow departmental advice in relation to the approval or rejection of a grant<sup>109</sup>;
- Ministers who were members of the House of Representatives wished to approve a grant in their own electorate. No Ministerial Group involvement would be required where Ministers rejected grant applications in their own electorate consistent with departmental advice<sup>110</sup>; and
- Ministers otherwise identified a real or perceived conflict of interest.<sup>111</sup>

**3.6** In line with his department's recommendation, the then Finance Minister proposed that the Ministerial Group adopt a process assurance role, rather than a substantive approval role. As such, it would consider specific cases referred to it by Ministers to satisfy itself that the proposed funding decisions were merit-based and defensible, but the responsible Minister and agency would continue to make 'all necessary substantive decisions', including financial approvals. No response was received from the then Prime Minister, with the proposed approach to forming the Ministerial Group being overtaken by Government consideration of the July 2008 report of the Strategic Review (see further at paragraphs 3.8 to 3.10).

## **Approval of grants by the then Finance Minister during 2008**

**3.7** Between 21 February and 30 August 2008, seven Ministers wrote on 16 occasions to the then Finance Minister in relation to the requirements introduced in December 2007 for grant approvals and reporting. None of these instances involved the proposed awarding of a grant in circumstances where the agency had recommended against approval of the grant. Rather, these instances involved Ministers considering proposed grants in their own electorate and/or the awarding of multi-year discretionary grants where the amount of the grant exceeded \$2 million or the period of the funding

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<sup>109</sup> This was consistent with the December 2007 Finance Minister's Instructions.

<sup>110</sup> This was not consistent with the December 2007 Finance Minister's Instructions which had stated that Ministers who were members of the House of Representatives were not to make any decisions in relation to grants in their own electorate, even on the basis of departmental advice [ANAO emphasis].

<sup>111</sup> This requirement had not been included in the December 2007 Finance Minister's Instructions.

commitment exceeded 36 months.<sup>112</sup> The proposed grants were agreed in each instance by the then Finance Minister or the then Minister for Human Services.<sup>113</sup> The then Finance Minister approved expenditure in each instance in which he was asked to approve grants in the relevant Minister's electorate.

## Findings and recommendations of the Strategic Review

**3.8** Prior to Finance providing advice on the formation of the Ministerial Group (see paragraph 3.4), the Strategic Review had provided its report to the Finance Minister. The Review did not support the referral of 'sensitive and potentially controversial decisions' to a Ministerial Group, as required by the December 2007 Finance Minister's Instructions. Rather, the Review reported that, in its judgement, the risks associated with such decisions would best and most appropriately be managed by those Ministers with formal responsibility and detailed knowledge of the grant programs in question.<sup>114</sup> In this context, the Strategic Review:

- noted that the Finance Minister had stated publicly that formation of the Ministerial Group was to be an interim arrangement, pending the outcome of the Strategic Review and that, accordingly, the Review had considered the merits of the new decision-making rules, including their likely practical implications and consequences<sup>115</sup>; and
- stated that it was not persuaded that the referral of sensitive and potentially controversial decisions to a committee of Ministers would lead to an improvement in the quality or efficiency of decision-making on grants. Rather, such an arrangement was seen as being likely to create a range of unintended and undesirable consequences, including some significant inefficiencies.<sup>116</sup>

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<sup>112</sup> As discussed at footnote 32, in December 2008 the Government agreed to the Strategic Review's recommendation that the requirement for Ministers to seek the Finance Minister's approval before awarding certain multi-year discretionary grants be abolished.

<sup>113</sup> However, in one instance, the then Finance Minister advised the then Minister for Home Affairs that he would need to write to him with details of the proposed grants in the Minister for Home Affairs' own electorate and provide express authorisation for him to approve the grants. In four instances, the then Minister for Human Services acted as the then Finance Minister's delegate for the consideration of multi-year discretionary grants located in the then Finance Minister's electorate.

<sup>114</sup> Strategic Review, op. cit., pp. 8 and 65.

<sup>115</sup> *ibid.*, pp. 7 and 62.

<sup>116</sup> *ibid.*, pp. 8 and 64.

**3.9** Accordingly, the Strategic Review recommended that all decisions on the awarding of grants be taken by the Minister or other approver in the portfolio or agency with functional responsibility for the program in question. It further recommended that, in that circumstance, public assurance on the integrity of decision-making in grant programs be provided through:

- a new policy framework for the administration of grants;
- a stronger assurance framework governing the establishment of new grant programs;
- greater clarity of roles and responsibilities in relation to decision-making and approval processes;
- stronger requirements in relation to the documentation of the reasons for decisions taken on awarding grants, through amendment of the FMA Regulations to require that approvers record the basis of their approval, in addition to the terms of the approval; and
- stronger disclosure and public reporting requirements.<sup>117</sup>

**3.10** Following the Government's consideration of the Review's recommendations in December 2008, the Ministerial Group was not convened. Instead, the Government agreed that decisions involving grants which the relevant agency had recommended be rejected, as well as those involving grants within a Minister's own electorate (where the Minister is a member of the House of Representatives), would remain within the remit of the responsible Minister. However, the Government also agreed that Ministers must:

- record the basis of the approval, in addition to the terms of the approval, in the form of a written statement of the reasons for the decision;
- advise the Finance Minister of the details each time a Minister who was a member of the House of Representatives approved a grant in respect to his or her own electorate; and

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<sup>117</sup> *ibid.*, Recommendation 7, p. 25.

- report annually to the Finance Minister on all instances where they had decided to approve a particular grant which the relevant agency had recommended be rejected. This report (due by 31 March each year for the preceding calendar year) was to include a statement of reasons for the approval.

## Own electorate reporting

**3.11** The 16 January 2009 Finance Minister's Instructions<sup>118</sup> and subsequently, from 1 July 2009, the CGGs reflected the Government's December 2008 decision in relation to the administrative arrangements that were to apply to the awarding of grants within a Minister's own electorate. Table 3.1 sets out the current requirements.

**Table 3.1**

### Current requirements for reporting of grants approved in their own electorate by a Minister who is a Member of the House of Representatives

Paragraph 3.20 of the Commonwealth Grant Guidelines	
The Australian Government has also agreed that decisions involving the award of grants within a Minister's own electorate (House of Representatives members only) will remain within the remit of the responsible Minister or other approver in the portfolio or agency concerned.	
a.	Each time a Minister (House of Representatives members only) approves a grant in respect to their own electorate, the Minister will write to the Finance Minister advising the Finance Minister of the details.
b.	Where there is correspondence to the relevant grant recipient, a copy of this letter is sufficient, except in the circumstances outlined in paragraph 3.21(c). <sup>1</sup> If there is no correspondence, Ministers will write to the Finance Minister advising of the decision as soon as practicable after it is made.
Note 1: Paragraph 3.21(c) of the CGGs provides that in circumstances where the relevant agency had recommended that a grant in a Minister's own electorate be rejected, the Minister is to also include a brief statement of reasons for the approval when writing to the Finance Minister in the context of the process outlined in paragraph 3.20.	

Source: *Commonwealth Grant Guidelines, Policies and Principles for Grants Administration*, July 2009.

**3.12** In total, in the 30 month period from 16 January 2009 to 19 July 2011, 53 letters were sent from Ministers and Parliamentary Secretaries to the current and previous Finance Ministers in respect to the awarding of grants within a Minister's own electorate, relating to 77 separate grants.

<sup>118</sup> Estimates Memorandum 2009/09. Following the release of these Instructions, the then Minister for Finance and Deregulation wrote to the then Prime Minister (copying in all Ministers and Parliamentary Secretaries), noting the revised grant approval and reporting requirements, including the requirement for own electorate reporting.

**3.13** This reporting is not made public. As discussed, the Government has agreed that the responsible Minister (or another decision-maker within the relevant portfolio) is to make decisions as to whether to award proposed grants that arise under an area of their portfolio responsibility, even where the grant is located in the Minister's own electorate. As illustrated in Table 3.1, in most cases, the relevant Minister is only required to advise the Finance Minister of the details of such grants. It is only where the relevant agency had recommended that the grant be rejected that the Minister is required to also advise the Finance Minister of the basis for the decision. In none of those 53 instances did the reporting to the Finance Minister result in Finance recommending to its Minister that any further action be taken, or the Finance Minister initiating any action in response to the reporting. In this respect, in October 2011, Finance advised ANAO that:

Finance prepares a quarterly brief of instances where a Minister has awarded a grant within his or her own electorate and an annual brief for instances where a Minister decides to approve a grant which the relevant agency has recommended be rejected. In briefing the Finance Minister about grants awarded in a Minister's own electorate, we take into account the nature and size of the grant; whether the grants are one-off, ad hoc grants or part of a broader grant program; and whether the grant involves a novel or unusual arrangement.

**3.14** Of the 77 instances reported to the Finance Minister to July 2011, 54 had been approved in the 18 month period to June 2010. ANAO's examination of Ministerial briefs prepared in that period and provided in response to the audit survey identified a further 33 instances involving eight Ministerial decision-makers where a grant was awarded within the relevant Minister's electorate but was not reported to the Finance Minister. This indicates an underreporting of own-electorate grant approvals of some 38 per cent in the 18 month period examined.

**3.15** More broadly, ANAO notes that, where audit reports or public commentary has raised questions about the political distribution of grant funding, the concerns raised have generally related to a wider issue than grants approved by a Minister in his/her own electorate. Specifically, the concern has more often been whether the total distribution of approved grants under a particular program has favoured the party in government, rather than just the electorate of the particular Minister who was making the decisions.

**3.16** In October 2011, Finance advised ANAO that:

Finance considers that there is merit in reviewing the own-electorate reporting arrangements with a view to advising the Finance Minister of any opportunities for improvement.

## **Ministerial decisions not to follow departmental advice**

**3.17** The introduction of an assurance control over instances where a Ministerial decision-maker intended to approve a grant that the agency recommended be rejected was a response to one of the situations identified by an ANAO audit in respect to the former Regional Partnerships Program, involving Ministerial grant decisions that differed from the departmental recommendation. For that program (as noted at footnote 66), of 1 366 funding decisions examined, the Ministerial decision differed from the departmental recommendation on 88 occasions (6.4 per cent), including 43 instances in which full or partial funding was approved for an application the department had recommended be rejected (3.1 per cent of decisions and 4.4 per cent of approvals).<sup>119</sup>

**3.18** As discussed, after initially implementing a requirement to refer certain proposed grants to the Ministerial Group for decision, the Government subsequently agreed that the responsible Minister (or another decision-maker within the relevant portfolio) is to make decisions as to whether to award proposed grants that the relevant agency recommended be rejected, but that this would be accompanied by a transparency requirement to report such grants to the Finance Minister. As noted at paragraph 3.10, Ministers are required to provide an annual report by 31 March each year for the preceding calendar year of all such instances.

**3.19** At the time of audit fieldwork, there had been two completed cycles of the current requirement for annual reporting (relating to the 2009 and 2010 calendar years). Based on information provided to ANAO in response to the audit survey, there were more than 20 400 individual grant proposals considered by Ministers in the period between this reporting obligation commencing operation on 16 January 2009 and 30 June 2010. Of those, the relevant agency had recommended that some 12 000 (59 per cent) be approved.

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<sup>119</sup> No decisions to approve a 'not recommended' project were taken in the first year of the program, with 43 such decisions being taken over the subsequent two years examined by ANAO (an average of 21 per year). Source: ANAO Audit Report No.14 2007–08, op. cit., Volume 2—Main Report, pp. 75–80.

**3.20** For the two years ending 31 December 2010, there were only a small number of instances (a total of 11 individual grants) where the Finance Minister was advised that a Minister had approved funding for a ‘recommended be rejected’ project. The 11 instances comprised:

- for calendar year 2009, eight reported instances under three programs and one ad-hoc grant involving four Ministers across four different portfolios; and
- for calendar year 2010, three reported instances. Each of these was in the same portfolio, with three separate Ministers involved across three different programs.

**3.21** While there was variability in the extent and manner in which Ministers recorded the basis for the relevant decisions at the time of approval<sup>120</sup>, in each case the Minister provided the Finance Minister with a brief statement of the reasons for having approved the grant (as required under the CGGs). As with the approval of own-electorate grants (see paragraph 3.13), this reporting is not made public. Also similar to the own-electorate reporting, in none of the 11 instances where Ministers had reported the approval of grants in such circumstances did Finance recommend to its Minister that any further action be taken, or the Finance Minister initiate any action in response to the reporting.

**3.22** The total of 11 reported approvals of a ‘recommended be rejected’ grant represented 0.16 per cent (or one out of every 625) of those grant proposals for which the relevant brief had not identified the grant as being recommended for approval by the responsible agency.

### **Identifying grant proposals that the agency recommends be rejected**

**3.23** The circumstances in which Ministers are required to report grant decisions that are contrary to the agency advice to the Finance Minister specifically relate to instances where they have decided to approve a particular grant that the relevant agency ‘recommended be rejected’. In this context, a Minister cannot be considered to have approved funding for a ‘recommended be rejected’ project where the agency briefing material does not clearly identify to the Minister which project or projects are recommended for funding, and (as

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<sup>120</sup> See paragraphs 2.17 to 2.23.

importantly) those that it is recommended not be approved (that is, be rejected).

**3.24** However, as outlined in Chapter 2, ANAO analysis of agency briefings identified that shortcomings in the quality of the briefings provided were relatively common. In particular, ANAO's analysis highlighted that it is relatively uncommon for agencies to make an explicit recommendation that a grant be rejected.<sup>121</sup> As further outlined in Chapter 2, this situation can arise through a number of different types of agency briefing practices, including through agencies providing:

- lists of proposed grants or grant applications to a Ministerial decision-maker without an agency recommendation as to which proposals should be approved and those the agency recommends be rejected. This issue is relevant even where the listed proposals have been ranked and/or grouped into like-rated categories, particularly where the total amount sought by the proposals presented for the Minister's consideration exceeds the available funding and, consequently, not all can be accommodated;
- the Minister with one or more approval options for consideration, without stating which option the agency is recommending should be adopted (and the basis for that recommendation) and that the agency is recommending that the remaining options be rejected; and
- a brief that clearly identifies one or more grants as being recommended for approval, but without an explicit agency recommendation seeking the Minister's agreement that the remaining grant proposals under consideration are to be unsuccessful in receiving a grant (that is, 'rejected').

**3.25** In the context of these and other similar briefing practices, there is the capacity for the reporting obligation, as currently worded, to be interpreted in various ways, a situation that has also contributed to the low rate of Ministerial reporting. For example, notwithstanding the shortcomings identified in relation to the quality of briefings, from the material provided by agencies in response to the audit survey ANAO identified a further six briefs, involving a total of 13 grants, where a Minister had approved a grant when the agency

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<sup>121</sup> As noted at paragraph 2.70, fewer than ten per cent of the briefs examined included an explicit recommendation that specified proposed grants be rejected by the Minister.

brief had not included a recommendation that the grant be approved, but where this occurrence had not been reported to the Finance Minister. These instances involved five Ministers across four agencies.<sup>122</sup>

**3.26** The capacity for the reporting obligation to be interpreted in various ways was exemplified by DAFF advice to ANAO that its understanding was that its Minister was only required to report instances in which he approved grants which the departmental advice had explicitly stated should be rejected. Specifically, as discussed at paragraphs 2.38 to 2.39, in the context of the second round of grants under the Next Gen Farmers program, DAFF provided its Minister with a list which grouped projects into five rating categories. The department's brief advised the Minister that it had indicated a suggested limit, based on the notional allocation of funding available for the round, with a grey line on the approval sheet. All eight 'AA' rated projects and seven 'A' rated projects were above this indication line, with the remaining four 'A' rated projects being below the line.<sup>123</sup> The decision by the Minister to approve one of the projects located below the indicative cut-off line identified by the department was not reported to the Finance Minister, with DAFF commenting to ANAO in October 2011 that:

We did not recommend that this grant **be rejected**, therefore there was nothing for the Minister to report. [emphasis as per DAFF advice to ANAO]

**3.27** In October 2011, Finance advised ANAO that it would support a proposal that it assist agencies to improve the quality of advice to decision-makers on grant spending proposals by providing more extensive guidance. Finance noted that, in its experience, the provision of general guidance material is the most efficient mechanism for assisting agencies. In respect to promoting more effective implementation of the policy intent underpinning the requirement that Ministers obtain prior agency advice on proposed grants

<sup>122</sup> In addition, in the case of one Minister who informed the Finance Minister that he had approved two projects that his department had not recommended for approval, the recommendation had been that the Minister approve the first 12 projects identified in the category of 'recommended' (from a list of 18 projects categorised as 'recommended'). The Minister approved 12 of the 18 projects in the 'recommended' category (in addition to two projects in the category of 'not recommended' that were reported to the Finance Minister). However, the 12 projects approved from the recommended category comprised nine of the first 12 projects in that category (the projects ranked 2<sup>nd</sup>, 9<sup>th</sup> and 10<sup>th</sup> were not approved), as well as a further three projects (those ranked 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup>), which had not been included in the 12 projects recommended by the department. These three grants were not reported to the Finance Minister.

<sup>123</sup> The department's advice had been that, should the Minister wish to approve funding for projects below the line indicating where the notional funding allocation was fully spent, then he should consider not supporting a project 'above the line' due to the limit on the available funds.

(and the associated Finance Minister reporting obligations), ANAO considers that there would also be benefits in Finance working collaboratively with agencies and pursuing opportunities to take a more active role in promoting improvements in agency practices. A role of this nature was clearly envisaged in establishing the Grants Framework Unit and in the associated funding provided.<sup>124</sup>

## **Withdrawn approvals**

**3.28** A further area in which Ministers' reporting obligations under the CCGs may benefit from clarification is in relation to grant approvals that are subsequently withdrawn or reversed.

**3.29** For example, as discussed at paragraphs 2.51 to 2.52, under the second round of the Local Schools Working Together Pilot Program the responsible Minister approved three grants that had not been included in the department's final recommendation. The approval of each grant was later withdrawn by the Minister at the department's recommendation, due to the available funds being insufficient to fund all 14 projects originally approved (as had been identified in the department's original advice to the Minister). However, the original decision to approve the three projects that the department had not recommended for approval was not reported to the Finance Minister. In October 2011, the department advised ANAO that this was because it had subsequently advised the then Minister to withdraw the earlier approval.

**3.30** In that example, withdrawal of the approval given against departmental advice occurred shortly after the original approval had been given. However, it highlights another aspect of uncertainty relating to the reporting obligation as currently set out and may also be contributing to the low number of instances being reported. Specifically, the obligation on Ministers is to provide the Finance Minister with an annual report by 31 March each year for the preceding calendar year. Accordingly, in some cases, considerable time is likely to have elapsed between the approval having been given and the annual report being due to be provided. In that context, it is not uncommon in the administration of grant programs for approved projects to subsequently be unable to proceed or for the need to withdraw an approved grant to be identified. In some cases, the factors that lead to the eventual need

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<sup>124</sup> See paragraphs 2.59 to 2.66.

to withdraw funding had been identified by the relevant agency in recommending against approval of the grant.

**3.31** There is currently no guidance available to Ministers or agencies in relation to whether approvals of grants given against agency advice that are subsequently withdrawn are still required to be reported to the Finance Minister, or whether the time that elapses between an approval and its withdrawal is a relevant consideration in that regard. Noting that the purpose of the reporting obligation is to improve the transparency and accountability of grant decision-making, there may be benefit in Finance providing guidance to agencies on this aspect so as to promote consistency in agency practice and ensure it supports the policy intent.

### **Decisions to not approve grant funding for a project recommended by the agency**

**3.32** At present, the grants administration framework explicitly addresses accountability arrangements for those circumstances where a Minister approves a proposed grant. Specifically, as discussed:

- Regulation 12 requires the approver to record the basis for the approval (in terms of Regulation 9); and
- instances of Ministers approving a grant that his or her agency recommended be rejected are to be reported to the Finance Minister, together with a statement of the reasons for the decision.

**3.33** Nevertheless, as outlined in ANAO's Better Practice Guide, it is also important to recognise that, in the context of a grant program, transparency of the reasons for not approving individual applications is as important to accountability as it is in relation to decisions to approve others. The Better Practice Guide suggests that, accordingly, it would be good practice for agencies to invite Ministers and other decision-makers to also record the basis for any decision not to approve an application that the agency assessment had indicated merited funding.<sup>125</sup>

**3.34** This issue is of particular relevance where the program guidelines had stated that successful applicants would be selected through a competitive, merit-based process. In such programs, it is usual for applicants to be competing for a limited pool of funds and successful applicants would be

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<sup>125</sup> ANAO Better Practice Guide, op. cit., p. 81.

expected to reflect the assessment of each competing application's relative merits against the program guidelines and objectives. In those circumstances, transparent and accountable grants administration will be promoted by the decision-maker documenting not only the basis on which he or she concluded whether an individual application had merit in its own right, but also the reasons for either elevating or demoting an application as compared to the ranked order of priority indicated by the assessment process.<sup>126</sup>

**3.35** ANAO's audit of the former Regional Partnerships program illustrated the sensitivity that can be attached to decision-making in these circumstances. For that program, there were 20 instances in which the Ministerial decision-maker disagreed with the department's recommendation that an application be approved for full or partial funding (representing 1.5 per cent of all funding decisions and 5.1 per cent of non-approvals). Of particular note was ANAO analysis that:

- applicants in electorates held by the Liberal and National parties (then in government) or an Independent represented a lower proportion of projects not approved for funding despite being recommended by the department than they did within the overall population of not approved applications; and
- applicants in electorates held by the Labor party represented a higher proportion of projects not approved for funding despite being recommended by the department than they did within the overall population of not approved applications.<sup>127</sup>

**3.36** Against this background, within the briefs examined in this audit, ANAO identified 457 grant proposals (in 58 separate briefings) which were recommended by the relevant agency, but which were subsequently not approved by the Ministerial decision-maker. Those 457 instances represented 2.2 per cent of all grants considered between January 2009 and June 2010 in the briefs provided to ANAO. For the vast majority (some 95 per cent) of those, the reasons for not accepting the agency recommendation were not recorded by the relevant Minister in the documentation provided to ANAO. The few instances in which a Minister had reported the approval of a 'recommended be rejected' grant to the Finance Minister represented 0.05 per cent of grant

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<sup>126</sup> *ibid.*, p. 82.

<sup>127</sup> ANAO Audit Report No.14 2007–08, *op. cit.*, Volume 2—Main Report, pp. 80–81.

proposals considered for that period, indicating that decisions not to approve a recommended grant may be more common than the form of decision taken contrary to agency advice that is currently required to be reported to the Finance Minister.

## Conclusions

**3.37** Since January 2009, there has been a requirement for Ministers to report two types of grant decisions that were seen as ‘sensitive and potentially controversial’. Specifically, the Finance Minister is to be advised in writing:

- each time a Minister who is a Member of the House of Representatives awards a grant within his or her own electorate; and
- by 31 March of each year, outlining all instances in the prior calendar year where decisions were taken by Ministers to approve grants that the agency had recommended be rejected.

**3.38** The incidence of Ministers approving grants in their own electorate is relatively low, with a total of 77 such instances being reported over the 30 months between January 2009 and July 2011. Of those, 54 had been approved in the 18 month period to June 2010 examined by ANAO. However, while the identification and reporting to the Finance Minister of grants approved by a Minister in his or her own electorate is a relatively straightforward exercise, ANAO identified a further 33 instances within the briefs examined where approved grants in a Minister’s own electorate should have been reported to the Finance Minister, but were not. This indicates an underreporting of own-electorate grant approvals in the relevant period of at least 38 per cent. In October 2011, Finance advised ANAO that it agreed that there is merit in reviewing the own-electorate reporting arrangements with a view to advising the Finance Minister of any opportunities for improvement.

**3.39** A potentially more significant issue relates to the identification and reporting of instances where Ministers have not accepted a recommendation that a proposed grant be rejected. In respect of such decisions, the Strategic Review noted<sup>128</sup> that different conclusions about whether to approve a grant can be legitimately drawn from any given set of information and evidence, and it is open to a Minister to reach a decision different from that recommended in an agency’s advice. In this context, the requirement for agencies to provide

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<sup>128</sup> Strategic Review, op. cit., p. 8.

prior advice to Ministers on the merits of each proposed grant was seen as a prudent control intended to ensure that, where Ministers elect to assume a decision-making role, they are well-informed of the relevant agency's assessment of the merits of grant applications and suitably briefed on any other relevant considerations.<sup>129</sup>

**3.40** In the first two years in which this reporting obligation applied, only a small number of instances were reported to the Finance Minister as involving a Minister approving funding for a 'recommended be rejected' project. Specifically, a total of 11 individual grant approvals were reported across all portfolios for the two years to 31 December 2010. While there was variability in the extent and manner in which Ministers recorded the basis for the relevant decisions at the time of approval<sup>130</sup>, in each case the Minister provided the Finance Minister with a brief statement of the reasons for having approved the grant (as required under the CGGs). In none of the 11 instances where Ministers had reported the approval of grants in such circumstances did the reporting to the Finance Minister result in Finance recommending to its Minister that any further action be taken, or the Finance Minister initiating any action in response to the reporting.<sup>131</sup>

**3.41** All of the reported instances had been approved in the 18 month period to June 2010 examined in this audit, and represented 0.05 per cent of all proposed grants considered by Ministers in the same period as documented in the briefs provided to ANAO (or nearly one in every two thousand grant proposals). In that context, accurate and complete reporting of instances where a Minister has not accepted a recommendation that a grant be rejected depends upon agencies providing a clear recommendation in that regard to their Minister, and accurately recording the nature of the subsequent Ministerial decision. As indicated in Chapter 2, the shortcomings in briefing practices identified in this audit have played a significant role in the low level of reported instances.

**3.42** Without detracting from the clear responsibilities of individual agencies, and consistent with the objectives underpinning the Government's decision to establish a grants framework unit within Finance, there would be

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<sup>129</sup> *ibid.*, pp. 7 and 62.

<sup>130</sup> See paragraphs 2.17 to 2.23.

<sup>131</sup> Similarly, no further action resulted from the 77 reported instances of Ministers approving grants in their own electorates.

benefits in Finance working collaboratively with agencies to assist them in implementing the grants administration framework, including in relation to more effectively meeting the obligation to advise Ministers on the merits of proposed grants. In particular, it would be beneficial for Finance to pursue opportunities to:

- clarify aspects of the CCGs, either within the Guidelines themselves or in related advisory circulars. This is particularly the case in respect to articulating the minimum standards expected of agencies when advising Ministers on the merits of proposed grants, and the interaction of this advice with the reporting of certain types of funding decisions to the Finance Minister; and
- actively encourage improvements in agency practices, such as providing forums for interaction with, and between, agencies on important aspects of grants administration. A role of this nature was clearly envisaged in establishing the Grants Framework Unit and in the associated funding provided.<sup>132</sup>

**3.43** In addition, while the existing framework requires that records be kept, and the Finance Minister informed, of instances where public money is approved for grants an agency had recommended be rejected, it does not address the situation of funding not being approved for a grant that the agency had recommended be approved based upon its assessed merits. ANAO's examination of Ministerial briefs indicated this situation may be more common than the form of decision taken contrary to agency advice that is currently required to be reported, with such decisions representing 2.2 per cent of grants considered between January 2009 and June 2010 (compared to the reported instances of 'recommended be rejected' grants being approved representing 0.05 per cent of grant proposals in the same period).<sup>133</sup> Consequently, one possible solution would be for Finance to examine, for Ministerial consideration, whether there are opportunities for expanding the kind of Ministerial grant decisions made contrary to agency recommendations that are to be reported to the Finance Minister.

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<sup>132</sup> See paragraphs 2.59 to 2.66.

<sup>133</sup> In this respect, as outlined in ANAO's Better Practice Guide on the administration of grants, it is important to recognise that, in the context of a grant program, transparency of the reasons for not approving funding for individual applications is as important to accountability as it is in relation to decisions to approve other applications (ANAO Better Practice Guide, op. cit., p. 81).

**3.44** In December 2011, Finance suggested that an alternative way forward would be for Ministers to, as a matter of better practice, record the basis of their decisions to not approve grants recommended by an agency. Finance noted that this would be consistent with the accountability requirements in FMA Regulation 12, which requires grant approvers (including Ministers) to record the basis of an approval. Finance further commented that it believed that the recording of the basis of decisions not to approve grants recommended by an agency would improve agency practices and accountability, without increasing the reporting burden.

## Recommendation No.2

**3.45** To further improve the grants administration framework, ANAO recommends that the Department of Finance and Deregulation pursue opportunities to:

- (a) improve the clarity and utility of the requirements set out in the Commonwealth Grant Guidelines and associated guidance relating to agencies advising Ministers on proposed grants, and the recording of reasons in circumstances where agency recommendations are not accepted by Ministers; and
- (b) actively encourage improvements in agency practices in respect to important aspects of grants administration.

**3.46** All 10 agencies that responded to this recommendation agreed with it.<sup>134</sup> In addition, the Department of Veterans' Affairs provided the following comments on the recommendation:

The Department will work with Finance to achieve both aspects of this recommendation. The department is currently an active member of the Grant Agreement Template Working Group convened by Finance to review the contents of grant agreements associated with low-risk grants to meet the Government's objectives to reduce red tape in the not-for-profit sector.

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<sup>134</sup> Namely: Department of Finance and Deregulation; Attorney-General's Department; Australian Research Council; Department of Climate Change and Energy Efficiency; Department of Education, Employment and Workplace Relations; Department of Families, Housing, Community Services and Indigenous Affairs; Department of Infrastructure and Transport; Department of Regional Australia, Regional Development and Local Government; The Treasury; and Department of Veterans' Affairs.

## 4. Public Reporting of Grants

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*This chapter examines how the various grant and grant program reporting requirements have evolved over the period covered by the audit, as well as agency compliance with key reporting requirements.*

### Background

**4.1** The December 2007 Finance Minister's Instructions introduced a specific requirement for website reporting of individual grants. Those Instructions required that the details of each grant be published within two days of its announcement. The July 2008 report of the Strategic Review identified effective disclosure and reporting arrangements as being important for the Government's own purposes, as well as to engender public and parliamentary confidence in the quality and integrity of grant program administration.<sup>135</sup> The Review supported website reporting of approved grants, but recommended that:

- the 'trigger' point for reporting be changed from the announcement of each grant, to after the relevant funding agreement was signed; and
- the time allowed for agencies to publish details of grants be extended to two weeks following the signing of the funding agreement (compared with the two days from the date of grant announcement allowed under the December 2007 Finance Minister's Instructions).

**4.2** The Finance Minister's Instructions subsequently released in January 2009 required that agencies publish on their website details of an approved grant within seven working days of the funding agreement being signed by both parties. A similar requirement was included in the CCGs (from 1 July 2009), with the slight difference that the requirement is to publish grant details within seven working days of the funding agreement taking effect (which, depending upon the terms of the agreement, may differ from the date of execution).

**4.3** The CCGs further state that:

- the default position is that all agencies must report all grants awarded on their website; and

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<sup>135</sup> Strategic Review, op. cit., p. 10.

- grant information should be retained on an agency's website for at least two financial years.<sup>136</sup>

**4.4** To provide guidance on implementing the website reporting requirements outlined in the CGGs, Finance issued Finance Circular 2009/04, *Grants—Reporting Requirements* in June 2009. The Circular also refers agencies to the grant-specific process, decision-making and reporting requirements that apply under the CGGs, as well as reminding agencies of the grant reporting requirements that apply to:

- annual reports (see paragraphs 4.13 to 4.16 ); and
- Senate Estimates hearings (in response to Senate Order 95).<sup>137</sup>

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<sup>136</sup> The CGGs further provide that, where it is not practicable to maintain information on the website for that timeframe, agencies should retain appropriate records, consistent with their accountability obligations, and ensure the records are available on request. In addition, the CGGs require that the reasons for an agency not retaining grants information on the website for at least two financial years must be documented by the agency (*ibid.*, paragraph 4.6, p. 12).

<sup>137</sup> On 24 June 2008, the Senate agreed to a motion by then Senator Minchin from South Australia requiring all Australian Government departments and agencies to produce a list of all grants approved in each portfolio or agency, including the value of the grant, recipient of the grant and the program from which the grant was made. The grant information is to be provided prior to Senate Estimates hearings.

## Website reporting compliance

**4.5** The website reporting arrangements established under the Finance Minister's Instructions issued in 2007 and 2009 respectively were not subject to the annual Certificate of Compliance process.<sup>138</sup> This situation changed once the requirement was given a legislative basis through the promulgation of the CGGs under the FMA Regulations.<sup>139</sup>

**4.6** In this context, agencies reported significant non-compliance with the website reporting requirement for grants in the 2009–10 Certificate of Compliance process (being the first financial year in which the CGGs had been in operation). In particular, of the 12 454 instances of non-compliance reported by agencies in relation to the expenditure of public money in that financial year, 3 524 (28 per cent) related to the website reporting of grants required by the CGGs.<sup>140</sup> The non-compliance reported often related to agencies not meeting the seven day timeframe for updating their website once a funding agreement had taken effect for individual grants.

## Content of website reporting

**4.7** In addition to the requirement to report grants on agency websites within a specified timeframe, Finance Circular 2009/04 sets out the mandatory data fields which must be populated by agencies when publishing grant details. These fields, and the description provided in the Finance Circular against each item, are outlined in the Table 4.1.

<sup>138</sup> In order to improve the focus by agencies on their compliance with the requirements of the financial management framework, in 2006–07 the Australian Government introduced the Certificate of Compliance process for FMA Act agencies. Agency Chief Executives must certify, having regard to advice provided by the agency's internal control mechanisms, management and audit committee, its compliance during the previous financial year with: the FMA Act and Regulations; *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2010*, as amended from time to time; the Australian Government's foreign exchange risk management requirements; the legal and financial requirements for the management of Special Accounts; and selected financial management policies of the Commonwealth.

<sup>139</sup> The CGGs acknowledge that there may be circumstances in which an agency determines that public reporting of grants in accordance with the CGGs is contrary to the *Privacy Act 1988*, other statutory requirements or the specific terms of a funding agreement, and sets out the processes that agencies must undertake in such circumstances. The CGGs also provide for Ministers to seek the Finance Minister's agreement to an exemption from the web-based reporting requirements where an agency determines that publishing grant information in accordance with the CGGs could adversely affect the achievement of government policy outcomes (*Commonwealth Grant Guidelines*, op. cit., paragraphs 4.4 to 4.5, p. 12).

<sup>140</sup> Department of Finance and Deregulation, *Certificate of Compliance 2009–10: Report to the Parliament*, December 2010, p. 9.

**Table 4.1****Mandatory fields for inclusion in agency website reporting of grants**

Field	Description
Portfolio	The Portfolio to which the agency belongs.
Agency title	The name of the agency.
Program title	This title must match the program title used in the Portfolio Budget Statements/Central Budget Management System (CBMS). One-off grants not aligned to a grant program should include the word 'one-off' in the program title.
Program component	Represents a distinct sub-set activity of a program.
Recipient	This name must match the recipient's legal name.
Purpose	Purpose for which the money has been provided.
Value	The total funding approved for the grant across all years of the grant in whole dollars, GST inclusive.
Approval date	The date the funding agreement takes effect.
Grant term	The total number of months that the funding agreement is for, or the end date of the agreement.
Grant funding location	The state and suburb where the funding is to be primarily provided. For grants that are provided to multiple postcodes, agencies will need to provide details that best describe the area where funding is to be provided.
Postcode	The postcode where the funding is to be primarily provided.

Source: Finance Circular 2009/04, *Grants-Reporting Requirements*, Department of Finance and Deregulation, 29 June 2009.

**4.8** Against this background, as outlined at paragraph 1.20, 40 FMA Act agencies advised ANAO that they had administered grants in the period since December 2007. These agencies' websites were reviewed in April and May 2011 to assess compliance with the website reporting requirements. Based on ANAO's analysis, the performance of agencies in reporting the full range of

data required by Finance Circular 2009/04 has been mixed, but largely compliant.<sup>141</sup>

**4.9** Four of the reviewed agency websites did not present grants data in the reporting template provided in the Finance Circular, and did not otherwise make similar data available in another comparable format. Specifically:

- the Great Barrier Reef Marine Park Authority's (GBRMPA) survey response outlined that it had administered five one-off grants/grant programs in the period covered by the survey (being January 2009 to June 2010). In October 2011, GBRMPA advised ANAO that, of the five grant programs it had previously advised to ANAO:
  - one had ceased in 2002 and was, therefore, not required to be reported (the agency's Senate Order report for the June to September 2008 period had stated that three grants had been approved under this program in that period);
  - two 'may or may not fall within the definition of a grant'. One of these programs had earlier been identified to ANAO as a grant program with funding in 2009–10 but later advice from GBRMPA was that there were no grants that were required to be reported. A grant under the other program had been reported in the Senate Order report for the period May to September 2009. More recent advice from GBRMPA was that amounts paid under this latter program do not satisfy the definition of grant under the financial framework;

<sup>141</sup> As discussed at paragraph 1.10, with effect from 1 July 2010, Regulation 3A(2) was amended to identify an additional type of arrangement that will be taken not to be a grant, being a payment of assistance for the purposes of Australia's international development assistance program, which is treated by the Commonwealth as official development assistance (ODA). As a result, such payments were no longer subject to the grants administration framework and are not required to meet the associated reporting requirements. While a number of agencies make payments that are classified as ODA, the majority are administered by AusAid. In this respect ANAO notes that, despite the amendment exempting ODA payments from the requirements of the grant administration framework taking effect on 1 July 2010, as at October 2011, the AusAid website included information outlining the definition of a grant set out in Regulation 3A(1) and advising that grants can take a variety of forms. The website further stated that: 'In AusAID, this means that all non-procurements (excluding treaties, loans and Records of Understanding and funding to Financial Management Act agencies) are generally considered grants and are subject to the Commonwealth Grant Guidelines. Grant funding arrangements under the aid program include core funding to UN agencies, payments to international finance institutions, trust fund contributions, budget support to partner governments, funding administered by other donor agencies on AusAID's behalf, and funding to NGO programs.' This statement appears to be inconsistent with the exemption of ODA payments from the requirements of the CGGs under Regulation 3A(2)(l). That exemption was not referenced on the AusAid website [accessed 28 October 2011].

- one was not considered to involve grants, although Senate Order reporting for both the September 2008 to January 2009 period and the May 2009 to September 2009 period had included amounts under this program as grants; and
  - one related to one-off minor funding to support research directly relevant to the objectives of the agency and was in the nature of a procurement rather than a grant (the transaction had been reported as a grant in the September 2009 to January 2010 Senate Order report).
- the Australian Prudential Regulation Authority's (APRA) survey response advised of seven grants and/or grant programs. ANAO was able to locate details on APRA's website for three of these grant programs, including recent recipients and funding amounts. However, the information was not presented in a template consistent with Finance Circular 2009/04 and was not complete. In October 2011, APRA advised ANAO that one of the seven reported grant programs was no longer offered and further noted that the information on its website for two of the reported programs, which APRA jointly participated in, had direct links to the program itself. APRA advised ANAO that:
 

APRA's website is being updated to correct the omissions. Procedures are being developed to ensure the correct information is displayed.<sup>142</sup>
  - one of the Australian Research Council's (ARC) key functions is administering the National Competitive Grants Scheme, under which \$652.8 million was appropriated in 2009–10.<sup>143</sup> The agency's website does not provide a template listing approved grants, as required by Finance Circular 2009/04. Rather, users are required to navigate through different areas of the website to obtain selected data on grants, some of which corresponds to the information specified in the Finance Circular. In October 2011, ARC advised ANAO that the information currently provided on its website was in a standard reporting format which had been used for a number of years, and that it was now making arrangements to provide a template listing in line with that required by Finance Circular 2009/04; and

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<sup>142</sup> In December 2011, APRA advised ANAO that its website had now been updated to display the required information in a template consistent with Finance Circular 2009/04.

<sup>143</sup> *Australian Research Council Annual Report 2009–10*, p. 154.

- the Australian Crime Commission's (ACC) survey response advised ANAO that it had administered a single grant during the period examined by the audit, an ARC Linkage Project grant, which is provided to Macquarie University to undertake research (in addition to funding provided by the ARC). Data on this grant was unable to be located on the ACC website. In October 2011, ACC advised ANAO that:

The ACC considered that the obligations of the Commonwealth Grant Guidelines were being fulfilled by the Australian Research Council as they were the agency responsible for the administration of the grant not the ACC.<sup>144</sup> However, in light of the ANAO's comments in the Issues Paper, details of this grant will now be placed on the ACC's website.

**4.10** The remaining 36 agencies reviewed were largely compliant with the reporting format requirements outlined in Finance Circular 2009/04. However, the main areas of non-compliance involved agencies not including '*Program component*'<sup>145</sup> (31 per cent non-compliant) or '*Postcode*' (15 per cent non-compliant) in their reporting template, as well as not providing sufficient information in relation to '*Grant funding location*' (22 per cent non-compliant).

## Interaction of website reporting with Parliamentary reporting

**4.11** In the area of procurement, ANAO has observed that the existence of a range of related, but independent, public reporting arrangements can present challenges to agencies in meeting their obligations, as well as to Parliamentarians and other stakeholders who endeavour to make use of the reported data. For example, in ANAO Audit Report No. 27 2005–06 *Reporting of Expenditure on Consultants*, ANAO:

- examined reporting of expenditure on consultants under three regimes (agency annual reports, online publication through AusTender and reporting in compliance with a Senate Order);

<sup>144</sup> In October 2011, ARC confirmed to ANAO that details of this grant are listed on its website, as it is an ARC grant which is administered by Macquarie University and the ACC is a Partner Organisation. As noted, the grant details currently listed on the ARC website are not fully compliant with the requirements of Finance Circular 2009/04, but ARC advised ANAO in October 2011 that it was addressing this issue.

<sup>145</sup> ANAO assessed whether agencies had included a specific column in their reporting template/spreadsheet. Some agencies possibly reported the actual sub-program as a program and consequently did not include the sub-program column.

- concluded that there were areas of overlap and duplication under the three regimes, with none of the 73 agencies examined having correctly reported their expenditure on consultants under all three regimes; and
- recommended that the relevant central agencies, in consultation with key Parliamentary Committees, affected agencies and other stakeholders, examine options for improving the accuracy of reporting, including examining the merits of rationalising the number of reporting regimes while still meeting stakeholders' requirements.<sup>146</sup>

**4.12** A similar situation exists in relation to the grant reporting arrangements. Specifically, as noted, in addition to the website reporting of individual grants required under the CGGs:

- there is a requirement for the publication in agency annual reports of a list of all grant programs administered by the relevant agency; and
- by virtue of a Senate Order, Ministers are required to table a letter in the Senate identifying all grants approved within the Minister's portfolio during the preceding estimates period.

## **Reporting of grant programs in agency annual reports**

**4.13** For some years, agencies have been required to identify discretionary grant programs in their annual reports. Specifically, until 2009, annual reports were required to contain a list of discretionary grant programs administered by the agency. In addition, a list of individuals or organisations who received grants in the period was to be made available in an appendix to the annual report, on request or through the internet.

**4.14** The Government decision taken in December 2008 to require website reporting of individual grants within seven working days of a funding agreement being signed impacted on the reporting of grants in annual reports for 2008–09 and later years, as follows:

- for the period 1 July 2008 to 31 December 2008, agencies were required to report information about discretionary grant programs as in previous years; and

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<sup>146</sup> ANAO Audit Report No.27 2005–06, *Reporting of Expenditure on Consultants*, Canberra, 30 January 2006, pp. 16–17.

- for the period 1 January 2009 to 30 June 2009, and later years, the annual report was to contain a list of all grant programs (not just discretionary grant programs as had previously been the case) administered by the agency. As departmental websites were required to provide information about individual grants made since 1 January 2009, there was no longer any need for departments to compile lists of grant recipients for their annual reports but, rather, the annual report was to refer readers to where this information could be located on the agency website.<sup>147</sup>

**4.15** Notwithstanding the longstanding requirement for the publication of information about grant programs, in the context of the audit survey some agencies experienced considerable difficulties in identifying and confirming to ANAO the grant programs they administer, and/or providing ANAO with the requested documentation supporting the approval of individual grants under those programs.

**4.16** This situation was also reflected in non-compliance with the reporting of grants information required in annual reports. Specifically, ANAO analysis found that more than 30 per cent of agencies that administered one or more grants in 2009–10 did not include a list of grant programs in their annual reports for that financial year. In addition, 19 per cent of relevant agencies did not meet the requirement to outline in their 2009–10 annual report where readers could locate the website reporting on individual grants.<sup>148</sup>

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<sup>147</sup> The JCPAA approves the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*. The grants-specific reporting obligations for 2010–11 are that, 'The annual reports must contain a list of all grant programs administered by departments. As departmental websites now provide information about all grants made, there is no longer any need for departments to compile lists of grant recipients for their annual reports. Instead, departments should include the following statement in their annual reports: 'Information on grants awarded by the [insert agency name] during the period 1 July 2010 to 30 June 2011 is available at [insert web address]'.'

<sup>148</sup> The annual report guidelines state that the link is to relate to grants 'awarded' (see footnote 147). However, as noted, the CGGs do not require details of grants that have been awarded but which are not yet subject to a funding agreement to be published on the website. In addition, a number of agencies only provided the generic web address to the relevant agency's home page rather than the direct link to relevant grant information as was provided by other agencies, making it more difficult for stakeholders to locate information on specific grants. By way of comparison, an example of good practice was the Department of Broadband, Communications and the Digital Economy's annual reports for 2009–10 (and 2010–11) which provided the agency's web address as well as outlining the steps to locate information on individual grants.

## Consistency and integration of agency reporting

**4.17** A key part of the audit survey involved ANAO preparing, based on public reporting by agencies (on their websites, in their annual reports and in response to the Senate Order), a list of grant programs that the agency had previously disclosed as being its responsibility for administering. Agencies were asked to confirm whether the relevant list represented an accurate and complete record of all grant programs (including any grants made on a 'one-off' basis) administered by that agency since December 2007. However, in some 11 per cent of instances, agencies advised ANAO that a program identified from the agency's past public reporting was not actually a grant program.

**4.18** A common response from agencies, once their attention was drawn to the earlier incorrect reporting of programs as involving granting activity, was to advise ANAO that the program involved a procurement (subject to the CPGs) or was otherwise excluded from the FMA Regulation definition of a grant that is subject to the CGGs. For example:

- in December 2010, the Department of Sustainability, Environment, Water, Population and Communities advised ANAO that the *Restoring the Balance* program which had been reported as a grant program in its 2008–09 annual report actually 'purchases assets and does not award grants'; and
- DEEWR reported:
  - the *Disability Employment Services–Employment Assistance* as a grant program in respect to the Senate Order (for the period 29 September 2009 to 18 January 2010) as well as on its website (with dates of effect for individual grants in 2009 and 2010), but advised ANAO in May 2011 that the program actually involves the provision of services and is therefore subject to the CPGs and not the CGGs; and
  - the *National Asian Languages and Studies in Schools Program* as a grant program on its website (with dates of effect for individual grants in 2009) as well as in its Senate Order reporting (for the period 5 May 2009 to 28 September 2009), but advised ANAO in May 2011 that this program involves payments under the *Schools Assistance Act 2008* and so is excluded from the definition of grant under FMA Regulation 3A(2). Subsequent (December 2011) advice from DEEWR was that the program

does not involve payment under the Schools Assistance Act but, rather, is paid under an annual appropriation and, as a result, falls within the definition of a grant and so has continued to be published in the Senate Order and on the DEEWR website.

**4.19** In addition, ANAO identified 13 grant programs administered by five agencies which had not been reported in the grants reporting section of their website (where relevant<sup>149</sup>) or annual reports or in response to the Senate Order. It was also relatively common for agencies to not consistently report the existence of grant programs and approved grants in each of the relevant reporting mechanisms. For example:

- the Defence Materiel Organisation's survey response advised ANAO that it administered the *Industry Skilling Program Enhancement* package for which the funding recipients were announced in November 2008. This program was reported on the agency's website in the 2008–09 and 2009–10 financial years and in its 2009–10 annual report (but not the 2008–09 annual report), but was not included in the Senate Order report; and
- DEEWR advised ANAO in May 2011 that the *Agency Adjustment Fund* was the correct title for a competitive grant program that commenced in April 2009 and was now closed. This program was reported in Senate Order correspondence (for the period 5 May 2009 to September 2009), but could not be located on DEEWR's website or in its annual reports.

## Reporting 'trigger'

**4.20** A point of particular difference between the grant reporting requirements set out under the CCGs and those relating to the Senate Order is the event that 'triggers' the requirement to report an approved grant. The CCGs do not require agencies to publish any details about grants awarded until a funding agreement has taken effect. In contrast, the Senate Order requires details of grants approved in the relevant period to be reported, irrespective of whether a funding agreement has yet been signed.

**4.21** ANAO's analysis identified that there can be administrative difficulties for agencies in complying with a requirement to report individual grants once

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<sup>149</sup> Grants are only required to be retained on agency websites for two years.

a funding agreement has taken effect, compared with reporting grants at the time of approval. For example, for programs run through funding rounds, the decision to award a number of grants is typically made on the same day. As a result, publishing the details of each grant on the relevant agency's website within a nominated period following approval would be relatively straightforward. In contrast, the funding agreements for individual grants awarded through a particular funding round or grant program can be executed over a considerable period of time, depending upon the circumstances of each grant recipient. Accordingly, complying with the requirement to publish the details of each grant within a nominated period of the relevant funding agreement taking effect requires agencies to track the negotiation and execution of numerous funding agreements, which then require a series of website publications.

**4.22** In this respect, as previously noted, agencies provided ANAO with some 800 Ministerial briefs in response to the audit survey. On average, each brief addressed more than 26 grant spending proposals.<sup>150</sup> These administrative difficulties were reflected in the high incidence of non-compliance with the website reporting requirements by agencies in 2009–10 (see paragraphs 4.5 to 4.6).

**4.23** The option of delaying reporting on approved grants until a funding agreement is signed and takes effect has the advantage that there will be no occasions where a grant is awarded but funds are not, ultimately, contracted to be paid. However, noting that there can be significant delays between a grant being approved and the funding agreement being finalised, the disadvantage of this approach is that it provides less timely information to stakeholders than reporting on the grant once the key decision (under the financial framework) to approve a spending proposal has occurred. That issue is addressed by the approach taken in respect to the Senate Order reporting requirement, that is, reporting all grants approved in the relevant period regardless of whether a funding agreement has yet taken effect for each grant. In addition, ANAO's experience in auditing grant programs administered by Australian

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<sup>150</sup> There were 98 occasions where the advice brief related to 50 or more grant spending proposals, including 54 occasions where the advice brief related to more than 100 grant spending proposals.

Government agencies is that there are relatively few approved grants that do not proceed to having a funding agreement signed.<sup>151</sup>

## Conclusions

**4.24** The Strategic Review identified that easily accessible information on the availability of grants and the details of grants awarded is a precondition for public and parliamentary confidence in the quality and integrity of grants program administration.<sup>152</sup> In this context, there are three separate, but related, public disclosure arrangements for grants:

- a longstanding requirement for agencies to publish, through their annual report, a list of grant programs for which they are responsible (with the JCPAA being responsible for approving annual report requirements);
- from December 2007, reporting on agency websites of the details of individual grants. Since January 2009, approved grants do not have to be reported until the relevant funding agreement is signed and (from 1 July 2009) takes effect; and
- since June 2008, for the purposes of informing Senate Estimates hearings, reporting to the Senate on grants approved in the period since the last hearings (with this requirement having been established by way of a Senate Order).

**4.25** The Senate Order approach of reporting on grants within close proximity to the time of approval, rather than delaying public reporting until (and if) a funding agreement takes effect (the CGGs approach), provides more complete and timely information to the Parliament and other stakeholders on Commonwealth granting activity. The inconsistent approaches taken to the grant reporting 'trigger' also do not promote efficiencies in agency reporting. In particular, meeting the obligation to publish the details of each grant within seven working days of the relevant funding agreement taking effect requires agencies to monitor and continuously update web-based reporting of individual grants approved under a single program or funding round over a

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<sup>151</sup> Any risk involved in reporting on grants awarded that do not proceed to having a funding agreement signed can be mitigated by appropriately annotating reported grants that do not proceed to having a funding agreement signed within a reasonable period of time.

<sup>152</sup> Strategic Review, *op. cit.*, p. 10.

longer period than would be required if all grants were to be published on agency websites within a nominated period following approval.

**4.26** The website reporting arrangements were intended to play an important role in promoting a ‘pro-disclosure culture’<sup>153</sup> in Commonwealth granting activity. However, public reporting by agencies is not always accurate and complete. Of particular note is that:

- not all grant programs are being reported—13 grant programs administered by five agencies had not been reported in the grants reporting section of their website (where relevant) or annual reports or in response to the Senate Order; and agencies informed ANAO that some 11 per cent of the programs identified as having been previously reported as a grant program (either in the relevant agency’s annual report, website reporting or to the Senate) did not actually involve the provision of grants;
- a small number of agencies (four of the 40 agencies that advised ANAO they administered grant programs) did not present grants on their website in the format prescribed for website reporting, and there was also mixed performance amongst agencies in providing the full range of grants data required to be reported on websites; and
- non-compliance with the website reporting arrangements comprised 28 per cent of the total instances of non-compliance reported by agencies as part of the 2009–10 Certificate of Compliance process.

### Recommendation No.3

**4.27** ANAO recommends that the Department of Finance and Deregulation, in consultation with agencies and other key stakeholders, examine opportunities for improving the accuracy, completeness and cost-effectiveness of public reporting on grant programs and the awarding of individual grants, including by seeking to align reporting requirements (where this is practical) in a way that will not diminish the quality of the reported information.

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<sup>153</sup> Department of Finance and Deregulation, *Certificate of Compliance 2009–10: Report to the Parliament*, Foreword by the Minister, December 2010, p. iii.

**4.28** All 10 agencies that responded to this recommendation agreed with it.<sup>154</sup> In addition, the Department of Veterans' Affairs (DVA) provided the following comments on the recommendation:

DVA is compliant with current requirements to publish consistent information on grants on its website. The department will work with Finance to achieve the improvements suggested through this recommendation.

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Ian McPhee  
Auditor-General

Canberra ACT  
24 January 2011

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<sup>154</sup> Namely: Department of Finance and Deregulation; Attorney-General's Department; Australian Research Council; Department of Climate Change and Energy Efficiency; Department of Education, Employment and Workplace Relations; Department of Families, Housing, Community Services and Indigenous Affairs; Department of Infrastructure and Transport; Department of Regional Australia, Regional Development and Local Government; The Treasury; and Department of Veterans' Affairs.

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