Design and Implementation of the Energy Efficiency Information Grants Program

Department of Climate Change and Energy Efficiency

Canberra ACT
29 January 2013

Dear Mr President
Dear Madam Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Climate Change and Energy Efficiency 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 to the Parliament. The report is titled *Design and Implementation of the Energy Efficiency Information Grants Program*.

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

Ian McPhee
Auditor-General

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

AUDITING FOR AUSTRALIA

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Contents

Tables

Figures

Abbreviations

ANAO	Australian National Audit Office
ANAO Better Practice Guide	ANAO Better Practice Guide *Implementing Better Practice Grants Administration*, Canberra, June 2010
CGGs	Department of Finance and Deregulation, *Commonwealth Grant Guidelines—Policies and Principles for Grants Administration*, Financial Management Guidance No.23, Canberra, July 2009
CRM	Customer Relationship Management System
DCCEE	Department of Climate Change and Energy Efficiency
EDST	eastern daylight savings time
EEIG	Energy Efficiency Information Grants Program
ERC	Expenditure Review Committee of Cabinet
Finance	Department of Finance and Deregulation
Finance Minister	Minister for Finance and Deregulation
FMA Act	*Financial Management and Accountability Act 1997*
FMA Regulations	*Financial Management and Accountability Regulations 1997*
GMS	grants management system
PAC	program advisory committee
GST	Goods and Services Tax
QA	quality assurance

SMEs   small and medium size business enterprises

SOPs   standard operating procedures document

Summary and Recommendations

Summary

Introduction

1.   The objective of the Energy Efficiency Information Grants (EEIG) program is to empower small and medium size business enterprises (SMEs) and community organisations to make informed decisions about energy efficiency. It is to achieve this objective by funding industry associations and non-profit organisations to deliver practical and tailored energy efficiency information to help SMEs and community organisations respond to the impact of increasing energy costs.

2.   The EEIG operates as a competitive merit-based grant program. Funding of $40 million is available over the period 2011–12 to 2014–15. Of this amount, $34.9 million is available for grants, with the remaining $5.1 million allocated to the Department of Climate Change and Energy Efficiency (DCCEE) to administer the program.

3.   The first funding round was completed in May 2012, with 28 projects funded to the value of $20.05 million. This left $14.9 million for the second funding round, which opened to applications in October 2012.[1]

4.   To assist it to design and implement the program, DCCEE engaged a probity adviser and contracted a three-person program advisory committee (PAC). DCCEE assessed the eligibility of the 207 applications received for the first funding round. These applications sought some $123 million in grant funding. The PAC then assessed the 188 eligible applications against the three published merit criteria.[2] The PAC's merit assessment report was included in the department's subsequent briefing to the Minister for Climate Change and Energy Efficiency (the Minister). Acting on the department's recommendations, the Minister approved funding for the 28 recommended projects, which were publicly announced on 17 May 2012.

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[1]   The second funding round opened to applications on 30 October 2012, with a closing date of 20 December 2012. Successful EEIG applicants are expected to be announced in May 2013.

[2]   These criteria were: project effectiveness (weighted at 60 per cent); project design and management (weighted at 20 per cent); and value for money (weighted at 20 per cent).

Audit objectives, criteria and scope

5.   The objective of the audit was to assess the effectiveness of the design and implementation of the EEIG program. The focus of the audit was the preparation for, and conduct of, the first funding round of the program.

6.   The audit examined the program against relevant policy and legislative requirements for the expenditure of public money and the grants administration framework (including the Commonwealth Grant Guidelines (CGGs)).

Overall conclusion

7.   The EEIG program was one of a suite of measures announced by the Government in July 2011 to encourage energy efficiency. The 28 applications approved for funding through the first round are expected to assist a range of industries, with around half the grant recipients having a national membership or national focus. The average value of the funding awarded was $708 000, with the value of the approved projects ranging from $145 000 to $1.87 million (excluding the Goods and Services Tax). Funding agreements have been signed with each of the 28 approved applicants, and each of these projects is contracted to be completed by no later than 30 June 2015.

8.   DCCEE was well resourced to design and implement the EEIG, and the design of the program was effective. Of note was that program governance arrangements were established and a range of internal documentation to support the administration of the program was developed. In addition, drawing on a sound foundation of stakeholder consultation, a robust set of program guidelines were developed and published. These guidelines clearly identified the program eligibility requirements. They also outlined the merit assessment criteria that would be applied, including weighting for each of the three criteria as well as the respective roles DCCEE, the PAC and the Minister would have in the assessment and approval of applications.

9.   DCCEE also planned a sound approach to undertaking application eligibility checks, assessing the merit of eligible applications and ranking them for the Minister's consideration. In this respect, the contractual arrangements with the three PAC members set out the information DCCEE would provide to the PAC to inform its work. The contracts also set out the records that were to be made by the PAC members of their merit assessment of each eligible application, and required these records to be provided to the department once

they were completed. DCCEE was also to provide secretariat support to the PAC, including by preparing the minutes of PAC meetings.

10. A recurring theme in ANAO's audits of grants administration is the importance of agencies implementing programs in a manner which accords with published program guidelines, and treats all applicants equitably. In this context, notwithstanding the good work undertaken by the department to establish the program, there were significant shortcomings in the conduct of the assessment process for applications. In particular, the merit assessment process departed in important respects from that outlined in the program guidelines, and inadequate records were made and retained to demonstrate that each application was assessed in accordance with the published eligibility and merit criteria.[3] Of particular note in these respects was that:

- most eligible applications were allocated to one of four merit categories, with each of the 28 applications allocated to the highest merit category (termed 'outstanding') then placed into one of six ranking bands (in case the Minister did not wish to approve all 28 'outstanding' applications). Neither process was foreshadowed by the program guidelines. In addition, the allocation of the 28 'outstanding' applications to a ranking band used a process that did not relate to the score each application had achieved in terms of the published merit criteria;

- DCCEE destroyed records made by each PAC member of the assessment of each eligible application against the three published merit criteria, notwithstanding that the contractual arrangements specified that these were official records and that DCCEE had made no arrangements to otherwise record the scoring by PAC members.[4] The minutes of the PAC meetings were also too brief to provide any insight into the merit assessment and scoring of each eligible application; and

- fortunately for DCCEE, one PAC member made and retained his own electronic record of some of the scoring results but there is no record, official or otherwise, as to how each of the 28 recommended (and

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3   In this context, a departure from the guidelines refers to processes being applied that were not described in the program guidelines.

4   The term 'destroy/destruction' is used in the *Archives Act 1983*, and in this context characterises the action DCCEE undertook in relation to PAC merit assessment records.

approved) applications had been assessed and scored against the three published merit criteria.

11. DCCEE has advised ANAO that it has confidence in the PAC, the department sought and followed probity advice, and it has no reason to believe that the successful projects were not the most competitive against the merit criteria. Nevertheless, it is not possible to be satisfied that the most meritorious eligible applications (in terms of the published merit criteria) were recommended to the Minister for approval. The shortcomings in the implementation of the program have also meant that DCCEE was unable to provide unsuccessful applicants with feedback against the merit criteria as to the reasons their application was considered less meritorious than those recommended and approved for funding.

12. A key factor cited by DCCEE for the departures from the assessment approach documented in the program guidelines was that the number of applications received was significantly greater than had been planned for. In this context, it is common for competitive, applications-based grant programs to be over-subscribed. However, DCCEE had not developed strategies for how it would respond to receiving significantly more applications that it anticipated. This was notwithstanding that there had been a high level of interest in the program prior to applications opening, which should have foreshadowed to DCCEE an increased likelihood that the program would be over-subscribed to a significant extent.

13. While the assessment process was deficient, DCCEE's briefing of the Minister on the assessment outcomes for the first funding round was timely and comprehensive. Nevertheless, the briefing informed the Minister that the assessment processes had met the requirements of the CGGs as well as guidance included in ANAO's grants administration Better Practice Guide, when this was clearly not the case. In light of the findings of this audit, the department also now agrees that this was not the case. However, consistent with the CGGs framework and better practice guidance, DCCEE provided the Minister with a clear recommendation that he award funding to those 28 applications categorised by the PAC as 'outstanding'. The Minister agreed with the department's recommendation.

14. Recognising that a second EEIG funding round is currently underway, and that DCCEE is administering other competitive grant programs, the ANAO has made four recommendations. Two are focused on improved record keeping concerning, respectively, the eligibility checking process and the merit

assessment of eligible applications. Another relates to enhancing the governance arrangements where an advisory committee or panel is involved in the assessment of grant applications. ANAO has also recommended that, for each future competitive applications-based grant program, DCCEE develop strategies to better manage the risk of funding rounds being over-subscribed. There would also be merit in DCCEE updating the program guidelines for the second round to clearly outline the approach that the department will be adopting for merit assessment.[5]

Key findings by chapter

Program framework (Chapter 2)

15. DCCEE established a robust framework for the design and management of the EEIG. This included the department contracting a probity adviser as well as a program advisory committee to assess eligible applications against the published merit criteria.

16. The establishment of the PAC enabled specialised expertise and knowledge to be brought to bear in the assessment of the merit of eligible applications. While there were some delays with the contracts being signed, the contractual arrangements provided a sound basis for the PAC to undertake, with support from DCCEE, the merit assessment process in a transparent and accountable way that accorded with the published program guidelines.

17. However, in establishing the PAC, DCCEE did not recognise that the task the PAC was performing involved directly informing a decision by the Minister to commit to the expenditure of public money, and the PAC was therefore bound by the requirements of the CGGs.[6] In addition, the arrangements to record the deliberations and decisions of committee meetings, and the handling of conflicts of interest, did not deliver the transparent and accountable process required by the CGGs.

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[5]   In November 2012, DCCEE advised ANAO that it will include material concerning the process to be followed by the PAC in the program's internal procedures document and probity plan for the second round that is currently underway, but that amendments to the published program guidelines will be made at 'an appropriate point for any future rounds', notwithstanding that there is not expected to be any funding remaining after the current round.

[6]   See further at paragraphs 2.28 to 2.32.

Submission of applications and eligibility assessment (Chapter 3)

18.   The department had estimated that it would receive around 30 to 40 applications for EEIG funding under the first round, with program planning based on this level of response. In the event, 207 applications were received. This situation, together with the unavailability of electronic systems to support the application process and the reasonably tight timeframes set by the department to complete eligibility assessments, meant that the extent of eligibility and merit assessment work required was significantly greater than had been planned for.

19.   The eligibility requirements for the first round were clearly grouped and identified in the program guidelines. A range of mandatory documentation was also required as part of the application. Applicants were assisted in addressing these requirements through an application guidance document specifically highlighting the questions in the application form relevant to the eligibility assessment as well as where further documents were required as part of the application.

20.   Of the 207 applications received, 188 were assessed as eligible and proceeded to the merit assessment stage of the program. In total, 19 applications (representing nine per cent of applications) were assessed as ineligible. This level of ineligible applications is not atypical and indicates that the eligibility criteria were effectively communicated to potential applicants through the program guidelines and other documentation developed and published by DCCEE.

21.   The department used a checklist to assess the completeness and eligibility of applications. Initial assessments were then subject to more senior review (termed a 'QA check'). As may normally be expected, changes in eligibility/ineligibility occurred with these reviews. However, the reasons for these changes were not well documented by DCCEE. Consequently, it is not possible to accurately determine from departmental records whether all possible eligibility issues raised during the initial assessment stage were addressed and resolved through the quality assurance process.

Merit assessment (Chapter 4)

22.   The program guidelines had outlined that the second stage of the assessment process (following the department's assessment of application eligibility) would involve the PAC assessing eligible applications and allocating a merit ranking to each. However, there were significant differences

between this guidance and the way the merit assessment and ranking of eligible applications was undertaken.[7] This involved an initial broad assessment of applications and their allocation to the categories of 'outstanding', 'very good', 'good' and 'poor'[8], with only the 'outstanding' applications subject to detailed assessment. Further, the detailed assessment of 'outstanding' applications used an additional scoring regime that was not clearly linked to the merit assessment criteria, to then rank projects in an order of merit.

23. A key reason cited by the department for the changes to the merit assessment stage was the unexpectedly large number of eligible applications received. However, while some 12.7 per cent of total program funding was made available to DCCEE for its administrative costs, relatively few resources[9] were spent on the merit assessment process, notwithstanding its crucial importance to any competitive merit-based grant program. In addition, less time than had been planned[10] was spent on assessing applications. Subsequent delays in the development and signing of funding agreements for the approved projects indicate that the overall program implementation timetable could have reasonably allowed greater time for the assessment of eligible applications.

24. A further feature of the assessment process for the EEIG program was the absence of records to support and explain the assessment and scoring of eligible applications in terms of the published merit criteria. Some important records made by the PAC members of their initial assessment and scoring of each application were destroyed by DCCEE[11], and the department did not otherwise document the results of the merit assessment process. Consequently, it is not possible to be satisfied that the published merit criteria were applied in a consistent and robust manner, or for DCCEE to demonstrate that the most

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7   See further at paragraph 4.52 for a more detailed summary of the differences between the program guidelines and the way the merit assessment was undertaken.

8   There were 15 applications that were not allocated to any merit ranking category. See paragraph 4.44 and footnote 76 for further details on applications not allocated a merit ranking.

9   The total fees paid for the work of the PAC in respect to merit assessing 188 eligible applications was $54 199. In addition, the contracted probity adviser performed a limited role in overseeing the application assessment process.

10   DCCEE's program timetable had allowed five weeks for the assessment of applications (both for eligibility and merit assessment), and a further week to provide funding recommendations to the Minister. As it eventuated, the entire assessment process was completed in around four weeks.

11   See footnote 4.

meritorious applications were identified and recommended to the Minister for approval.

Advice to the Minister and funding decisions (Chapter 5)

25.   A timely and comprehensive briefing on the outcome of the funding round was provided to the Minister. The briefing included a clear recommendation from DCCEE that the Minister should approve those 28 applications categorised as 'outstanding' by the PAC. The briefing to the Minister on the outcomes of the funding round also stated that the process had met the requirements of the CGGs as well as guidance included in ANAO's Better Practice Guide. This was clearly not the case. In light of the findings of this audit, the department also now agrees that this was not the case.

26.   The Minister agreed to the funding recommendation he received from DCCEE.

Funding distribution, feedback to applicants and signing of funding agreements (Chapter 6)

27.   The first EEIG funding round resulted in funding being distributed in a way that was consistent with the program seeking to achieve a diffusion of benefits across a range of business and community sectors and into regional settings. In terms of electoral distribution, the application and assessment approach adopted, and the resulting briefing of the Ministerial decision-maker, reduced the risk of the grant funding decisions being influenced by electoral considerations, and there was no evidence of any such bias in the approval of funding.

28.   An area where DCCEE's approach did not reflect sound grants administration practice related to unsuccessful applicants not being provided with reasons for the non-awarding of funding. The department provided eligible but unsuccessful applicants with no insights as to how they had been assessed against the published merit criteria. This was a consequence of the department retaining some records of the assessment of applicant eligibility but destroying[12] the PAC's records of the merit assessment process and not otherwise making adequate records of the assessment outcomes.

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[12]   See footnote 4.

Summary of agency response

29. Formal comments on the proposed audit received from DCCEE are set out below. Additional comments received from DCCEE and the PAC were also considered in preparing the final audit report.

> The department welcomes the audit report as an important contribution to the department's endeavours on continuous improvement in program delivery. As the department prepares for the receipt of applications for the second round of the EEIG program, the findings of this audit will be addressed along with other lessons from the delivery of the first round. Consistent with this, the department accepts the recommendations made by the ANAO.

> The department welcomes the overarching findings, particularly that the department had '...established a robust framework for the design and management of EEIG' and that 'The first EEIG funding round resulted in funding being distributed in a way that was consistent with the program seeking to achieve a diffusion of benefits across a range of business and community sectors and into regional settings'.

> The department acknowledges the need for improvement in documentation and record keeping, and clarification of the role of the official standing and obligations of independent experts assisting the Commonwealth in merit assessment processes. While the department has confidence in the merit assessment undertaken by the Program Advisory Committee (PAC), the department accepts the need to maintain better records of the PAC deliberations and outcomes of their assessments against individual and overall merit criteria.

Recommendations

Set out below are ANAO's recommendations and the Department of Climate Change and Energy Efficiency's abbreviated responses. More detailed responses are shown in the body of the report immediately after each recommendation.

<table>
<tr><td>

Recommendation No.1

Paragraph 2.52

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In circumstances where an advisory panel or committee is used to assess grant applicants and to provide funding recommendations, ANAO recommends that the Department of Climate Change and Energy Efficiency:

(a)   develop program governance arrangements that inform panel/committee members that they are formally operating under the Commonwealth's financial framework; and

(b)   implement secretarial support arrangements that require key assessment decisions and their basis to be minuted.

DCCEE response: Agreed.

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Recommendation No.2

Paragraph 3.51

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To be able to demonstrate that grant program applicants were treated equitably and in accordance with the published program guidelines, ANAO recommends that the Department of Climate Change and Energy Efficiency maintain adequate records of its assessment of applications in terms of their eligibility and compliance with other mandatory (or gateway) criteria.

DCCEE response: Agreed

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Recommendation No.3

Paragraph 4.55

ANAO recommends that the Department of Climate Change and Energy Efficiency, in planning for the implementation of competitive, applications-based grant programs, develop strategies to effectively manage the risk of funding rounds being over-subscribed including, as appropriate, identifying in the program guidelines any adjustments that may be made to the eligibility and/or merit assessment approach where this situation arises.

DCCEE response: Agreed

Recommendation No.4

Paragraph 4.58

The ANAO recommends that, consistent with the transparency and public accountability principles of grants administration outlined in the Commonwealth Grant Guidelines, the Department of Climate Change and Energy Efficiency ensures that the assessment and merit ranking of applications and any significant changes as they proceed through the assessment process are appropriately documented.

DCCEE response: Agreed

1. Introduction

This chapter provides an overview of the nationally competitive Energy Efficiency Information Grants (EEIG) Program, which seeks to empower small and medium size business enterprises and community organisations to make informed decisions about energy efficiency. The chapter also outlines the audit objective, scope and criteria.

Background

1.1   The Energy Efficiency Information Grants (EEIG) program is part of the suite of measures announced in July 2011 to encourage energy efficiency under the Government's Clean Energy Future Plan. It is intended to provide funding to industry associations and non-profit organisations to work with small and medium size business enterprises (SMEs) and community organisations to provide information about the smartest ways to use energy.

1.2   As a basis for the program, SMEs were characterised as often poor in time and financial resources, and focused on their core business. As a result, they are not always aware or sufficiently informed on optimal ways to identify, manage and reduce their energy costs. Similarly, community organisations were considered to be focused on delivering services and to have limited ability to pass on costs because they provide services for free, or to those with limited ability to pay.

1.3   It is against this background that the objective of the EEIG program is to empower SMEs and community organisations to make informed decisions about energy efficiency. In particular, the EEIG program seeks to target information for SMEs with up to 200 full time equivalent employees and non-profit community organisations with an annual turnover of less than $10 million. Further, the program aims to achieve a diffusion of benefits across a range of business and community sectors and into remote and regional settings.

1.4   The particular outcomes for SMEs and community organisations sought under the program include:

- the provision of practical, tailored energy efficiency information;

- empowerment to make informed decisions about energy efficiency;

- assistance to SMEs to improve their competitiveness and help to community organisations in focusing on funding their core activities rather than energy costs;

- minimising energy consumption and costs;

- knowledge and capacity building; and

- contributing to the national effort to reduce greenhouse gas emissions.

1.5 The types of products considered eligible under the program include: tools and training to enable organisations to understand their energy use; targeted information products on how organisations can save energy; and ongoing support services to improve organisational energy management.

1.6 The EEIG is a competitive, merit-based grants program with discrete funding rounds. Funding of $40 million was made available to the program over the period 2011–12 to 2014–15.[13] The Department of Climate Change and Energy Efficiency (DCCEE) is responsible for administering the program.

Funding rounds

1.7 The first funding round was opened to applications on 13 February 2012 and closed on 16 March 2012. A total of 207 applications were received, seeking some $123 million in EEIG grant funding. Applications came from organisations operating at regional, state and national levels across a range of industry sectors.

1.8 DCCEE assessed the eligibility of applications. An independent program advisory committee (PAC) was responsible for assessing each of the 188 eligible applications against the three published merit criteria, and allocating a merit ranking to each. DCCEE recommended to the Minister for Climate Change and Energy Efficiency (the Minister) the 28 applications put forward by the PAC as being the most meritorious. The Minister approved each of these projects, involving total program funding of $20.05 million on 9 May 2012. The successful applications were publicly announced on 17 May 2012.

1.9 The 28 projects involve a total grant value of $19.99 million, and are contracted to be completed by no later than 30 June 2015. In total, 57.3 per cent of the $34.9 million in available program funding has been committed, leaving some $14.9 million for the second funding round. The second funding round

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[13] Of the $40 million in program funding, DCCEE was provided with $5.1 million to administer the program, leaving $34.9 million available to be awarded in grants.

opened to applications on 30 October 2012, with a closing date of 20 December 2012.[14] Successful EEIG applicants are expected to be announced in May 2013.

Audit objective, criteria and scope

1.10   The objective of the audit was to assess the effectiveness of the design and implementation of the first funding round of the EEIG program.

1.11   In particular, the audit examined whether:

- the advice provided by DCCEE in the design and implementation of the EEIG was accurate and complete;

- applications were assessed in terms of their eligibility and comparative merit against the criteria published in the program guidelines;

- comprehensive advice that was in accordance with the Commonwealth Grant Guidelines (CGGs)[15] was provided to the Minister to inform funding decisions, including a clear funding recommendation;

- sound funding agreements were developed and signed in a timely way with the successful applicants; and

- unsuccessful applicants were provided with appropriate feedback.

1.12   The audit scope covered the key elements of the EEIG program, from the planning phase of the program to the signing of funding agreements with successful applicants and the provision of feedback to unsuccessful applicants. The audit did not examine DCCEE's oversight of the delivery of funded projects.

1.13   The audit examined the program against relevant policy and legislative requirements for the expenditure of public money and the enhanced grants administration framework progressively introduced from December 2007, culminating in the issuing in July 2009 of the CGGs. DCCEE records on the establishment and implementation of the program and the assessment of applications were also examined. Discussions were also held with relevant

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14   The Hon Greg Combet AM MP, Minister for Climate Change and Energy Efficiency and the Hon Mark Dreyfus QC MP, Parliamentary Secretary for Climate Change and Energy Efficiency, *New Grants Support Smarter Energy Use Across the Community for a Clean Energy Future*, Joint Media Release, 30 October 2012.

15   Department of Finance and Deregulation, *Commonwealth Grant Guidelines—Policies and Principles for Grants Administration*, Financial Management Guidance No. 23, Canberra, July 2009 (referred to in this report as Commonwealth Grant Guidelines (CGGs)).

DCCEE staff, the department's contracted probity adviser and members of the PAC.

1.14 The audit was conducted in accordance with ANAO auditing standards at a cost to the ANAO of $295 000.

Report structure

1.15 The structure of the report is outlined in Table 1.1.

Table 1.1

Structure of the report

Chapter	Chapter overview
2. Program Framework	Examines the elements of the program framework established by DCCEE, including the key roles and responsibilities for managing the program.
3. Submission of Applications and Eligibility Assessment	Examines the process for submitting applications and the department's assessment of applications against the eligibility criteria.
4. Merit Assessment	Considers the support and information provided to the PAC by the department; the assessment, rating and categorisation of eligible applicants in relation to the published merit criteria by the PAC; and the documentation to support the merit assessment process.
5. Advice to the Minister and Funding Decision	Examines the advice provided to the Minister for Climate Change and Energy Efficiency as to which applications should be approved for funding, and the funding decisions that were then taken.
6. Funding Distribution, Feedback to Applicants and Signing of Funding Agreements	Provides an overview of the outcome of the first EEIG funding round in relation to the distribution of funding, assesses the provision of feedback to applicants as well as the development and signing of funding agreements with the successful applicants.

2.   Program Framework

This chapter examines the elements of the program framework established by DCCEE, including the key roles and responsibilities for managing the program.

Introduction

2.1   Through the 2011–12 Additional Estimates process, DCCEE was provided with $5.082 million (12.7 per cent of total program funding) to administer the EEIG program over the four-year period. This allocation placed the department on a sound footing to design and implement the program.

2.2   In this context, between the July 2011 establishment of the EEIG and its opening to applications for the first funding round in February 2012, DCCEE was responsible for designing and implementing a governance framework for the program. Accordingly, ANAO examined the:

- development of internal program documentation;

- development of the program guidelines, including through consultation with relevant stakeholders; and

- establishment of key roles and responsibilities for managing the program, including the establishment of a PAC and the engagement of a probity adviser.

Internal program documentation

2.3   The CGGs emphasise that agencies should develop such policies, procedures and guidelines as are necessary for the sound administration of grants. From the outset DCCEE focused on ensuring that a range of governance documentation was developed to guide the delivery of the program. This included:

- overarching planning and procedural documents including a project management plan, standard operating procedures (SOPs), a monitoring, evaluation and reporting plan, and a probity plan;

- internal guidance to assist in the management of the program in areas such as public consultations and responding to the public enquiries, and the assessment of the applications (including merit assessment guidance for the PAC); and

- documentation to support eligible entities when applying for a grant.

2.4 A Low Carbon Communities Program Board was established by DCCEE as an internal advisory body to support the executive and project directors of the various programs, including providing advice toward the successful set-up and delivery of programs.[16] The board's role included endorsing and monitoring the implementation of program management plans.

2.5 Relevant documentation for merit assessment was developed ahead of that process commencing. There were delays, however, with finalising some documentation, such as the monitoring, evaluation and reporting plan. In the case of the SOPs document, this was approved by the relevant DCCEE branch head on 21 March 2012, noting that they may be updated upon further consideration by the program board. The SOPs, project management plan and probity plan were endorsed by the board on 4 April 2012, after the assessment of applications had commenced. The probity adviser had informed DCCEE on 22 March 2012 that, as the section of the SOPs relating to eligibility assessment had been agreed, eligibility assessment could commence.[17]

2.6 The SOPs document was not updated in a timely manner to reflect developments in the assessment process compared with that envisaged at the start of the round. Specifically, the SOPs referred to the department undertaking a preliminary merit assessment process (using a preliminary merit assessment checklist) which, at the discretion of the PAC, could be used by the PAC as information when conducting the merit assessment of each application. Concerns were raised by the probity adviser on 22 March 2012, noting DCCEE's advice that the purpose of the process was merely administrative, designed to assist with managing the greater number of applications received than originally expected, and not to substitute for the PAC undertaking its role. DCCEE advised ANAO on 25 July 2012 that, subsequent to receiving the probity adviser's advice, the preliminary merit assessment checklist was renamed as a factual summary sheet to more accurately reflect its purpose. Further, the documented merit assessment process for the PAC clarified that the summaries were provided to support the

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[16] The program board is chaired by a Senior Executive Service Band 2 officer from DCCEE's Energy Efficiency Division, and includes the Energy Branch head and program directors. Officers in a range of corporate functions also advise the board.

[17] The compliance and assurance plan was also approved by the program board on 4 April 2012. Documentation of the proposed merit assessment process to be conducted by the PAC was endorsed by the probity adviser on 29 March 2012.

applications to be used by the PAC to gain an appreciation of the applications. However, the SOPs were not updated to reflect this change.

2.7 While a level of automation was envisaged for EEIG[18], an appropriate grants management system was not in place at the time of the first funding round. Instead, the program predominately relied upon manual systems and paper records for managing processes and recording decisions.[19]

Program guidelines

2.8 Grant program guidelines play a central role in the conduct of effective, efficient and accountable grants administration. To improve the design and administration of grant programs, a key obligation under the enhanced grants policy framework is for all grant programs to have guidelines in place. Reflecting their importance, the guidelines for each program represent one of the policy requirements that proposed grants must be consistent with in order to be approved for funding in accordance with Regulation 9 of the *Financial Management and Accountability Regulations 1997* (FMA Regulation 9).[20]

Stakeholder consultation

2.9 The CGGs indicate that where appropriate, consulting stakeholders on grant arrangements can help achieve more efficient and effective grants administration. In this context, at the time of the EEIG's establishment, the Government approved implementation arrangements that required the program's design, as reflected in its guidelines, to be informed by a stakeholder consultation process. This engagement was to be facilitated by a discussion paper on design options.

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[18] For example, the SOPs used in round one make reference to a grants management system being available at a later stage.

[19] A draft *High Level Requirements — Energy Efficiency Information Grants Program* document from DCCEE's IT Branch (1 December 2011) noted the 'expected volume of applications pre-supposes some level of ICT automation to enable efficient and timely administration.'

[20] 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 CGGs and the specific guidelines established for the program. Approvers of grants are required (by FMA Regulation 12) to record the basis on which they are satisfied that a proposed grant meets the requirements of FMA Regulation 9. This is in addition to the requirement applying to the approval of all spending proposals, which is that the approver records the terms of the approval in writing.

2.10   A discussion paper was developed by DCCEE in the form of draft program guidelines. This document was reviewed by an interdepartmental working group first convened by DCCEE in late October 2011.[21] The only significant comment raised at this stage was from the Department of Finance and Deregulation (Finance) about the risks associated with meeting an ambitious program timeline.

2.11   Around this time, DCCEE also began preliminary engagement with a number of peak industry and community groups and selected state government agencies about the program. Departmental documents indicate that the consultations were undertaken with a particular focus on gaining insights into the level of interest in the program and the range of related initiatives already in place.

2.12   In early November 2011, the Minister for Climate Change and Energy Efficiency released the discussion paper on the proposed design of the program, with public consultation taking place between 8 November and 6 December 2011.[22] Some 77 written responses were received, mainly from peak bodies and industry associations. The main issues raised in the consultations were the alignment of the program's definition of SMEs with the Australian Bureau of Statistic's definition, and clarification of the program objectives in relation to the impact of the carbon price.[23]

Development and approval of the program guidelines

2.13   After the close of the public consultations on the EEIG program, DCCEE met with the members of the interdepartmental working group to finalise the proposed guidelines for the program. Outside the interdepartmental working group, DCCEE also received advice from the Australian Government Solicitor about incorporating into the guidelines

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[21]   The Energy Efficiency Information Grants Interdepartmental Working Group comprised representatives from the Department of the Prime Minister and Cabinet , the Treasury, the Department of Finance and Deregulation (Finance), the Department of Resources, Energy and Tourism and the Department of Innovation, Industry, Science and Research. The working group met on 27 October 2011 and 8 December 2011.

[22]   In addition to the discussion paper, a stakeholder feedback template was developed for the public to use when responding to the discussion paper.

[23]   The EEIG's objective contained in the discussion paper was in part, to 'assist SMEs and community organisations to understand the impact of a carbon price on their operations and how they can respond'. Concern was raised by the Australian Competition and Consumer Commission about the difficulty in establishing accurate sectoral assessments of the carbon price impact for SMEs and community groups.

additional considerations the department could have regard to when making grant funding recommendations to the Minister.[24]

2.14   In mid-December 2011, the department briefed the Minister on the proposed guidelines, and recommended his endorsement of the guidelines and their subsequent consideration by the Expenditure Review Committee of Cabinet (ERC). As required by the grants administration framework, the recommendation for ERC consideration was informed by a departmental risk assessment of the program. While program risks were rated as low after treatment, following further consultation with Finance and the Department of the Prime Minister and Cabinet, the guidelines were assessed as sensitive and therefore required ERC consideration. The advice to the Minister was that the main risk under the EEIG program was the possibility of grant recipients providing poor or misleading advice on the impact of the carbon price or appropriate energy efficiency measures.

2.15   On the department's recommendation, the Minister endorsed the program guidelines on 21 December 2011 and wrote to the Cabinet Secretary seeking their consideration by ERC as part of the guidelines approval process. The Minister also asked that the department liaise with his office about some minor changes to the guidelines. The guidelines were subsequently approved by ERC on 7 February 2012 and by full Cabinet on 13 February 2012.

Contents of the approved guidelines

2.16   The EEIG guidelines accord with the guidance provided by the CGGs. The guidelines identify the program objective; governance arrangements; project selection and approval processes; project monitoring, reporting and evaluation arrangements; operational issues; and complaint handling mechanisms. They also:

- outlined that the EEIG was a merit-based competitive grants program;

- defined funding limits between $100 000 and $1 million (although the upper limit could be exceeded where exceptional value for money was demonstrated);

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[24]   Based on this advice, adjustments were made to allow the department flexibility in making recommendations to the Minister that included an appropriate distribution of projects across regional and remote locations, and across industry and community sectors.

- clearly defined and grouped eligibility and merit selection criteria (including specifying the weightings for each of the three merit criteria), that were consistent with the objective of the program;

- outlined how to lodge an application and the information that needed to be included in an application;

- specified the due date for applications (although late applications could be considered where exceptional circumstances were demonstrated and at the discretion of the department); and

- stated that applicants who submitted incomplete applications through unintentional error or omission could submit additional or amended information where DCCEE allowed.

2.17 The guidelines set out that the applications for round one of EEIG would open on 13 February 2012 and close on 16 March 2012. This timeframe provided potential applicants five weeks in which to lodge an application. In the context of the requirements outlined in the EEIG guidelines, this was a reasonable period of time within which applicants could develop and lodge an application.

2.18 In addition to the guidelines, DCCEE developed an application guidance document to assist applicants to focus their applications against the assessment requirements set out in the guidelines. This guidance document was consistent with the program guidelines and did not incorporate any important additional material that should have been included in the program guidelines.

Key roles and responsibilities

2.19 The CGGs outline that a granting activity should be underpinned by solid governance structures and clear lines of accountability. In this respect, key roles and responsibilities in the administration of the program were detailed in EEIG governance documentation and the program guidelines.

2.20 Governance and oversight of the program's design and delivery has been through monthly meetings of the Low Carbon Communities Program Board, chaired by a Senior Executive Service Band 2 officer (see further at paragraph 2.4). The day-to-day management and delivery of the program was carried out by the department's Energy Branch. To assist it, the department contracted:

- a probity adviser for the EEIG and three other programs administered by the Energy Branch[25]; and

- a three-person PAC for the EEIG. The program guidelines had outlined that the PAC would be responsible for assessing eligible applications against the published merit criteria, allocating a merit ranking to each application and then providing advice to the Minister, through the department, on the projects suitable for funding.

Probity plan and probity adviser

2.21 The CGGs outline that an important requirement in grants administration is ensuring probity and transparency, such that decisions relating to the granting activity are impartial, appropriately documented and publicly defensible.

2.22 Between September 2011 and April 2012, DCCEE developed a probity plan that was endorsed by the Program Board on 4 April 2012. The plan set out the probity principles that would underpin the EEIG program and identified the standards that govern those principles, and the roles and responsibilities of those involved with the program.

2.23 The development of the plan was informed by input from the probity adviser.[26] The plan outlined that the probity adviser was responsible, if requested, for:

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[25] Namely: the $200 million Community Energy Efficiency Program (CEEP) to provide grants to local councils and community organisations to undertake energy efficiency upgrades and retrofits; the $100 million Low Income Energy Efficiency Program (LIEEP) to provide grants to trial approaches that assist low income households to improve energy efficiency; and the Charities Maritime and Aviation Support Program to offer a rebate for the carbon price impact on essential maritime and aviation fuels used by organisations such as air and sea rescue services. In October 2012, DCCEE advised ANAO that this branch also has responsibility for the Local Government Energy Efficiency Program (LGEEP).

- reviewing compliance against the probity plan;

- advising on documentation for the program;

- conducting probity briefings for DCCEE staff and other key persons (including the PAC);

- attending meetings of the PAC to provide advice on probity issues during application assessment;

- advising on process and probity issues during application assessment;

- advising on process and probity issues that arise, including in relation to compliance with the *Financial Management and Accountability Act 1997* and the CGGs; and

- independently reviewing probity aspects of the program and reporting to the DCCEE program manager in writing the circumstances of any failure to comply with the probity plan, including recommendations.

2.24 The probity adviser had relatively little involvement in respect to DCCEE's assessment of applicant eligibility and only a limited role in relation to overseeing the application assessment process. In November 2012, DCCEE advised ANAO that:

> The department considers that the probity adviser, having briefed and advised the PAC and observed its deliberations, was in a position to assess the length of time he needed to attend PAC meetings to meet his obligations as the probity adviser and absented only after consultation with the department, once both were satisfied this did not compromise the role nor the assessment process.
>
> ...The department agrees that it needs to provide a greater level of secretariat support to the PAC to assist with records of its meetings, and the recording of the presence/absence of the probity adviser in minuting will be an element of this. The department notes the ANAO suggestion that the probity adviser be present during all PAC deliberations, and will amend its procedures accordingly.

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[26] The probity adviser was selected by DCCEE after the department sought quotations in November 2011 from three firms included on its the Legal Services Panel and one firm included on the Department of Broadband, Communications and the Digital Economy's Management Advisory Services Panel. The contracted commencement date was 17 January 2012 with an initial end date of 31 December 2012 and a contract extension date of 31 December 2013.

2.25 In preparing the probity report, the probity adviser relied upon the insights gained from his attendance at two of the PAC meetings and the assessment process described in the merit assessment report prepared by DCCEE.[27] However, as is discussed in Chapter 4, the merit assessment report did not reflect important aspects of how eligible applications were assessed. Against this background, in October 2012 DCCEE advised ANAO that it has expanded its program operating procedures for the second round of the EEIG to ensure that the probity adviser is present during all PAC deliberations, to provide guidance throughout PAC meetings.

The Program Advisory Committee

2.26 It is relatively common for expert or advisory panels to be used to provide advice and/or recommendations to grant program decision-makers. Particularly where a program relates to an area of specialist expertise, such panels are able to bring specific knowledge, experience and judgement to bear in formulating, or assisting to formulate, funding recommendations. In this context, it is important that the basis on which an advisory panel is to be involved in a selection process is clearly established, and that the panel's deliberations and recommendations are appropriately documented.

2.27 The use of an expert panel to consider the merit of applications was signalled by DCCEE when the Government agreed to the program in July 2011, and was included in the public consultations about the design of the program in late 2011. The involvement of a panel was proposed because DCCEE expected that the assessment of applications would require a broad contextual understanding of the barriers to energy efficiency uptake in SMEs, some technical capacity to assess the information to be provided, and some communications/behavioural understanding of the ability of the proposals to change behaviour.

2.28 The program guidelines approved by the Government set out that an independent PAC would be established and be responsible for:

- assessing eligible project proposals against the three published merit criteria;

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[27] In November 2012, DCCEE advised ANAO that the probity adviser 'was involved in reviewing all of the program documentation and assessment processes, providing ad hoc advice in relation to stakeholder inquiries, attending meetings with potential applicants and attending the PAC meetings.'

- allocating a merit ranking to each eligible application; and

- advising the Minister, through the department, on projects suitable for funding.

2.29 In this context and as outlined in ANAO's Better Practice Guide, where the advice provided by a panel directly informs a decision about expenditure—for example, where the panel assesses applicants against particular criteria, and/or recommends supporting particular projects or distributing funds to particular applicants—panel members are officials of the relevant agency.[28] Importantly, this means that the advice and recommendations received from the panel are able to be relied upon by a Ministerial decision-maker in meeting his or her obligation (under the CGGs) to receive agency advice on the merits of each proposed grant before approving grants under the relevant program.

2.30 The PAC performed the key task of assessing the merits of EEIG applications and put forward recommendations to the department that led directly to a decision to spend public money. Accordingly, the work of the PAC involved the undertaking of a financial task.

2.31 There were no records indicating that DCCEE considered this issue prior to it being raised in the course of ANAO's audit work. For example, no input was sought by DCCEE from its probity adviser. However, DCCEE advised ANAO in October 2012 that:

> Given that the department, not the PAC, made funding recommendations, and the PAC's responsibility was limited to providing a merit ranking, the department did not consider the PAC to be carrying out a financial task.

2.32 Technically, the DCCEE perspective is not an accurate reflection on the application of the financial framework as panels that perform a merit assessment, but do not provide recommendations direct to the decision-maker, are still performing a task or procedure relating to the commitment of public money. In this respect, Finance has previously advised ANAO that:

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[28] This is because the provision of such advice is the performance of a 'financial task' within the meaning of FMA Regulation 3. Persons performing financial tasks are deemed (by operation of part 5 of the FMA Act and Regulations 4(1)(a), 4(2) and 5(1)(b)) to be officials of the relevant agency. In respect to the EEIG, the PAC was responsible for undertaking the merit assessment of eligible applications against the three published criteria and, accordingly, performed a task or procedure relating to the commitment of public money.

Where the advice provided by the panel directly informs a decision about expenditure (for example, where the committee assesses applicants against particular criteria, **or** recommends supporting particular projects or distributing funds to particular applicants), committee members should be treated as agency staff for the purposes of the CGGs. This is because the provision of such advice is the performance of a financial task within the meaning of FMA Regulation 3. Persons performing financial tasks are officials under the FMA Act and are therefore agency staff for the purposes of the CGGs. *[ANAO emphasis]*

Procurement process

2.33 DCCEE's EEIG project management plan outlined that:

The Program Advisory Committee (PAC) will be established and approved by the Minister. The panel members will be recommended on the basis of their relevant expertise drawn from a range of backgrounds such as peak body, academia, industry and government. Guidance for the PAC will be documented in the Probity Plan and the secretariat function for the PAC is established.

2.34 The PAC was established in March 2012 by the department through a direct source procurement approach. The Minister's approval of the PAC members was not sought.[29]

2.35 The adoption of a direct source procurement approach was consistent with procurement guidance provided up until March 2012 within DCCEE which stated that this 'method of procurement is the default position for procurements under $70 000'. The administration of direct source procurement was examined by ANAO in Audit Report No.11 2010–11, *Direct Source Procurement*.[30] That report, tabled in September 2010, concluded that direct sourcing 'should not be the default procurement approach of agencies as it is not conducive to open and effective competition and it is generally more difficult to demonstrate value for money'.[31] In October 2012, DCCEE advised

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[29] In October 2012, DCCEE advised ANAO that: 'Initially the department considered the PAC members as potentially being appointed by the Minister, but on reflection of their role, that is, limited to providing a merit ranking, undertook to engage PAC members directly. This led to some confusion and incorrect advice to the department's procurement area that PAC members had been approved by the Minister. This was subsequently clarified.'

[30] That report was examined by the Joint Committee of Public Accounts and Audit in *Report 423: Review of Auditor-General's Reports Nos 39 2009–10 to 15 2010–11*, Canberra, 4 July 2011.

[31] ANAO Audit Report No.11 2010–11, *Direct Source Procurement*, Canberra, 30 September 2010, p. 20.

ANAO that new procurement guidance material under development will remove mention of 'default' procurement methods.

2.36 In response to questions from the department's Legal Services Branch concerning the procurement approach, the program area recorded in early April 2012 that:

> EEIG was particularly challenging as it required a mix of broad contextual understanding of the barriers to energy efficiency uptake in SMEs, some technical capacity to assess the information to be provided, and some communications/behavioural understanding of the ability of the proposals to change behaviour...

> While other people may have the ability to fulfil such roles, each of these candidates provided a unique standing within their discipline/field of interest. Each is drawn from the academic sector, and therefore has a level of independence which was otherwise difficult to find in the commercial sector.

> On a level of fee, each has indicated that they would operate through their universities[32] according to established fee rates, indicatively well within an acceptable level to the department. The fee levels will be confirmed when approval to sole source is received.

2.37 Each contract specified a commencement date of 30 March 2012 and expiration date of 28 April 2012, with up to 12 working days of services to be provided.[33] The contract and deed of confidentiality was provided to each PAC member on 4 April 2012, after they had begun receiving applications. Further, the contracts and related confidentiality deeds were not signed until after the PAC had completed its work.[34] This does not represent a sound administrative approach or comply with the department's Chief Executive's Instruction on procurement, which required that 'services must not commence until a written contractual arrangement is in place'.

Terms of reference and contracted services

2.38 The terms of reference for the committee were developed by DCCEE, covering the role of the PAC, membership, meeting arrangements, probity

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[32] As it eventuated, the contract with the PAC chair was not with his university.

[33] The panel chair invoiced for 8 days work with each of the other panel members invoicing for 12 days work. The total fees paid for the work of the PAC were $54 199 (plus GST and excluding travel expenses).

[34] The contracts and confidentiality deeds were signed on 7 May 2012, 9 May 2012 and 7 June 2012, after the work of the PAC had been completed.

requirements and arrangements for dealing with conflicts of interest arising in the merit assessment process. Although approved on 23 March 2012, the copy provided to the Minister at the time his approval of the recommended applications was sought was marked 'draft'.

2.39 The terms of reference were referred to in each PAC member's contract when defining the services that were to be provided. Specifically, the role of each PAC member was specified in the respective contracts as including:

- Reviewing and scoring eligible applications against the EEIG merit criteria (refer Section 2.2 of the EEIG Guidelines), including providing comments and reasons for decisions;

- Attending the Committee meeting(s);

- Providing subject matter expertise, assurance and advice to the Committee; and

- Contributing to timely decisions in a collaborative, effective and proactive manner.

2.40 In addition, the contract with the PAC chair required that he also convene PAC meetings with secretariat support by DCCEE, and coordinate the PAC's agreed scoring of applications, including comments and reasons for decisions, to the department.

2.41 To enable the PAC to perform its merit assessment role, the contracts provided that DCCEE would provide each member with:

- A copy of the EEIG program guidelines and the EEIG Application Guidance

- A copy of the PAC Guidance for Merit Assessment document

- Copies of all eligible applications (sorted in alphabetical order)

- Completed Preliminary Summaries (attached to each application)

- Individual scoring templates (attached to each application and in electronic version)[35]

- Overall scoring spreadsheet in electronic version

2.42 The contracts required that the PAC produce a completed scoring template for each application, an overall scoring spreadsheet and a consensus

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[35] The scoring template provided to the PAC members is included at Appendix 2.

ranking list of applications that had been agreed by the PAC. These contractual requirements provided a sound basis for the PAC to undertake, with support from DCCEE, the merit assessment process in a transparent and accountable way that accorded with the published program guidelines.

Conflicts of Interest

2.43   An important issue to be considered in the establishment of advisory panels is the potential for actual or perceived conflicts of interest to arise, which can be damaging to government, the agency and the granting activity. A conflict of interest could arise where a panel member has, or could be perceived as having, a direct or indirect interest that might prejudice, or be seen to prejudice, their partiality in the selection of projects for funding. In this respect, the CGGs advise that agencies should put in place appropriate mechanisms for identifying and managing potential conflicts of interest.

2.44   The program's probity plan and probity protocols set out how potential conflicts of interest were to be identified and managed. The approach in these documents was generally sound.

2.45   However, each member of the PAC was provided with a copy of each eligible application regardless of whether they had a potential conflict of interest. Through their review of these applications, PAC members identified a total of 13 applications where a member had a potential conflict of interest. These conflicts were declared by PAC members in deed polls signed on 13 April 2012 (the PAC met on three occasions — 5 April 2012, 12 April 2012 and 13 April 2012). In addition, the merit assessment report stated that individual members excused themselves from meetings prior to discussion on the assessment and ranking of applications where those members had a declared conflict of interest. An attachment to that report also listed the 13 identified conflicts of interest. However, the minutes of the PAC meetings do not record that PAC members excused themselves from discussions relating to applications where they had identified a conflict of interest, although DCCEE has advised ANAO that this occurred.

Recording PAC meeting deliberations and decisions

2.46   Creating and maintaining appropriate records of the panel's meetings was important in supporting the PAC's assessment decisions and subsequent advice to the Minister. In addition, accurate and comprehensive records of

PAC deliberations and decisions were necessary to provide sound feedback to unsuccessful applicants.[36]

2.47   The PAC meeting minutes were prepared by DCCEE, but departmental records at the time of ANAO audit fieldwork (June and July 2012) state that they are draft. The minutes of the second and third meetings do not record that the PAC was provided with the draft minutes of the earlier meeting(s) and there is no evidence that they were provided for consideration and approval by the PAC chair or members. In this respect, in October 2012 DCCEE advised ANAO that:

> The signed-off PAC report included the minutes of PAC meetings. Although still labelled as 'Draft' in the final PAC report, the department regards these as final given they were signed-off by the PAC as part of the report.

2.48   The minutes prepared by DCCEE included very little information concerning the matters discussed or the assessment decisions that had been reached. Generally, the minutes of the PAC meetings provide broad outlines of assessment process discussions and decisions, and conclude with a list of action items.

Conclusions

2.49   DCCEE established a robust framework for the design and management of the EEIG. In particular:

- a considerable program of engagement with a range of stakeholders was evident, supported by sound departmental arrangements for managing and incorporating feedback into the program's design and implementation;

- a range of governance documentation was developed to assist in the delivery of the program, including the development of comprehensive program guidelines;

- arrangements for the management and oversight of the program within the department were clearly established; and

- the department contracted a probity adviser as well as a program advisory committee (to assess eligible applications against the published merit criteria).

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[36]   See further at paragraphs 6.11 to 6.18.

2.50   The establishment of the EEIG PAC enabled specialised expertise and knowledge to be brought to bear in the assessment of the merit of eligible applications. While there were some delays with the contracts being signed, the contractual arrangements provided a sound basis for the PAC to undertake, with support from DCCEE, the merit assessment process in a transparent and accountable way that accorded with the published program guidelines.

2.51   However, in establishing the PAC, DCCEE did not recognise that the task the PAC was performing involved directly informing a decision by the Minister to commit to the expenditure of public money, and the PAC was therefore bound by the requirements of the CGGs.[37] In addition, the arrangements to record the deliberations and decisions of committee meetings, and the handling of conflicts of interest, did not deliver the transparent and accountable process required by the CGGs.

Recommendation No.1

2.52   In circumstances where an advisory panel or committee is used to assess grant applicants and to provide funding recommendations, ANAO recommends that the Department of Climate Change and Energy Efficiency:

(a)   develop program governance arrangements that inform panel/committee members that they are formally operating under the Commonwealth's financial framework; and

(b)   implement secretarial support arrangements that require key assessment decisions and their basis to be minuted.

2.53   **DCCEE response:** Agreed. The department will amend the program standard operating procedures and probity briefings to clarify the relationship of the PAC to the Commonwealth financial framework. The department will also ensure that sufficient resources are made available for secretariat support to the PAC.

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[37]   See further at paragraphs 2.28 to 2.32.

3. Submission of Applications and Eligibility Assessment

This chapter examines the process for submitting applications and the department's assessment of applications against the eligibility criteria.

Introduction

3.1   Effective grants administration is supported by agencies adopting application and assessment processes that promote open, transparent and equitable access to grants. As such, ANAO examined DCCEE's processes for:

- notifying potential applicants of the grant opportunity;

- submitting applications;

- including eligibility criteria in the program guidelines; and

- assessing the eligibility of applications in accordance with the program guidelines.

Publicising the program and calling for applications

3.2   The appropriate and effective promotion of grant programs is important to raise awareness of the program among potential applicants and to encourage sufficient numbers of applications that will contribute to achieving the program objective and the outcomes sought. In this context, the CGGs outline that, in order to promote open, transparent and equitable access to grants, publically available grant opportunities should be notified in ways that provide potential applicants with a reasonable opportunity to apply.

3.3   The consultation phase as part of the program's design during November and December 2011 provided DCCEE with an early opportunity to raise awareness about the program. This included direct contact with 25 selected peak bodies and state government agencies, newspaper advertisements, publishing details of the program on the DCCEE website and on-line registration to a stakeholder list.[38] In its early stages, the stakeholder list was used to generate interest in the EEIG's development and provided regular

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[38]   The stakeholder list totalled around 900 contacts as at early July 2012. Not all stakeholders on the list were necessarily eligible or interested in applying for EEIG grant funding.

feedback on the program's progress. In addition, the Minister for Climate Change and Energy Efficiency publicised the program at key points, including through media releases announcing the establishment of the program and the opening of the program to applications.

3.4   On 9 February 2012, the EEIG program guidelines were publicly released, with Ministers announcing that the program would be open to applications beginning 13 February 2012.[39] This was followed by a departmental email on 14 February 2012 to all contacts[40] on the EEIG stakeholder list, advising that the funding round was open and the closing date and time for applications—5pm (eastern daylight savings time (EDST)) on 16 March 2012. The email directed potential applicants to the DCCEE website containing key documentation, including the program guidelines and application guidance. Potential grant applicants could also email or phone the EEIG program area for further information.

3.5   In addition, calls for EEIG applications were placed in newspapers and promotions made at various energy efficiency program events.

Submitting applications

3.6   As a first step, potential applicants needed to register online with the department for an application form. Following registration, the department sent a reply email with the application form, the program guidelines, the application guidance document, and a draft funding agreement.

3.7   The registration process was intended to allow the department to capture basic information about the applicants and their possible application. It was also intended to help the department to monitor the quality and quantity of applications that it expected to receive.

3.8   The department had planned to manage stakeholder engagement and applications through an EEIG Customer Relationship Management System

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[39]   The Hon Greg Combet AM MP, Minister for Climate Change and Energy Efficiency, the Hon Simon Crean MP, Minister for Regional Australia, Regional Development and Local Government, and the Hon Mark Dreyfus QC MP, Parliamentary Secretary for Climate Change and Energy Efficiency, Joint Media Release, *Funding Calls for Smart Energy Use*, 9 February 2012.

[40]   As at early March 2012, the number of listed stakeholders stood at around 650, including stakeholders who had expressed interest in the Low Carbon Communities Program, but had not directly registered for EEIG.

(CRM) and Grants Management System (GMS).[41] However, as these systems were not ready in time for use for the first funding round, a largely manual system of paper files and two separate spreadsheets was used to manage access to the program.[42]

Application requirements

3.9 The program guidelines set out the application requirements. In developing their application, applicants were advised to consider the guidance and rules provided in the program guidelines, the application guidance document and the draft funding agreement that successful applicants would be required to enter into with the department.[43] Applicants needed to:

- outline the main activities that were to be delivered as part of the project;

- include a timeframe and full project budget for delivery of the main activities;

- address the eligibility and merit criteria;

- provide a key contact person; and

- be signed by an officer with the delegated authority to enter into contracts on behalf of the relevant organisation.

3.10 Applicants were also encouraged to consult with DCCEE while preparing applications to ensure their proposal would meet basic requirements. The department required that applications:

- be submitted by email (unless otherwise arranged with the department);

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[41] The EEIG monitoring, evaluation and reporting plan noted that the department's GMS was intended to be a tool to record relevant data on projects including milestones and financial reports, with links to the department's financial and procurement system. This plan further noted that DCCEE's CRM was intended to be a tool to record relevant details and information in relation to the program's stakeholders, applicants and recipients including contact and enquiries statistics. The SOPs note that, prior to the CRM being available, information relating to contact with applicants would need to be file noted, printed and placed on the corresponding hardcopy file and recorded in the EEIG program database.

[42] All correspondence including telephone calls were required by the SOPs to be recorded and filed in the EEIG stakeholder record of enquires spreadsheet. Registrations for application forms were required to be entered into the EEIG stakeholder record of application registration database.

[43] The EEIG application form asked applicants whether they would accept the terms of the funding agreement, and if not, which clause they would not accept and why.

- be complete and contain all the information relevant to, and necessary for assessment;

- have all mandatory documents attached[44];

- provide current and accurate information; and

- not contain information that was false or misleading (as this may exclude the application from further assessment).

3.11 A review of the application form shows that the questions asked of applicants were appropriate to inform the assessment of applications against the eligibility and merit criteria outlined in the program guidelines.

Closing date

3.12 The guidelines provided that all applications must be received by 5pm (EDST) on 16 March 2012. By the closing date and time, 182 applications had been received by the department. However, the guidelines also made provision for late applications:

> Any applications lodged after the advertised closing date will be considered as late applications and will be registered separately. Late applications may be accepted for assessment in cases where the delay is due to exceptional circumstances. The decision to accept late applications will be at the discretion of the Department.

3.13 Further clarification on exceptional circumstances for the acceptance of late applications was not detailed in the guidelines or the SOPs. As a result, the acceptance of late applications was dealt with on a case-by-case basis, at the discretion of the program manager.

3.14 Although there were a number of late applications, there was not a separate register for late applications but a list of those applicants seeking an extension of the closing date was compiled by the program manager and approved by the branch head. In total, 25 applications were received after 5pm on 16 March 2012. Of these, 18 applications were received on 16 March 2012,

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[44] A checklist of seven mandatory documents was attached to the application form involving: proof of public liability insurance; project timeline; evidence of commitment from each project partner; project staff resources; project budget; statement of compliance in relation to the terms of the funding agreement; and a declaration relating to the application. The program guidelines do not specifically identify what are mandatory documents (reference is made to requiring written evidence of partners' commitment in the program guidelines at section 2.1.1). However, the application guidance document did direct applicants to provide these documents.

but after 5pm. DCCEE advised ANAO in November 2012 that a formal extension was not required for these applications because it was aware that their arrival after 5pm on 16 March 2012 may have been due to the capacity limitations of the department's electronic mailbox. Outside this group of applications, seven applications received extensions from the department, although one of these was received by the department after the extended due date.

3.15   Reflecting the department's discretion to accept late applications under the guidelines, none of the late applications were excluded from the assessment process by the department. Two late applications (received after 5pm on 16 March 2012) that were not given an extension by the department were subsequently approved for grant funding. Another application that was given two extensions was also approved for grant funding.

Lodgement

3.16   Unless agreed otherwise, applicants were required to submit their applications electronically to a DCCEE information grants mailbox. In this regard, over half of the applicants experienced difficulties with the application form and required departmental assistance to complete the form.

3.17   Upon receipt of an application, the central mailbox forwarded the application to the program area and sent a receipt email to the applicant. In addition to informing applicants that their application had been received, this system also created a record of application lodgement.

3.18   At the time of department's grant funding recommendation to the Minister, the stated number of applications received was 205. However, following the announcement of the successful applications on 17 May 2012, the department became aware of two applications which had been overlooked during the assessment process.[45] These applications were then assessed and found to be ineligible.

3.19   The receipt of 207 applications was a considerably higher number than anticipated by the department during the program development stage.[46] As

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[45]   In November 2012, DCCEE advised ANAO that these applications were overlooked because they had been inadvertently assumed to have been duplicates, noting that applications had been duplicated when applicants emailed their applications to the department more than once to ensure that lodgment had occurred.

[46]   For example, the DCCEE energy efficiency communication strategy indicated that 30 to 40 applications were expected, while the EEIG project management plan stated around 60 applications were expected.

most of the applications were assessed as eligible, the impact of the high number of applications received (compared with the department's planning) was particularly evident at the merit assessment stage (a matter further discussed in Chapter 4). ANAO's Better Practice Guide notes that it is common for grant programs to be over-subscribed, but this risk was not identified during the program planning and design phase or included (for example) in the department's risk register.

Updating applications

3.20   The program guidelines provided that, while applicants were able to update their applications before the closing date, no additional written or oral explanation, or further documentation would be accepted by the department after the closing date. Similarly, the SOPs provided that 'After the closing date only updates to contact details can be accepted. All requests to update an application need to be in writing and signed by the Authorisation Officer of the applicant organisation.' Nevertheless, in the event that the applicant made an unintentional error or omission, the department could decide whether to accept an amendment or additional information.

3.21   Some 89 applications were amended or corrected for formatting and other errors after the funding round's closing date. Most amendments involved applicants submitting a PDF version of the application rather than the required Microsoft Word document, and the provision of additional documentation to support the application. A number of applicants also provided separate clarifying information to support the application because of technical problems with completing the application template.[47]

Eligibility criteria

3.22   It is important that program guidelines identify any threshold requirement that must be satisfied for an application to be considered for funding. Well constructed threshold or eligibility criteria should be straightforward, easily understood and effectively communicated to potential applicants, with the relevant program's published guidelines clearly stating

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[47]   Problems with the application template meant that some applicants were not able to save their response to two questions concerning project funding and budget or their responses to one of the application attachments, and therefore needed to provide their responses to the department separate from their application.

that applications that do not satisfy all eligibility criteria will not be considered. This helps to:

- reduce frustration and unnecessary costs by assisting potential applicants to avoid developing and submitting applications that are ineligible or that have little chance of success;

- reduce the risk of an organisation failing to submit a proposal on the mistaken belief that they would not be eligible under the program guidelines; and

- promote consistent and efficient assessment processes.

Identifying and grouping of the eligibility criteria

3.23   Grouping and clearly identifying all eligibility requirements in a discrete section of the program guidelines has benefits for both potential applicants and the administering agency. Specifically, adopting this approach can provide a comprehensive checklist of minimum and mandatory requirements that:

- potential applicants can easily use to inform a decision as to whether to invest resources in developing an application; and

- officials or others undertaking the assessment can use to ensure that any applications that fail to satisfy one or more of the eligibility requirements set out in the guidelines are identified as being ineligible for funding consideration. This can then be appropriately reflected in advice provided to the decision-maker.

3.24   Consistent with the above approach, the program's eligibility criteria were clearly set out in section 2.1 of the guidelines. The guidelines emphasised that an application would not be accepted for further assessment unless it satisfied all of the eligibility criteria.

3.25   Applicants were also supported in being made aware of the eligibility criteria by the application guidance document specifically highlighting the questions in the application form that were relevant to the eligibility assessment (as well as those that were relevant to the merit assessment).

Eligible applicants

3.26   The program guidelines provided that an applicant needed to be either an industry association or professional institute, or a non-profit organisation. Further, these types of organisations needed to be:

- engaged with SMEs and/or community organisations;

- registered under the *Corporations Act 2001* or incorporated under state and territory incorporation legislation; and

- constituted as a legal entity for at least 12 months and with public liability insurance to the value of $10 million.

3.27   The guidelines encouraged applicants to partner with other organisations. However, the lead applicant needed to meet the applicant eligibility criteria. In this regard, the guidelines stated an expectation that any state, territory or local government wishing to be involved in the program would need to do so as partners with eligible industry associations and non-profit organisations.[48]

3.28   The guidelines were also clear about which organisations would not be eligible to apply for grants as lead entities. These included: for-profit corporations; primary or secondary schools (government and non-government); individuals; and informal or unincorporated groups.

Eligible projects

3.29   The program guidelines provided that an eligible project involved a proposal that:

- was located in Australia;

- was an energy efficiency information project;

- directed towards providing benefits to individual SMEs or community organisations; and

- ensured benefits resulting from the information provided with grant funds devolved to individual SMEs and community organisations.

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[48]   The issue of universities' involvement in the program was first raised during the design phase of the program. Provided a university met the Australian Taxation Office's definition of a non-profit organisation and the applicant requirements set out in paragraph 3.26, it was in a position to meet the requirements as an eligible applicant.

3.30 To assist in the interpretation of these criteria, further guidance regarding eligible expenditure for a proposed project was provided in an attachment to the guidelines. The guidelines also highlighted that an eligible project must not be a devolved grant (that is, a grant requested by the applicant for the purpose of distributing grants to other parties) or receive any other Commonwealth financial support, or include activities that were not related to the provision of energy efficiency information such as retrofits, renewable energy and water and waste reduction.

Eligibility assessment

3.31 The department was responsible for conducting the eligibility assessment of applications. The majority of this assessment took place over one week, beginning 26 March 2012. The program guidelines provided that 'an application will not be accepted for further assessment unless it satisfies all of the eligibility criteria'. Further, the guidelines required that applications must be complete and have all mandatory documentation attached to the application.[49]

3.32 The primary tool used by DCCEE staff in undertaking the eligibility assessment was a five page 'completeness and eligibility assessment checklist' electronic template, which ended with a recommendation as to a project's eligibility or ineligibility. The key guidance provided to staff responsible for assessing applications were the SOPs. An initial assessment of completeness and eligibility of the application was carried out by an assessment officer using the checklist and guidance provided by the SOPs.[50] This initial assessment was then reviewed (termed a 'QA check') by a grants manager, and in some cases further considered by the more senior program manager or the branch head.

3.33 In relation to the eligibility checklist completed under the assessment arrangements, decisions made by the assessment officers were not well documented. Under the EEIG SOPs, for example, the QA assessment officer was tasked with recording the results of the review in a quality assurance

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[49] However, the SOPs stated that if an application was incomplete, it was at the discretion of the department as to whether the application was excluded from further assessment.

[50] DCCEE has advised ANAO that in addition to the checklist, assessment staff were provided with initial training and ongoing support by a grants manager and the department's Legal Services Branch. Nevertheless, DCCEE records show that, in a number of instances, assessors had difficulty in establishing whether an applicant was incorporated, leaving it to the quality assurance process to finally establish whether the applicant was incorporated.

spreadsheet. The spreadsheets envisaged in the SOPs were not created and, instead, assessment officers recorded the results of their review only on the assessment checklist.

3.34 As a result, for the purposes of this audit, an examination of various handwritten notes on, and changes to, each application's assessment checklist sheet was required to gain some insight into the eligibility assessment decision process undertaken within the department. After this examination, ANAO remained unable to establish whether the department addressed all eligibility queries raised during the initial assessment stage. This was due to:

- checklists often not recording a follow-up where a query had been raised in the initial assessment; and

- records generally not identifying those decisions made by the assessment officer and those decisions made by the grants manager.

3.35 However, ANAO analysis indicates that some 32 application checklists were incomplete, with these applications subsequently going to merit assessment.

3.36 Further, in a number of circumstances the completeness and eligibility requirements were either relaxed and/or not applied. For example:

- of the 28 applications which were recommended for grant funding under the EEIG program, one application was considered eligible although not constituting an eligible non-profit organisation. A further five applications were considered eligible despite the applicant not being incorporated under either the *Corporations Act (2001)* or state and territory incorporation legislation[51]; and

- over 35 application checklists noted that the applicant had failed to provide evidence of a commitment from each project partner and/or an attachment for each of the partners (excluding where the applicant indicated they had no partner(s)). There is no evidence that the department followed up on missing letters from the checklists or the application files reviewed by ANAO.

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[51] In the case of the first example: legal advice was sought by the program about whether the applicant was a non-profit organisation. This advice confirmed that it was not a non-profit organisation. However, it was viewed as not infringing 'the policy concern that led to the inclusion of the "non-profit" requirement' and therefore could be treated as an eligible applicant. With respect to the second example: the five organisations were incorporated under the *Fair Work (Registered Organisations) Act 2009*.

3.37 As part of the application assessment process, two additional checks were also to be conducted by the department before assessing applications as eligible for merit assessment by the PAC. The first involved the cross-checking of applications with other Commonwealth agencies to ensure that the applicant had not applied for or received funding for the project from another agency.[52] DCCEE decided to move this assessment step to a later stage in the process, to only focus on those applications approved for grant funding.[53]

3.38 The second additional check related to the financial viability of the applicant. The need to check an applicant's financial viability was to be determined on a case-by-case basis, having regard to the nature of the applicant and the amount of funding requested. While in a small number of cases application assessors considered that a financial viability check was required[54], there is no evidence that financial viability checks were conducted by DCCEE as part of the assessment process. Such checks can be important when managing the Australian Government's risk exposure, given the department's perspective that non-profit organisations and industry associations would not be cash-rich organisations. This was one reason why a significant proportion of grant funding was paid upon signing of the funding agreement (see further at paragraph 6.27).

3.39 The scope of a financial viability check was not articulated in departmental documentation, although the program guidelines provide that the 'applicant may be required to provide evidence of their financial viability.' In November 2012, DCCEE advised ANAO that, where an assessor considered a financial viability check was necessary, a review of online information was carried out, including the websites of the Australian Securities and Investments Commission and other relevant government agencies. The carrying out of these checks was not apparent from DCCEE's records of its assessment. In any event, the approach advised by DCCEE does not compare

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[52]   The EEIG application form asked applicants about whether the project had applied for or was receiving other government funding, including Commonwealth funding.

[53]   While the identity of the successful applicants was made available to the Interdepartmental Committee on Energy Efficiency Complementary Measures after the development of funding agreements had commenced, DCCEE did not seek specific advice from agencies represented on this committee as to whether the successful applicants had applied for or received funding for the successful projects from another agency.

[54]   Nine applications were identified as requiring a financial viability check in the department's completeness and eligibility assessment checklists.

favourably with other grant programs where financial viability checks are employed.

Minimising project duplication

3.40   The risk of EEIG grant funds being used to develop existing energy efficiency information was recognised early in the program design phase.[55] The EEIG guidelines referred applicants to the need to avoid the development of energy efficiency information products that had already been produced in other sectors or locations.[56] In order for the department to be better informed about existing energy efficiency information products and initiatives aimed at SMEs and/or community organisations, a consultancy compiled a list of existing energy efficiency information products. The list was to be used to assist in preventing the approval of information products that were likely to duplicate existing material.[57]

3.41   DCCEE records indicate that the final list of energy efficiency information products and initiatives was completed in March 2012, and the consultant's final report was provided to the department in May 2012. As such, while the final report had not been finalised, the list was completed during the eligibility assessment stage by DCCEE, and prior to the commencement of the merit assessment by the PAC. However, DCCEE advised ANAO that the list was not used during round one as it was not finalised by the time round one of EEIG had commenced.

3.42   In this situation, reliance was placed upon EEIG applicants verifying that they, or their partners, had undertaken a reasonable search to identify existing materials that may be tailored and distributed at reduced cost.[58] The provision of this statement was considered by DCCEE in assessing whether the applications received were eligible.

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[55]   In this regard, stakeholder consultations during the design phase of the EEIG had drawn to DCCEE's attention a number of other programs with similar objectives. These included planning for a new $15 million Queensland Government business energy efficiency audits program and a Victorian Employers Chamber of Commerce and Industry program (in partnership with the Victorian Environmental Protection Authority) called 'Grow Me the Money', directed at helping SMEs to become more sustainable and save money.

[56]   EEIG Guidelines, p. 14.

[57]   The list could also be used to identify existing products that an applicant could adapt to a particular target audience.

[58]   As part of the application process, applicants were required to sign a declaration that among other things, the information provided in the application form was complete and correct.

3.43   All approved grant applicants confirmed that they had conducted such searches. In addition, DCCEE advised ANAO that it subsequently undertook research into currently available energy efficiency products, providing an additional check to that confirmed by applicants, and allowing applicants to adapt currently available products in their projects as appropriate.

Eligibility assessment outcomes

3.44   The outcomes of the eligibility assessment conducted by the department were:

- 188 applications were assessed as eligible to proceed to merit assessment; and

- 19 applications were assessed as ineligible and did not proceed to merit assessment.

3.45   The most common reasons for DCCEE assessing an application as ineligible included:

- projects not sufficiently targeting SMEs or community organisations (eight applications);

- applicants were not an eligible entity or had been incorporated for less than 12 months (four applications); and

- projects involving purchasing/installing equipment (five applications).[59]

3.46   Based on similar types of grant programs previously audited by the ANAO, this outcome indicates that the eligibility criteria were relatively straightforward, easily understood and effectively communicated to potential applicants.

Conclusions

3.47   The department had estimated that it would receive around 30 to 40 applications for EEIG funding under the first round, with program planning based on this level of response. In the event, 207 applications were received. This situation, together with the unavailability of electronic systems to support the application process and the reasonably tight timeframes set by the

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[59]   In the department's 24 April 2012 brief to the Minister on grant funding recommendations, 17 applications had been assessed as ineligible and the reasons included in the brief. Subsequently, two additional applications that had been overlooked were assessed as ineligible. See further at footnote 86.

department to complete eligibility assessment, meant that the extent of eligibility and merit assessment work required was significantly greater than had been planned for.

3.48 The eligibility requirements for the first round were clearly grouped and identified in the program guidelines. A range of mandatory documentation was also required as part of the application. Applicants were assisted in addressing these requirements through an application guidance document specifically highlighting the questions in the application form that were relevant to the eligibility assessment as well as where further documents were required as part of the application.

3.49 Of the 207 applications received, 188 were assessed as eligible and proceeded to the merit assessment stage of the program. In total, 19 applications (representing nine per cent of applications) were assessed as ineligible. This level of ineligible applications is not atypical and indicates that the eligibility criteria were effectively communicated to potential applicants through the program guidelines and other documentation developed and published by DCCEE.

3.50 The department used a checklist to assess the completeness and eligibility of applications. Initial assessments were then subject to more senior review (termed a 'QA check'). As may normally be expected, changes in eligibility/ineligibility occurred with these reviews. However, the reasons for these changes were not well documented by DCCEE. Consequently, it is not possible to accurately determine from departmental records whether all possible eligibility issues raised during the initial assessment stage were addressed and resolved through the quality assurance process. In addition:

- little documentation (for example, DCCEE records of Australian Securities and Investment Commission checks) to support the eligibility checks undertaken in relation to applications is held on departmental files;

- a number of the checklists were incomplete; and

- in some circumstances, the completeness and eligibility requirements were either relaxed and/or not applied.

Recommendation No.2

3.51 To be able to demonstrate that grant program applicants were treated equitably and in accordance with the published program guidelines, ANAO recommends that the Department of Climate Change and Energy Efficiency maintain adequate records of its assessment of applications in terms of their eligibility and compliance with other mandatory (or gateway) criteria.

3.52 **DCCEE response:** Agreed. The department will amend the program standard operating procedures to ensure adequate record keeping of completeness and eligibility checks.

4. Merit Assessment

This chapter considers the support and information provided to the PAC by the department; the assessment, rating and categorisation of eligible applicants in relation to the published merit criteria by the PAC; and the documentation to support the merit assessment process.

Introduction

4.1   The three-member EEIG PAC was established by the department in March 2012 to provide an independent expert assessment of eligible project proposals against the three weighted merit criteria that were published in the program guidelines, as set out in Figure 4.1.

Figure 4.1

EEIG program weighted merit assessment criteria
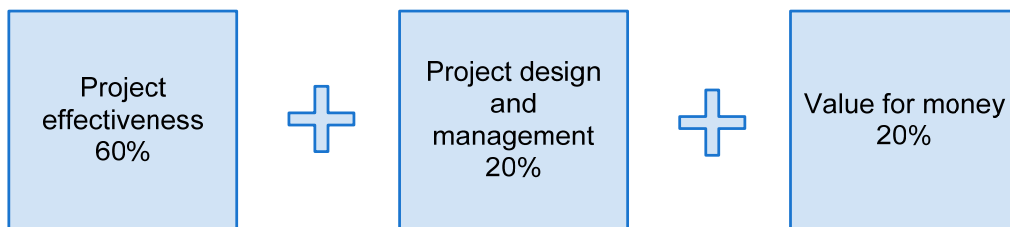
Source: EEIG program guidelines, February 2012. Further information on the matters the merit assessment was to have regard to, in relation to each criterion, is set out at Appendix 3 of this report.

4.2   The PAC was required to merit rank each application and advise the Minister, through the department, on projects suitable for funding. Against this background, the ANAO examined the:

- support arrangements for the PAC;

- merit assessment process guidance and documentation;

- scoring and ranking of eligible applications; and

- merit assessment report.

Support arrangements for the program advisory committee

4.3   DCCEE's program timetable had allowed five weeks for the assessment of applications (both for eligibility and merit assessment), and a further week to provide funding recommendations to the Minister.

4.4 In order to facilitate the PAC's merit assessment process, in addition to the guidelines and application guidance provided to applicants, the department provided each PAC member with:

- a copy of each of the 188 eligible applications;

- a merit criteria assessment and weighted scoring template for each eligible application; and

- a 'factual summary' prepared by the department for each eligible application. These documents were intended to assist the PAC members to identify relevant factual items in applications against the merit assessment criteria.[60]

4.5 As noted at paragraph 2.42, under the contractual arrangements with each PAC member, the department was required to provide an overall scoring spreadsheet in electronic form, but there was no evidence of this having been provided to PAC members.

4.6 Guidance was developed by the department, in conjunction with the program's probity adviser, on the merit assessment process to be followed by the PAC. However, this assessment guidance was provided on 2 April 2012, three days after PAC members had already received over 100 eligible applications for assessment.

4.7 DCCEE also arranged for a probity briefing to be provided to PAC members at the first PAC meeting. The probity report states that this briefing 'in particular emphasised the need to conduct a fair and defensible assessment process consistent with the approved and published procedures, recognising the importance of confidentiality and processes for the management and disclosure of any conflicts of interest.'

4.8 In addition, DCCEE was responsible for providing secretariat support to the PAC to assist it in fulfilling its role and meeting its obligations. Among other things, the secretariat was to:

- distribute applications for PAC assessment and arrange PAC meetings;

- provide appropriate advice to the PAC on request;

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[60] The completion of factual summaries involved considerable work by program staff. The PAC feedback on the sheets was that some were good, but others were not helpful. It was suggested that staff be better trained in what was required by the program and/or to use people with more energy efficiency/industry skills/knowledge.

- minute each meeting as a complete record in accordance with DCCEE records management requirements; and

- arrange remuneration for the PAC chair and members.

Merit assessment process guidance

4.9   As noted at paragraph 2.28, the program guidelines set out that the independent PAC was responsible for assessing eligible project proposals against the three published merit criteria, allocating a merit ranking to each eligible application and advising the Minister, through the department, on projects suitable for funding. The guidelines further provided that the Minister would take into consideration the advice provided by the committee and the recommendations of the department.

4.10   The role of the PAC was also set out in its terms of reference, as follows:

> The purpose of the independent Program Advisory Committee (the Committee) is to review the relative merits of eligible project proposals received under the Energy Efficiency Information Grants (EEIG) program. The Committee will assess eligible applications against the merit criteria outlined in the EEIG program guidelines.

> The Committee will assess the merit of each application against the merit criteria and, together, discuss and agree on a final ranking list. This final shortlist of applications will be provided to the Department of Climate Change and Energy Efficiency for recommendation to the Minister for Climate Change and Energy Efficiency.

4.11   Further, an indicative timeline for the merit assessment process was set out in the draft terms of reference. This provided that applications would be provided to the committee from 30 March 2012, with the committee meeting to finalise the merit rankings on 5 April 2012.

4.12   DCCEE began forwarding tranches of eligible applications and associated material to the PAC members on 30 March 2012. This continued up to the day of the first PAC meeting on 5 April 2012, with some 187 applications being provided to PAC members. However, adopting this approach, together with the larger than expected number of eligible applications, meant that by the time of the first PAC meeting on 5 April 2012, PAC members had not read all eligible applications. At this time, the department had signalled to PAC members that more than one assessment meeting would be required to develop a recommended merit list. Accordingly, it was agreed at the

5 April 2012 meeting that the PAC would reconvene on 12 and 13 April 2012 to assess and rank the applications.

Merit assessment process guidance

4.13 After the guidelines were issued and shortly after the first tranche of applications were sent to PAC members, DCCEE developed (with advice and input from its contracted probity adviser) a suggested merit assessment process for the PAC, which the department described to ANAO as 'a two-stage approach'. According to departmental records, the two-stage approach was adopted because the number of eligible applications was considerably larger than expected, and it would allow the PAC to focus its assessment on those applications that an initial merit review had indicated were likely to demonstrate the greatest merit.

4.14 This document established the 'categorisation' approach that was subsequently adopted by the PAC in conducting its merit assessments, rather than the more usual numerical sequence ranking. Specifically, the merit assessment process guidance provided that the PAC would:

- apply an initial broad merit assessment process that will allow the Committee to first rank applications by category, and to then focus its assessment on those applications which demonstrate greatest merit. In light of discussions with the Committee Chairman and the Probity Adviser, it is suggested that the Committee consider the applications as falling within the following four categories for the purposes of its initial broad assessment:

  o 'outstanding' — those applications which are strong against all criteria;

  o 'very good' — those applications which are strong against two criteria, and adequate against the third criteria;

  o 'good' — adequate against all criteria;

  o 'poor' — evident weakness against at least one criterion...

  and

- depending upon the value of the 'outstanding' applications for the first two funding years...the Committee would need to consider its next approach (for example, whether the Committee should determine a detailed ranking to the 'outstanding' applications...).

4.15 The first stage involved applications being assessed by the PAC applying the published merit criteria (and weightings) to arrive at a score out

of 100. These numerical scores were used to allocate each eligible application to a merit category ('outstanding', 'very good', 'good' or 'poor'). In this respect, the probity report opined that:

> The PAC Merit Assessment Process document also provided additional guidance to manage the assessment where, given the unexpectedly large number of eligible applications received and the limited available funding, the PAC could apply an initial broad merit assessment that would allow the PAC to first rank applications by category, and then to focus its assessment on those applications which demonstrated greatest merit. In our view, the process proposed was appropriate from a probity perspective and not inconsistent with the published assessment process.

4.16 The use of merit categories together with merit rankings is not uncommon for a grant program. Where this approach is envisaged, it is expected that the program guidelines clearly identify the process that will be employed. This was not done for the first EEIG funding round, with the EEIG program guidelines simply advising that a merit ranking would be allocated to each application. The program guidelines did not indicate that there would be any allocation of eligible applications to classes/categories as part of the merit assessment process. They also did not indicate that the merit ranking process would vary depending upon whether an application was categorised as 'outstanding' or not.

Merit assessment documentation

4.17 It is a recognised part of any assessment process where a committee or panel is established that, through the deliberative process, the different perspectives of members will appropriately result in a final score for each application against each criteria that synthesises the different perspectives of the members. In this context, creating and maintaining appropriate records of the PAC's assessments, deliberations and decisions was important for reasons of accountability and transparency, as well as to support the PAC's advice and, ultimately, DCCEE's recommendations to the Minister. In addition, comprehensive records of the PAC's deliberations and decisions were necessary in order to inform the provision of feedback to unsuccessful applicants.

4.18 The importance of appropriate records concerning the PAC assessment, deliberations and decisions was reinforced in a number of program documents. The program's SOPs required that all significant information related to the administration of the EEIG program needed to be recorded to

provide a concise history of processes, decisions and stakeholder interactions. Under the program's probity plan, the assessment and the funding processes were to be properly documented to aid the public defensibility of the program, with key persons and DCCEE staff required to maintain proper records of deliberations and decisions relating to the program, including reasons for decisions on substantial issues. The importance of sufficient records to inform and justify assessment rankings was further reinforced through briefings to the PAC by the probity adviser.

4.19 The CGGs also advise agencies that:

> Public accountability is dependent on the proper maintenance and availability of relevant documentation. Record keeping is therefore a key component of good corporate governance and accountability. Good record keeping assists agencies to meet their accountability obligations, demonstrate compliance with the CGGs and the financial management framework, and demonstrate that due process has been followed in actions and decisions.[61]

4.20 In this context, as outlined at paragraphs 2.41 and 2.42, the PAC contractual arrangements required DCCEE to provide each PAC member with individual assessment and scoring templates for each eligible application (see Appendix 2) and an overall scoring spreadsheet. The PAC members were required to complete these assessment templates and provide them to the department, together with a completed overall scoring spreadsheet and a consensus ranking list of applications that had been agreed to by the PAC.

4.21 Notwithstanding the sound governance framework that was planned for and documented, there is no evidence that DCCEE provided the PAC members with an overall scoring spreadsheet. The department also destroyed the assessment and scoring templates completed by the PAC members for each application after they had been returned to DCCEE with the member's copy of each application.[62] In October 2012, DCCEE advised ANAO of its reasons for destroying the completed assessment and scoring templates, as follows:

> The PAC members individually used the form to document their preliminary thoughts and scores, as per their contract with DCCEE. These rough working papers were prepared outside of the PAC decision process. As explained in the PAC members' meeting with ANAO on 5 October 2012, this initial thinking

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[61] Commonwealth Grant Guidelines, p. 25.

[62] The term 'destroy/destruction' is used in the *Archives Act 1983*, and in this context characterises the action DCCEE undertook in relation to PAC merit assessment records.

varied once the PAC met and the views of other PAC members, from different disciplinary backgrounds, was taken into account. These rough working drafts were not updated as they were not intended for further use or reference, and therefore do not represent an accurate basis of the PAC decisions.

4.22 DCCEE's perspective is not supported by the contractual arrangements (see paragraphs 2.41 and 2.42) which defined the completed assessment and scoring templates as 'official information' and 'contract material'. In addition, as illustrated at Appendix 2, the templates provided the mechanism for each PAC member to make a substantive record as to how they scored each eligible application, and the rationale for those scores (in terms of the matters the program guidelines had outlined would be taken into account) and then sign and date the template. The destruction of the assessment records was also not disclosed in the merit assessment report.[63]

4.23 In addition to destroying the records made by each PAC member of the assessment score they had allocated to each eligible application, DCCEE did not seek to capture the final agreed PAC score for each eligible application against each criterion, or the resulting aggregate score for the 28 'outstanding' applications. The PAC meeting minutes also provide no insight into the scoring of eligible applications (see further at paragraphs 2.46 to 2.48). The contract also required a completed overall scoring spreadsheet and a consensus ranking list of applications that had been agreed on by the PAC. A spreadsheet was used by the PAC but was incomplete.

4.24 In response to ANAO requests for any complete documentation supporting the results of the merit assessment process, in August 2012 DCCEE provided ANAO with a spreadsheet prepared by one PAC member. The department also advised that this spreadsheet did 'not form part of the department's official records of the PAC's deliberations' but was 'to illustrate the approach taken and demonstrate that the scoring prescribed in the Program Guidelines (that is, the 60/20/20 proportional scoring for the three merit criteria) was applied'. This spreadsheet did not include the individual scores against the three published criteria for all PAC members, or the PAC overall. The spreadsheet drew a distinction between 28 applications assessed as 'outstanding' and the remaining applications that were categorised as

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[63] The merit assessment report stated that each PAC member had reviewed and assessed each application individually. It did not state that the records of this process had then been destroyed by DCCEE as they were considered 'rough working drafts'.

'very good', 'good', 'poor' or not categorised. In addition, and as might be expected given the status of this spreadsheet, there were a number of differences between it and the finalised merit assessment report.

4.25 More broadly, and as noted at paragraph 2.30, under the financial management framework, the work of the PAC members in undertaking the merit assessment role. meant that they were agency staff for the purposes of the CGGs and were bound by the FMA Act framework (including in respect to recordkeeping) in undertaking this role. In this respect, it is important to emphasise that the PAC members completed in the specified format their initial assessment and scoring of each eligible application. It was DCCEE that did not adequately support the PAC and destroyed these records. Also, the department did not record the final agreed scores against each of the criteria for each eligible application, or adequately minute the related deliberative processes and PAC decisions on rankings at the committee meetings.

Scoring and ranking of eligible applications

4.26 The guiding principle for an appropriately conducted competitive, merit-based selection process is for all eligible, compliant applications to be assessed in the same manner against the same criteria, and then ranked in priority order for advice to the decision-maker. Accordingly, it is important for careful consideration to be given to the method and scale that will be applied in rating and ranking applications. In particular, the process should provide for the consistent application of the selection process outlined in the published guidelines.

Assessing applications

4.27 Over the course of one week from 30 March to 5 April 2012, DCCEE provided the PAC members with 187 eligible applications.[64] The documentation provided to each PAC member included a merit assessment template to be completed for each application. This template included a summary assessment section that enabled PAC members to record their assessment score against each of the criteria (scoring out of 100 based on the 60/20/20 weightings for the three merit criteria), comments against each of the criteria and any additional comments. A copy of the template is included at Appendix 2.

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[64] One late application was provided to the PAC at its meeting on 12 April 2012.

4.28   The amount of time planned by the department for PAC members to individually assess applications (one week) proved unrealistic. As noted at paragraph 4.12, it was agreed at the PAC meeting of 5 April 2012 that the PAC would need to reconvene on 12 and 13 April 2012 to assess and rank the applications.

4.29   At the second PAC meeting on 12 April 2012, each member identified around 35 to 40 of their most highly ranked applications, which would form the basis for deliberations on those applications deemed 'outstanding' for the following day's PAC meeting. The PAC members have advised the ANAO that they discussed each of their lists in the context of the program's three merit assessment criteria. The only record of the 35 to 40 applications identified by each PAC member is held in the program manager's diary.

4.30   At the third meeting of the PAC on 13 April 2012, the committee discussed the applications identified by members as high scoring and collectively decided on a final list of 28 applications to be included in the 'outstanding' category.[65] The ANAO has been advised by DCCEE and the PAC members that, while the PAC had used the assessment scoring template provided by the department to come to this list[66], the PAC further decided to overlay this process with another scoring regime. The purpose of this additional step was to sort applications categorised as 'outstanding' into groups reflecting their respective merit. However, there is no documented alignment of this further scoring regime with the approach required under the program's guidelines for merit assessment including, for example, how and the extent to which the groupings related to the PAC's assessment of each application in terms of the published merit criteria.[67]

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[65]   Initial DCCEE advice to the ANAO stated that one 'outstanding' application was only included by the PAC during final deliberations, and after the ranking process had been carried out. Subsequently, the PAC members have advised the ANAO that this application was always considered 'outstanding'.

[66]   The DCCEE secretariat to the PAC did not maintain records on individual PAC members' scoring against each of the merit criteria or the committee's agreed scoring against the merit criteria in relation to the final list of 28 'outstanding' applications. See further discussion of assessment documentation at paragraphs 4.17 to 4.25.

[67]   The PAC members advised ANAO in November 2012 that this process allowed them to use their initial scores as a significant input, but to also consider the insights provided by their discussions and comparisons based on the primary rankings and similar project proposals. They understood that the reason for involving them in the merit assessment process was to bring their broad knowledge and experience to bear on the process, to improve the quality of the outcome. They considered that they fulfilled this aim.

4.31   Under this additional scoring regime, there were six groups, with between three and seven applications in each group. The PAC considered that the applications within each group were of equal merit.[68] The committee's rationale for undertaking this process was its belief that, given the diversity of applicants and project proposals, detailed sequential numerical scoring would indicate a false degree of precision in differentiating proposals categorised as 'outstanding'. Further, this approach was expected to provide the Minister with flexibility should he decide to approve only some of the applications categorised as 'outstanding'. Based on advice to the ANAO from the PAC and DCCEE, the scoring process for applications categorised as 'outstanding' is outlined further in paragraphs 4.32 to 4.35. In the case of all other eligible applications, the PAC and DCCEE advised ANAO that, consistent with the program guidelines, the 60/20/20 scoring approach was used.[69] This began with individual PAC member merit assessment scores, which were then aggregated and subjected to a number of calculations to provide a final score. Based on these final scores, applications were then categorised as 'very good', 'good' or 'poor'. This scoring process is outlined in more detail in paragraphs 4.36 to 4.43.

Rating of 'outstanding' and allocation to ranking groups

4.32   The 28 applications categorised as 'outstanding' were not individually merit ranked on the basis of their aggregate score against the three published merit criteria. Rather, each PAC member allocated each of these applications a rating of one, two or three. Applications allocated a rating of one were considered the most meritorious, and those with a rating of three were considered the least meritorious (of the 28 applications). Each PAC member's score for each application was added, with the aggregate score used to decide which merit group an application would be allocated to (see Table 4.1).

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[68]   The applications within each group were simply listed alphabetically by the applicant name.

[69]   In feedback provided by the PAC in an appendix to its merit assessment report, the view was expressed that the assessment scoring criteria should have had a finer breakdown. Sixty per cent for one criteria was seen as too general, particularly given its significance and the difficulty of drawing together different components under 'project effectiveness'.

Table 4.1

Rating and ranking of 'outstanding' applications by the PAC

Application score	'Outstanding' groups	Number of recommended applications in group
Total score 3 (highest possible merit)	No applications scored one point by each PAC member	
Total score 4	Group 1	4
Total score 5	Group 2	7
Total score 6	Group 3	6
Total score 7	Group 4	3
Total score 8	Group 5	4
Total score 9 (lowest merit)	Group 6	4*

Source: PAC merit assessment report and ANAO analysis of a PAC member's records.

Note: * Neither PAC members nor the department hold records detailing the scoring for one applicant allocated to Group 6 — the Victorian Employers' Chamber of Commerce and Industry — which was the largest funded application in the EEIG's first funding round. The PAC advised the ANAO that this was considered a high quality application but was asking for considerable funding, and in this context was placed in Group 6. See also footnote 65.

4.33   There was no documentation that attempted to reconcile the overall rating allocated by each PAC member to these applications with the PAC's score for each application in terms of the published merit criteria.[70] As such, there are no departmental records to support that the 28 'outstanding' applications were the highest ranked applications based on an assessment of each in terms of the published merit criteria.

4.34   The criteria applied in deciding the rating to be allocated to each of these applications was also not documented. In addition, the approach taken:

- had not been outlined in the program guidelines, DCCEE internal procedures or the documented PAC merit assessment process; and

- was not reflected in the merit assessment report. Specifically, while individual scores by each PAC member may have been informed through discussion, once individual scores were brought together, this was on the basis of a simple addition of each member's score out of three. This process sits at odds with the merit assessment report which

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[70]   In the case of one 'outstanding' application, a PAC member did not score the application due to a conflict of interest.

stated that 'all numerical rankings were moderated through Committee discussion before being finalised.'

4.35   Against this background, the briefing provided to the Minister by DCCEE recommending these 28 applications be approved for funding stated that the 28 recommended grant recipients were listed (in Attachment A to the briefing) in order of merit. Within each of the six groups, applications were listed in alphabetical order[71], with DCCEE subsequently advising ANAO that this reflected that they were of equal merit. In this respect, October 2012 advice to ANAO from DCCEE confirmed that the PAC had not established an individual order of merit for the 28 recommended grant recipients.[72]

Merit ranking of applications categorised as 'very good', 'good' and 'poor'

4.36   The spreadsheet provided by one PAC member (see paragraph 4.24) outlined how those applications categorised as 'very good', 'good' and 'poor' were scored in aggregate against the three published merit criteria.

4.37   The scoring spreadsheet indicated that there were some applications where each PAC member was broadly in agreement concerning the overall relative merit of the application when scored against the three published criteria. For example:

- one application was scored 60, 62 and 65 by the three PAC members; and

- another application was scored 50 by one PAC member and 50 by another PAC member (the third PAC member did not score this application, due to a declared conflict of interest).

4.38   There were also a number of applications where the recorded aggregate scores indicated that the PAC members had significantly different views of the relative merit of the application in terms of the three merit criteria. For example:

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[71]   As outlined in paragraph 4.32 and Table 4.1, the PAC's rating approach was incapable of providing an individual merit ranking of each application.

[72]   Specifically, DCCEE advised ANAO that 'In arriving at the six classes, the PAC determined that these classes differentiated proposals ranked "outstanding" in quality, but that there was no basis to differentiate the quality of proposals within any of the six classes.'

- one application was scored 87 by one PAC member but 50 and 41 by the other two PAC members; and

- another application was scored 84 by one PAC member, 68 by another PAC member and 31 by the third PAC member.

4.39 In this context, one benefit of involving an advisory panel in the assessment of eligible applications is that it allows a mix of relevant experience and expertise to be brought to bear. Typically, panel members will consider eligible applications separately and then meet to discuss and agree on the assessment outcome for each application, having regard to the different perspectives each member brings to the discussion.

4.40 The approach adopted for the EEIG involved adjusting the assessment scores of each PAC member in an attempt to remove any 'slight difference' between how harshly each PAC member scored applications. These scores were then averaged and rounded to one decimal place. A further overlay to this scoring approach was then added, with the averaged scores rounded to whole numbers to reduce any suggestion that the scores had a high degree of precision. Following this, based on additional discussions within the PAC, some further adjustments to rankings were made. The PAC members advised the ANAO in November 2012 that 'numerical scores were treated as a guide by PAC, rather than being definitive'.

4.41 The result of these various calculations was that the order of merit ranking for individual applications changed in some instances at each subsequent scoring calculation step, including moving between categories of 'very good', 'good' and 'poor', based on the final scoring ranges for each category.[73] In respect to discrepancies identified by ANAO with the rounding process, DCCEE advised ANAO in October 2012 that:

> The discrepancies highlighted by ANAO are the result of this rounding of scores, in effect, having occurred twice. In the first instance, the averaged benchmarked scores were rounded to one decimal point. These scores were rounded a second time to the nearest whole number. This had the effect of scoring of some eight applications one point higher than would be the case if their scores had only been rounded once. ...this only changed a small

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[73] For example, three applications had been allocated an averaged score respectively of 81.96, 82.13 and 82.33. Each score was rounded to 82. However, the application scoring the lowest was ranked ahead of the other two, with the application scoring the highest of the three ranked lower than the other two.

proportion of scores by one point. This did not affect the grouping of applications as 'very good', 'good' and 'poor'.

4.42   Table 4.2 details the PAC's application categorisation, the final score ranking range in relation to those categories and the number of applications ranked in each category.[74]

Table 4.2

Table 4.2

Applications not recommended for funding: categorisation and score ranges

Application categorisation	Final score ranking range	Number of applications
'Very good'	100 – 56	75
'Good'	55 – 31	58
'Poor'	30 – 0	12

Source: ANAO analysis of spreadsheet provided by one PAC member.

4.43   There were also anomalies evident in terms of the merit assessment report. Specifically, DCCEE advised ANAO that two applications had not been scored by the PAC but both were ranked in the 'very good' category attached to the merit assessment report at third and 49th positions.[75]

Applications not allocated a merit ranking

4.44   There were 14 applications that were 'not ranked' in the merit assessment report by the PAC.[76] The reason recorded for not ranking these applications were that they each relied upon an application from an entity that had not been assessed as one of the 28 'outstanding' applications. This was also a departure from the program guidelines, which had indicated each eligible application would be allocated a merit ranking.[77]

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[74]   The highest final score received by a 'very good' application was 97. This does not mean that 'outstanding' applications scored between 98 and 100. 'Outstanding' applications were not subject to the same final scoring system as applications not recommended for funding. See further at paragraph 4.30.

[75]   In October 2012, DCCEE advised ANAO that 'the merit assessment report reflects the PAC's ranking of applications. The department does not possess any further records in relation to this matter.'

[76]   DCCEE's brief to the Minister on recommended grant recipients contained 15 applications categorised as 'not ranked'. The difference between the PAC merit assessment report and the DCCEE brief relates to an application that the PAC merit assessment report had ranked as 'very good'. See footnote 75 on DCCEE advice.

[77]   In this context, a departure from the guidelines refers to processes being applied that were not described in the program guidelines.

Merit assessment report

4.45   A merit assessment report was prepared to outline the processes undertaken by the PAC and to record the agreed merit ranking. One member of the PAC had signed the report on 20 April 2012, with the other two members signing on 24 April 2012. As outlined at paragraph 5.6, in support of its funding recommendations, an unsigned copy of the merit assessment report was included in the briefing package subsequently provided by DCCEE to the Minister.

4.46   Through the merit assessment report, the PAC recommended that the department:

- consider recommending the applications rated 'outstanding' to the Minister for funding under Round One of the EEIG program; and

- if necessary, consider recommending the additional three 'worthy' applications referred to under 3.2.

4.47   The department's grant funding advice to the Minister was forwarded the same day the PAC merit assessment report was signed. The department made no changes to the list of applications assessed as outstanding by the PAC, or the order in which they were presented in the PAC merit assessment report.

4.48   There were inconsistencies in the content of attachments to the brief to the Minister. In particular, the 'not recommended' list provided by the department did not fully align with the PAC advice about certain applications as recorded in the merit assessment report. Specifically:

- two of the not recommended projects that were identified in Attachment F to the Ministerial brief as being 'poor' or 'not ranked', were rated as not recommended but 'very good' by the PAC in their merit assessment report; and

- one of the not recommended applications rated as 'very good' in Attachment F to the Ministerial brief was not included in the list of projects in the PAC's merit assessment report.

Caveats on recommended applications

4.49   In undertaking the merit assessment of applications, the PAC placed caveats against the recommendation of five applications, where the committee considered that certain matters needed to be brought to the attention of the department. The caveats related to the department exploring the scope to

reduce the proposed project budget (three applications); the department clarifying governance and accountability arrangements (one application); and the department clarifying the extent of support for internet provisions (one application).

4.50 More generally, the PAC noted that a number of issues had arisen during the assessment process. These included: the inability of the PAC to verify the capacity and expertise of some applicants' partnering organisations and contractors; and that a number of applications included some up-skilling of professions as part of the project.[78]

4.51 The department did not seek to address the caveats between the PAC assessment process and the making of recommendations to the Minister. DCCEE has advised ANAO that it considered the caveats could be resolved during the negotiation of the funding agreements, particularly noting recommendations were clear that grant amounts were subject to negotiation of funding agreements. In the case of the three applications where the PAC had suggested the project budget be examined, DCCEE has entered into funding agreements with applicants for the same level of grant funding requested in their applications.

Conclusions

4.52 The program guidelines had outlined that the second stage of the assessment process (following the department's assessment of application eligibility) would involve the PAC assessing eligible applications and allocating a merit ranking to each. However, there were three significant differences between this guidance and the way the merit assessment was undertaken:

- a two-stage merit assessment process was employed. After applications closed, the department developed (with input from its probity adviser) a merit assessment process document to guide the PAC which outlined that following 'an initial broad merit assessment', the PAC would assign each eligible application to one of four categories, and the PAC

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[78] With respect to the up-skilling of professions as part of the project, the PAC suggested in its assessment report that the department might wish to scrutinise the extent to which such applications could fall outside the intended scope of the program guidelines. Of note is that the minutes of the 13 April 2012 PAC meeting indicate that the PAC had rated a number of applications highly because of the up-skilling approach in the application, but it was considered too late to reconsider their assessments.

would then focus its assessment on those applications considered to demonstrate the greatest merit (those categorised as 'outstanding') on the basis of the initial broad merit assessment;

- rather than allocating a merit ranking to each eligible application, most applications[79] were allocated to a merit ranking category ('outstanding', 'very good', 'good' or 'poor') following the initial broad merit assessment; and

- applications allocated to the 'very good', 'good' or 'poor' were also ranked according to the (adjusted) aggregate score they had achieved against the three published merit criteria. However, the 28 applications allocated to the 'outstanding' category (which were the applications subsequently recommended to, and approved by, the Minister) were not allocated an individual merit ranking. Rather, they were sorted into six groups. The grouping of these applications was not on the basis of the score they had achieved against the three published merit criteria. Rather, a separate process was employed with each PAC member allocating these 28 applications a score of one, two or three, with the aggregate of these scores used to decide which group the application would be allocated to.[80]

4.53 The key reason recorded for the changes to the merit assessment stage was the 'unexpectedly large number of eligible applications received and the limited available funding'. Possible management strategies that can be employed where the number of applications to be assessed significantly exceeds the number expected include increasing the resources allocated to the merit assessment task and/or extending the planned timeframe. ANAO has observed such strategies employed in other grant programs, including those where there has been a policy imperative to expedite the assessment and approval of program funding (such as in relation to economic stimulus programs). Such strategies were not employed for the EEIG program.

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[79] There were 15 applications that were not allocated to any merit ranking category.

[80] In November 2012, DCCEE advised ANAO that it will include material concerning the process to be followed by the PAC in the program SOPs and probity plan for the second round that is currently underway, but that amendments to the published program guidelines will be made at an 'appropriate point for any future rounds', notwithstanding that there is not expected to be any funding remaining after the current round.

4.54   In this context, DCCEE's program timetable had allowed five weeks for the assessment of applications (both for eligibility and merit assessment), and a further week to provide funding recommendations to the Minister. As it eventuated, the entire assessment process was completed in around four weeks.[81] Noting the key importance of a properly conducted assessment process to the success of a grants program, this was insufficient time in the context of the EEIG program and the resources available for this task.

Recommendation No.3

4.55   ANAO recommends that the Department of Climate Change and Energy Efficiency, in planning for the implementation of competitive, applications-based grant programs, develop strategies to effectively manage the risk of funding rounds being over-subscribed including, as appropriate, identifying in the program guidelines any adjustments that may be made to the eligibility and/or merit assessment approach where this situation arises.

4.56   **DCCEE response:** Agreed. The department will ensure that future program guidelines provide clarity in the processes to be applied to eligibility and merit assessment should strategies be required to deal with over-subscription.

4.57   A feature of the assessment process for the EEIG program was the absence of records to support and explain the assessment and scoring of eligible applications in terms of each of the published merit criteria. Some important records made by the PAC members of their initial assessment and scoring of each application were destroyed by DCCEE[82], and the department did not otherwise document the results of the merit assessment process. Consequently, it is not possible to be satisfied that the published merit criteria were applied in a consistent and robust manner, or for DCCEE to demonstrate that the most meritorious applications were identified and recommended to the Minister for approval.

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[81]   The PAC members advised ANAO in November 2012 that the impression they gained from DCCEE was that they had no flexibility to extend the very tight assessment timetable, and worked as best they could within the time available.

[82]   The basis for the term 'destroyed' is outlined in footnote 62.

Recommendation No.4

4.58 The ANAO recommends that, consistent with the transparency and public accountability principles of grants administration outlined in the Commonwealth Grant Guidelines, the Department of Climate Change and Energy Efficiency ensures that the assessment and merit ranking of applications and any significant changes as they proceed through the assessment process are appropriately documented.

4.59 **DCCEE response:** Agreed. The department will provide further detail in the program standard operating procedures relating to recordkeeping during the merit assessment, and (as per Recommendation 2) provide adequate resources to the PAC secretariat function to implement these procedures.

5. Advice to the Minister, and Funding Decision

This chapter examines the advice provided to the Minister for Climate Change and Energy Efficiency as to which applications should be approved for funding, and the funding decisions that were then taken.

Introduction

5.1   The grants administration framework has a particular focus on the establishment of transparent and accountable decision-making processes for the awarding of grant funding. Key underpinnings of the framework are that Ministers:

- not approve a proposed grant without first receiving agency advice on its merits relative to the program's guidelines and published criteria;

- record the basis of each approval, in addition to the terms of the approval; and

- report to the Finance Minister all instances where they approve grants that the relevant agency recommended be rejected.

5.2   These requirements, together with other related requirements under the grants administration framework, do not affect a Minister's right to decide on the awarding of grants. Rather, they provide a decision-making framework such that, where Ministers elect to assume a decision-making role in relation to the awarding of grants, they are well informed of the assessment of the merits of grant applications. The requirements also seek to promote transparency of the reasons for decisions.

5.3   Against this background, the ANAO examined the advice provided to the Minister for Climate Change and Energy Efficiency in recommending which applications should be approved for funding, and the funding decisions that were then taken.

Internal departmental briefing

5.4   In October 2012, DCCEE advised ANAO that:

> Two layers of briefing were used to make recommendations to the Minister once advice on the merit ranking by the PAC became available to the department (and which was included in briefing to the Minister). The

Ministerial briefing was signed at the First Assistant Secretary level. The First Assistant Secretary had deliberately stayed remote from the deliberations of the PAC, further providing the distinction between the role of the PAC in advising on a merit ranking and the departmental role of making recommendations to the approving Minister.

5.5   In this context, on 23 April 2012 a briefing was provided to the relevant division head on the process used to assess applications and develop a merit ranking. On the basis of this briefing, on 24 April 2012, a brief to the Minister was signed by the division head. A copy of the briefing was also provided to the Parliamentary Secretary for Climate Change and Energy Efficiency.

Departmental briefing to the Minister

5.6   Consistent with the grants administration framework, the DCCEE briefing provided the Minister with a clear recommendation that he approve funding for the 28 applications categorised by the PAC as 'outstanding' and that no funding be approved for any other projects. In addition to identifying those 28 applications recommended for funding and outlining the framework that applies to grant approvals, the package:

- addressed the Minister's obligation under the CGGs to report any grants awarded in his own electorate (the Minister was advised that none of the 28 recommended grant recipients were within his electorate or that of the Parliamentary Secretary);

- included separate attachments that listed those 17 applications assessed by DCCEE as ineligible[83] and a separate attachment of the 160 eligible applications that were not recommended for funding (of these, 145 were categorised as 'very good', 'good' and 'poor' and were ranked within each category by order of merit with the remaining 15 eligible applications[84] not categorised or ranked); and

- provided an overview of the application assessment process. In this respect, attached to the brief were biographies of the PAC members, a

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[83]   See footnotes 59 and 86 concerning the number of applications assessed as ineligible at the time the Minister was briefed on funding recommendations by the department, and subsequent briefing about two additional applications found to be ineligible.

[84]   See footnote 76 on the different number of 'not ranked' applications in the PAC merit assessment report and DCCEE's brief to the Minister on grant funding recommendations.

copy of the merit assessment report[85] and a copy of the probity report from the probity adviser. Further in respect to the assessment process, the briefing advised the Minister that:

> The assessment process and selection of recommended grant recipients was undertaken in accordance with the:
>
> - *Commonwealth Grant Guidelines* (Department of Finance and Deregulation – Financial Management Guidance No. 23, July 2009);
>
> - *EEIG Program Guidelines* (agreed to by Expenditure Review Committee in February 2012);
>
> - Program's *Standard Operating Procedures* and *Probity Plan* (as endorsed by the Low Carbon Communities Program Board);
>
> - Australian National Audit Office (ANAO) Better Practice Guide (June 2010), *'Implementing Better Practice Grants Administration'*; and
>
> - Lessons from ANAO Audit Report No.21 2011—12, *'Administration of Grant Reporting Obligations'*.

5.7 However, notwithstanding the assurance provided to the Minister, as outlined in the prior chapter, the assessment of eligible applications departed in certain respects from the documented (and published) assessment merit assessment process. In addition, inadequate records were made and retained of the PAC assessment and scoring of eligible applications, which is at odds with the principles for grants administration published in the CGGs, as well as guidance included in the ANAO Better Practice Guide. In this context, in October 2012 DCCEE acknowledged to ANAO that its failure to retain records of the assessment scores allocated against the merit criteria for each eligible application did not accord with the ANAO Better Practice Guide and advised that:

> In response, the department has expanded its program operating procedures for round two of the program to specify the need to ensure that:
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> - Committee scores for each merit criteria are to be kept;
>
> - this advice is made clear in guidance materials and briefings;
>
> - the department allocates adequate resources to the PAC activities to capture complete records of decisions; and

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[85] The copy of the merit assessment report provided to the Minister had not been signed by any PAC member, despite being previously signed by all PAC members.

- the Probity Adviser is present during all deliberations, and will provide guidance throughout Committee meetings.

Provision of a clear funding recommendation

5.8 The key recommendation of the 24 April 2012 departmental briefing to the Minister was that he approve the 28 applications identified as 'outstanding' for funding by the PAC. The department advised the Minister that:

> The recommended applications are consistent with the program guidelines and no conditions are proposed on the approvals. The combined projects would meet the program's policy objectives on informing time-poor small and medium businesses and community organisations on energy efficiency measures through trusted sources.

5.9 These 28 applications were identified in an attachment to the briefing, which listed the 28 applications in an 'order of merit' as reflected in the PAC merit assessment report, but without the PAC's six groupings to show applications of equal merit. The Minister was advised that approving these 28 applications would involve total program funding of $20.05 million over the period 2011–12 to 2014–15.

5.10 The briefing also advised the Minister that:

> The PAC identified three projects as worthy of funding beyond the list of 28 'outstanding' applications. The PAC suggested that these could be funded if the department chose to recommend projects beyond those rated as 'outstanding'. The department sees no reason for this given their ability to reapply for funding in subsequent rounds, and has not recommended those projects for approval.

5.11 In this context, there would have been benefits in the departmental advice also drawing the Minister's attention to how these three applications had been scored and, as a result, ranked in the merit assessment process. This is particularly the case given these applications were not the ones that had been assessed, in terms of the published criteria, as the next most meritorious after the 28 applications categorised as 'outstanding'. Specifically:

- one of the applications involved two phases of a particular project, with the two phases ranked second and third in the 'very good' category;

- another application had been ranked fifth in the 'very good' category; and

- the third application had been ranked 56th (of 75) in the 'very good' category.

Grant funding decision

5.12   On 2 May 2012, the Parliamentary Secretary recorded on his copy of the briefing that he recommended the Minister approve 22 of the 28 recommended projects, being those included in the highest five (of six) merit ranking groups. The Parliamentary Secretary noted that the unused funds ($4.09 million) would be available for a second funding round later in 2012.

5.13   Subsequently, on 9 May 2012, the Minister recorded that he had agreed with the advice of DCCEE and approved the 28 recommended grant recipients receiving a total of $20.05 million in funding under round one of EEIG.[86] On 17 May 2012, the Minister and the Parliamentary Secretary publicly announced the successful grant applicants.

Conclusions

5.14   A timely and comprehensive briefing on the outcome of the funding round was provided to the Minister. The briefing included a clear recommendation from DCCEE that the Minister should approve those 28 applications categorised as 'outstanding' by the PAC. The briefing to the Minister on the outcomes of the funding round also stated that the process had met the requirements of the CGGs as well as guidance included in ANAO's Better Practice Guide. This was clearly not the case. In light of the findings of this audit, the department also now agrees that this was not the case.

5.15   The Minister agreed to the funding recommendation he received from DCCEE.

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[86]   Subsequent to the Minister's approval, on 8 June 2012 the department briefed the Minister about two additional applications under round one which, due to initially having been considered duplicates, were not assessed. DCCEE assessed the two applications and determined that they were ineligible, and as such, there was no impact on the original funding decision of the Minister made on 9 May 2012.

6. Funding Distribution, Feedback to Applicants and Signing of Funding Agreements

This chapter provides an overview of the outcome of the first EEIG funding round in relation to the distribution of funding, assesses the provision of feedback to applicants as well as the development and signing of funding agreements with the successful applicants.

Introduction

6.1   The published program guidelines outlined that the objective of the EEIG program was to empower SMEs and community organisations to make informed decisions about energy efficiency. The guidelines outlined that this objective was to be achieved by the program assisting industry associations and non-profit organisations to provide practical, tailored energy efficiency information to SMEs and community organisations.

6.2   Through the first EEIG funding round, a total of $20.05 million was awarded to 28 projects. The ANAO examined the distribution of funding, the provision of feedback to unsuccessful applicants and the development and signing of funding agreements.[87]

Distribution of funding awarded

6.3   The program guidelines stated that merit would be the primary consideration when awarding grants, but that the program also aimed to achieve a diffusion of benefits across a range of business and community sectors and into remote and regional settings. In this context:

- funding was awarded in respect to projects expected to assist a range of industries[88], with more than 70 per cent of funding awarded to projects expected to benefit more than one industry; and

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[87]   The audit scope did not include examining DCCEE's oversight of the delivery of funded projects.

[88]   For the purposes of analysis, the audit has used the Australian Bureau of Statistic's *Australian and New Zealand Standard Industrial Classification 2006 ANZSIC,* Cat. No. 1292.0 to classify applicants into industry sectors.

- in total, 13 industry associations and 15 non-profit organisations received funding. The largest number of grant recipients came from Victoria (nine grant recipients) and NSW (eight grant recipients). However, in both cases, around half the grant recipients involved organisations with a national membership or national focus. As illustrated by Table 6.1, projects with a national coverage were more successful than other types of projects in being awarded funding.

Table 6.1

Types of grant funding recipients

Geographic coverage	Eligible applications		Funding awarded	
	Number of projects	Funding sought ($m)	Number of projects	Funding awarded ($m)
National	66 (35%)	49.3 (42%)	13 (46%*)	9.7 (48%)
State	55 (29%)	30.1 (26%)	6 (21%*)	3.1 (16%)
Regional/local	67 (36%)	37.2 (32%)	9 (32%*)	7.3 (36%)
Total	**188**	**116.6**	**28**	**20.1**

Source: ANAO analysis of DCCEE data.

Note: * Difference due to rounding.

6.4   The published program guidelines outlined that applicants could apply for funding of between $100 000 to $1 million (excluding the Goods and Services Tax (GST)) but that applications over $1 million may be considered where proposals were seen to represent exceptional value for money, as described by the value for money merit criterion. The average value of the funding awarded was $708 000, with the value of the approved projects ranging from $145 000 to $1.87 million.

6.5   Of those proponents awarded funding, three received funding in excess of $1 million and two received funding of $1 million. Because DCCEE destroyed the PAC's records of its assessment of each application against the merit criteria[89], it was not possible for the department to demonstrate that those three applications awarded more than $1 million had been scored highly in terms of the value for money criterion. In this respect, in November 2012, DCCEE commented to ANAO that the merit assessment report had noted that

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[89]   The basis for the term 'destroyed' is outlined in footnote 62.

the 28 applications categorised as 'outstanding' that were later approved for funding had scored highly on all criteria, including value for money.

Electorate distribution

6.6   Since January 2009, Ministers have been required to report to the Finance Minister on a number of grant matters. This has included each instance in which they approved a grant in their own electorate (this applies only to a Minister that is a Member of the House of Representatives). The report is to be made as soon as practical after the funding decision is made.

6.7   As noted at paragraph 5.6, the Minister was advised by DCCEE that none of the 28 recommended grant recipients were within his electorate or that of the Parliamentary Secretary. In this context, when recording his approval of the 28 recommended grants, the Minister noted that two of the funding recipients offered services within his electorate and requested departmental advice about any issues arising in this respect.

6.8   DCCEE subsequently provided a further briefing to the Minister confirming that the two recipients were located in other electorates and therefore, based on advice from Finance, were not subject to the reporting requirement under the CGGs. DCCEE also confirmed that some of the activities to be conducted as part of the grants fell within the Minister's electorate. Against this background, and for the stated purpose of full transparency, the Minister wrote to the Finance Minister in June 2012 advising about the awarding of the two grants.

6.9   More broadly, and as has been noted by ANAO[90], where audit reports or public commentary have 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.

6.10   In this context, the departmental information provided to the Minister to inform his funding decision for the first EEIG did not include any information concerning the electorates in which grant applications had been

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[90]   ANAO Audit Report No.21 2011–12, *Administration of Grant Reporting Obligations*, Canberra, 24 January 2012, p. 81.

located. A benefit of the approach adopted by DCCEE was that it reduces the risk that grant funding decisions may be seen to have been influenced by electoral considerations. Further in this respect:

- the Minister approved each of the 28 recommended grants, and did not approve grants to any other applicant; and

- of the 28 grant recipients, 14 successful grant applicants were located in electorates held by the Australian Labor Party, ten were located in electorates held by the Coalition and four were located in an electorate held by the Australian Greens. However, and as outlined in Table 6.1, the significant majority of approved applications and approved funding was awarded to entities with a regional, state or national coverage such that the location of the entity receiving funding does not provide a sufficient indication of the geographical locations that are to benefit from the EEIG program funding.

Provision of feedback to unsuccessful applicants

6.11   The provision of feedback to applicants has been emphasised by the Joint Committee of Public Accounts and Audit as an important element of grant administration practice.[91]

6.12   The EEIG program guidelines outlined that both successful and unsuccessful applicants would be advised in writing of the outcome of the funding round. More broadly, the guidelines set out departmental contact information in the event an applicant (or other person) had a query or complaint about the EEIG program. DCCEE also developed internal guidance on how to advise applicants of the outcome of the funding round and how to respond to any subsequent queries or complaints from applicants.

6.13   In this respect, the ANAO Better Practice Guide notes that an important consideration in establishing decision-making arrangements for a grant program is whether unsuccessful applicants will be provided with an opportunity to seek a review of a decision, and if so, the process/criteria that will be applied in processing such requests.[92] As a corollary to implementing

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[91]   Joint Committee of Public Accounts and Audit, *Report 423: Review of Auditor-General's Reports Nos 39 2009—10 to 15 2010—11*, Canberra, 4 July 2011, p. viii.

[92]   Under the program guidelines, a complaint could be lodged and then handled in accordance with the department's complaints handling mechanisms. No complaints were lodged in relation to the first EEIG funding round.

an effective review mechanism, the Better Practice Guide also notes that all unsuccessful applicants should be provided with full and actual reasons for the non-awarding of funding or with a reasonable opportunity to seek reasons from an agency.

6.14 In advising of the outcomes of the funding round, the department emailed applicants one of three types of letters signed by a departmental officer.[93] Specifically, the:

- 28 applicants who were approved grant funding were advised of this approval, and that the department would be in contact to discuss the next steps in the funding process;

- 19 applicants assessed as ineligible were advised of this situation. The advice provided to the applicants included identifying the section(s) of the guidelines which the applicant failed to meet and provided information about a departmental officer to contact if the applicant wished further details about the assessment of the application. The most common reason advised to applicants for proposals being ineligible against the guidelines concerned the application including activities that were not related to the provision of energy efficiency information such as retrofits, renewable energy and water and waste reduction; and

- 160 eligible applicants not awarded grant funding were advised in writing that the applications they submitted were not successful. In addition to providing contact details in order to request further information, the letters to the applicants also advised that:

  Given the merit assessment process was undertaken by an independent Program Advisory Committee at arms length, you will appreciate that the Department is limited in the comments that it can provide in relation to the merit assessment process. Nevertheless the Department is willing to provide more general feedback regarding the application process.[94]

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[93] The department emailed signed letters to 205 applicants on 17 May 2012 about the outcome for their application—the same day the Minister announced the successful applicants. Two ineligible applicants were emailed their letters on 21 May 2012 and 28 May 2012.

[94] The department's internal briefing on the outcome of the assessment process (see paragraph 5.5) had advised that unsuccessful applicants would 'be given written notification and reassured that the assessment process was thorough and equitable. They will also be reminded that they may apply again under Round Two of the program. Further, feedback will be provided on request.'

6.15 This advice meant that unsuccessful applicants did not receive feedback against the merit criteria on the reasons they had not been successful. The DCCEE advice also did not reflect that, whilst the PAC undertook the merit assessment process, it did this (consistent with the program guidelines) so as to enable DCCEE to provide recommendations to the Minister about which applications should be awarded funding.[95]

6.16 In respect to those applicants that sought feedback, in October 2012 DCCEE advised ANAO that:

> The department serviced 97 requests for feedback, none escalating to any significant concern. The department's initial response to feedback requests was generic, and if further information was sought, a further more tailored email was sent. Follow-up meetings or telephone calls were then undertaken as a final step.

6.17 ANAO analysis was that, where the request for feedback related to applicants assessed as ineligible, the DCCEE response generally discussed in some further detail the reasons for ineligibility, and in some cases, ways of improving the application.[96] This reflected that the department made and retained records of its assessment of application eligibility.

6.18 By way of comparison, DCCEE provided no further application-specific information to eligible but unsuccessful applicants, but largely reiterated the same advice as the original letter.[97] This situation reflected that DCCEE had destroyed the records made by PAC members of their assessment of applications in terms of the published criteria.[98] As a consequence, DCCEE was not in a position to provide eligible unsuccessful applicants with an explanation as to how they had been assessed against the published merit criteria and therefore had been identified as less meritorious than the 28 successful applications.

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[95] As noted at paragraphs 2.29 and 5.1, the grants administration framework requires that Ministers not approve a proposed grant without first receiving agency advice on its merits relative to the program's guidelines, and the work of advisory panels is able to be relied upon by a Ministerial decision-maker in meeting this obligation.

[96] In one instance, this process revealed that the applicant should not have been assessed as ineligible. The applicant was advised to lodge a further application under the second funding round of the program.

[97] Slight differences were identified based on whether an application had been categorised as 'very good', 'good' or 'poor' and based on whether specific questions were asked about an application or a general request for further information was made.

[98] The basis for the term 'destroyed' is outlined in footnote 62.

Signing of funding agreements

6.19 The EEIG guidelines stated that, upon being awarded funding, successful applicants would be required to enter into a funding agreement. The guidelines further outlined that, once successful applicants received a written offer of grant funding and a draft funding agreement, they had 60 days from the date of the offer to execute the agreement.

6.20 The program guidelines outlined that funding agreements were expected to be signed between May and July 2012. This was based on plans for an April 2012 announcement of the successful applicants. The actual announcement took place in mid-May 2012.

6.21 As part of its program planning, DCCEE budgeted that it would take 13 weeks to develop and sign funding agreements. However, there were delays in the development and signing of funding agreements.[99] To a significant degree, this reflected a lack of detail in applications about the specific deliverables that would be provided under the project. Rather than seek greater details on deliverables at the application stage, this was left by DCCEE to the funding agreement negotiation stage of the program. As a result, DCCEE has spent a deal of time negotiating with successful applicants on project milestones and detailed deliverables to be achieved under funding agreements.

6.22 By 30 June 2012, five funding agreements had been signed. A further four funding agreements were signed in July 2012 and ten were signed in August 2012. Accordingly, more than three months after the funding decisions had been taken and announced, nine funding agreements had yet to be finalised and signed (32 per cent of the approved grants).[100]

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[99] ANAO's Better Practice Guide notes that 'It is reasonable to expect that the extent of information obtained from applicants will be such that, should funding be approved, a funding agreement will be able to be drafted without seeking further information, with the funding recipient then being asked to comment on the draft agreement. This is particularly the case where, as is commonly the case, a standard funding agreement is used. Particularly for project-based grants, completing the agreement following funding approval typically involves populating the relevant schedules with details of the project to be delivered (including scope, budget, funding contributions, timelines and milestone requirements, and required outputs and outcomes). If these matters are not able to be derived from the material on which the grant approval was based, the quality of the assessment in terms of appropriately informing decision-making under the program guidelines, the financial framework and the grants policy framework will fall into question.'

[100] Ten funding agreements (36 per cent of the total) had been signed by the expiry of the department's 13 week target (see paragraph 6.21).

6.23 A further seven funding agreements were signed across September 2012, and one funding agreement was signed in the first half of October 2012. The final funding agreement (whose application had been included in the highest merit group) was signed in mid-December 2012, seven months after funding decisions had been made and announced.

Key funding agreement terms

6.24 The development of the funding agreements was guided by a standard contract of principal clauses, a standard structure of the schedules and a menu of milestone types to be used as the main tool to oversee the delivery of the successful applications. In the funding agreements, DCCEE sought to clarify the activities being funded and satisfactory completion, and allocated payments to some of the milestones for each project.[101]

6.25 The average contracted timeframe for projects is 27 months, with some final reports due up to six months after the contracted project completion date. A number of projects are expected to take three years to complete (the maximum possible given the program end-date of 30 June 2015), while the shortest expected timeframe for a project is 11 months.

Payment arrangements

6.26 Overall, the payment arrangements established by the funding agreements are expected to enable grant payments to occur in line with the budgeted schedule of administered funding for the EEIG program. As illustrated by Figure 6.1, the majority of uncommitted funding relates to the last two years of the program, the timeframe under which payments for projects approved under the second funding round will be focused. As also illustrated by Figure 6.1, the contracted timing of expected payments across financial years was also consistent with the expected timeframes for the recommended grants outlined by DCCEE in its April 2012 briefing of the Minister as to which applications were recommended for approval.

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[101] The number of milestones varied from nine to 21, with an average of 13 milestones in each funding agreement.

Figure 6.1

Budgeted, applied for and contracted program funding
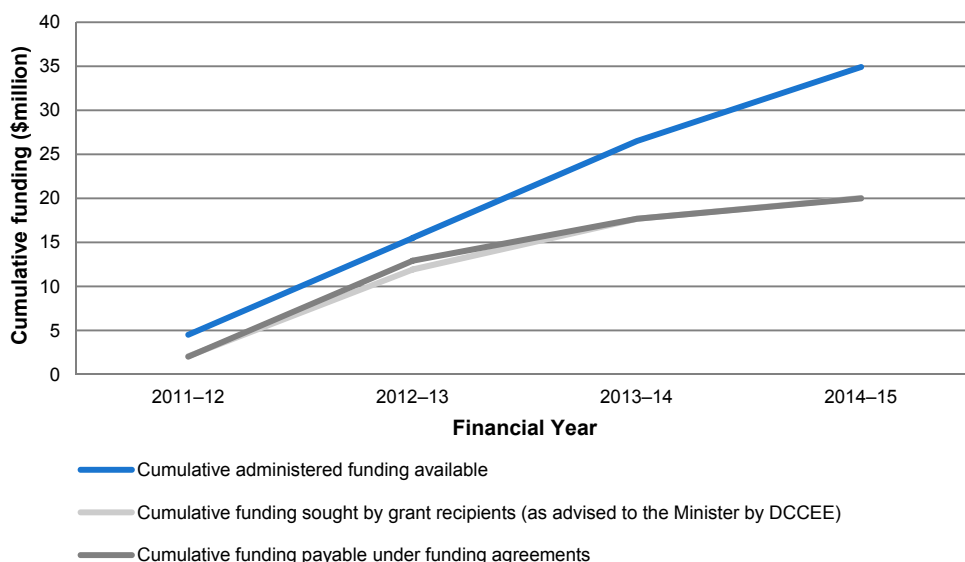
Source: ANAO analysis of DCCEE data and 2011–12 Portfolio Additional Estimates Statements.

6.27   The program guidelines stated that an initial payment of up to 50 per cent of the grant amount may be made following the execution of the funding agreement (and depending on the particular circumstances of the project and the proponent). One funding agreement specified that 50 per cent of the grant funding would be paid upon signing of the funding agreement and another specified that 45 per cent would be paid upon signature. A further funding agreement specified an initial payment of 30 per cent of the grant amount and the last signed funding agreement specified an initial payment of 20 per cent of the grant amount. For the remaining 24 funding agreements the amount payable on signature was specified as 40 per cent of the grant amount. These represented sizeable upfront payments in the context of the contracted project timelines. In October 2012 DCCEE advised ANAO that:

> This was done to meet up-front costs and early Supplementary Information Report milestones (for example, the development of the technical advice and communications materials). The department considered the ANAO Better Practice Guide in determining up-front payments and noted the minimal potential for foregone interest given the short period and low funding amounts involved. The department saw 'net benefit' to the Commonwealth by providing the applicants with funding that would allow them to prepare quality information and communications products in a timely manner, the first

crucial step in the projects. The department also took into account that being non-profit organisations and industry associations, the recipients would not be cash-rich organisations.

6.28   ANAO's Better Practice Guide also outlines that it is good practice to retain a portion of the grant funds until the recipient has completed and fully acquitted the project as this provides an incentive for funding recipients to comply with all obligations set down in the funding agreement. To be effective, the amount retained must be sufficiently large to provide an incentive, but not so significant that it endangers the timely completion of the project. For 20 of the signed funding agreements, 10 per cent of the grant amount was not to be paid until the proponent had provided a final report on the project as well as a financial report.[102] However, for the remaining funding agreements, the final payment was a relatively small amount of the total grant amount (ranging from 1.4 per cent of the grant amount to 7.2 per cent of the grant amount).[103]

Preparation for project and program evaluation

6.29   Maintaining an 'outcomes orientation' is one of the seven key principles for grants administration agreed by the Government.

6.30   For each signed funding agreement, one of the early milestones required the funding recipient to submit a draft risk and evaluation plan for consideration by DCCEE. The required content of these plans can be expected to provide a sound foundation to inform DCCEE's evaluation of the program. In particular, each plan is required to outline how the recipient will evaluate the success of the project activities against the goals and objectives of the funded activity and the EEIG program overall, as well as be drafted so as to ensure that:

- the success of the funded activity will be evaluated through both qualitative and quantitative measures;

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[102]   Each funding agreement included a schedule that specified the required contents of the risk and evaluation plan, progress reports, final report, milestone reports, ad-hoc reports and supplementary information reports referred to in the agreement, but this schedule did not define what was required to be included in the financial report.

[103]   Contrary to the principle of proportionality outlined in the CGGs, typically it was the larger grants that had a smaller proportion of the funding tied to the provision of a financial report.

- the evaluation captures the degree to which the project activities reached the intended audiences, and any measured changes in terms of awareness, attitudes, knowledge, intentions and behaviours; and

- the evaluation captures data having regard to the department's need to evaluate and compare aggregated data in relation to the program objectives.

Website reporting

6.31 The CGGs require each agency to publish, on its website, information on its individual grants no later than seven working days after the funding agreement for the grant takes effect. This information is to be retained on an agency's website for at least two financial years.[104]

6.32 Each of the EEIG grants has been published on DCCEE's website. However:

- reporting of the grant funding location was not consistent with the requirements. Specifically, DCCEE initially reported the state in which the funding recipient was located whereas the requirement is to disclose the state and suburb where the funding is to be primarily provided and, for regional, state or national grants, details that best describe the area where funding is to be provided.[105] The majority of EEIG grant recipients had a regional, state or national focus (with around half of the grants being to organisations with a national membership or national focus). During this audit the grant recipient location details were updated on DCCEE's website to meet CGGs requirements;

- the reported grant value is required to be the total funding approved for the grant across all years of the grant in whole dollars, inclusive of GST. Each signed EEIG funding agreement detailed the funding amount in GST exclusive terms and, for seven grants, this amount (rather than the GST inclusive amount) was reported on the DCCEE

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[104] To provide guidance on implementing the website reporting requirements outlined in the CGGs, the Department of Finance and Deregulation issued Finance Circular 2009/04, *Grants—Reporting Requirements*, 29 June 2009.

[105] In addition, there was no reporting of the postcode where the funding was to be primarily provided.

website. DCCEE's grants reporting website subsequently clarified that the value of individual grants was GST inclusive; and

- initially, for seven grants, the reported grant term was inconsistent with the terms of the funding agreement[106] or (in one case[107]) was not reported. Subsequent amendments to grant details on DCCEE's grants reporting website in December 2012 corrected the reporting of the term of each of these grants.

Conclusions

6.33   The first EEIG funding round resulted in funding being distributed in a way that was consistent with the program seeking to achieve a diffusion of benefits across a range of business and community sectors and into regional settings. In this context, around half of the grants were awarded to organisations with a national membership or national focus. In terms of electoral distribution, the application and assessment approach adopted, and the resulting briefing of the Ministerial decision-maker, reduced the risk of the grant funding decisions being influenced by electoral considerations, and there was no evidence of any such bias in the approval of funding.

6.34   An area where DCCEE's approach did not reflect sound grants administration practice related to unsuccessful applicants not being provided with reasons for the non-awarding of funding. Applicants whose application had been assessed as ineligible were informed of which section(s) of the guidelines the applicant failed to meet. However, the department provided eligible but unsuccessful applicants with no insights as to how they had been assessed against the published merit criteria. This was a consequence of the department retaining some records of the assessment of applicant eligibility (see Chapter 3) but destroying the PAC's records of the merit assessment process and not otherwise making adequate records of the assessment outcomes (see Chapter 4).[108]

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[106]   For example, the term of the grant to the Plastics and Chemicals Industries Association was reported as being 14 months whereas the funding agreement signed on 10 August 2012 specified a contracted end date of 30 June 2015, representing a term of some 35 months. In addition, this grant was reported twice on the DCCEE website.

[107]   The term for the grant to the Moreland Energy Foundation Limited was reported as 'Not applicable'. The funding agreement duration was 36 months.

[108]   The basis for the term 'destroyed' is outlined in footnote 62.

6.35   By mid-December 2012, funding agreements had been signed in relation to each of the 28 successful applications, involving a total grant value of $19.12 million. Each project is contracted to be completed by no later than 30 June 2015, the program end-date. However, there have been some shortcomings in DCCEE's website reporting of the key terms of the contracted grants (this reporting is required by the CGGs).

6.36   As a result of the first round, 57.3 per cent of the $34.9 million in available grant funding has been contracted, leaving some $14.9 million for a further funding round. The payment strategy adopted for the first EEIG funding round involved a significant (30 per cent to 50 per cent of the grant amount) payment being made upon the signing of the funding agreement. Other instalments are being paid as contracted milestones are met and some funds are being withheld until the project is completed and all reporting obligations met.

6.37   Consistent with the principle of an 'outcomes orientation' set out in the CGGs, the funding agreements provide a sound foundation to inform an evaluation of the program in terms of meeting its objective.

Ian McPhee   Canberra ACT

Auditor-General   29 January 2013

Appendices

Appendix 1:   Agency response to the proposed report

Australian Government

**Department of Climate Change
and Energy Efficiency**

Mr Blair Comley PSM
Secretary

Ms Barbara Cass
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
19 National Circuit
BARTON ACT 2601

Dear Ms Cass

Thank you for your letter of 23 November 2012 and enclosed copy of the Australian National Audit Office's (ANAO) proposed audit report on the Design and Implementation of the Energy Efficiency Information Grants (EEIG) program. This letter is the Department's formal response to the report.

The Department welcomes the audit report as an important contribution to the Department's endeavours on continuous improvement in program delivery. As the Department prepares for the receipt of applications for the second round of the EEIG program, the findings from this audit will be addressed along with other lessons from the delivery of the first round. Consistent with this, the Department accepts the recommendations made by the ANAO.

The Department welcomes the overarching findings, particularly that the Department had "… established a robust framework for the design and management of EEIG." and that "The first EEIG funding round resulted in funding being distributed in a way that was consistent with the program seeking to achieve a diffusion of benefits across a range of business and community sectors and into regional settings."

The Department acknowledges the need for improvement in documentation and record keeping, and clarification of the role of the official standing and obligations of independent experts assisting the Commonwealth in merit assessment processes. While the Department has confidence in the merit assessment undertaken by the Program Advisory Committee (PAC), the Department accepts the need to maintain better records of the PAC deliberations and outcomes of their assessments against individual and overall merit criteria.

The Department of Climate Change and Energy Efficiency provides the following response to the ANAO's recommendations as set out in the audit report.

think**change**
GPO Box 854 Canberra ACT 2601. Tel: 02 6159 7000 www.climatechange.gov.au

Recommendation No.1:

In circumstances where an advisory panel or committee is used to assess grant applicants and to provide funding recommendations, ANAO recommends that the Department of Climate Change and Energy Efficiency:
(a)   Develop program governance arrangements that inform panel/committee members that they are formally operating under the Commonwealths financial framework; and
(b)   Implement secretarial support arrangements that require key assessment decisions and their basis to be minuted.

DCCEE response: Agreed. The Department will amend the program standard operating procedures and probity briefings to clarify the relationship of the PAC to the Commonwealth financial framework. The Department will also ensure that sufficient resources are made available for secretariat support to the PAC.

Recommendation No.2:

To be able to demonstrate that grant applicants were treated equitably and in accordance with the published program guidelines, ANAO recommends that the Department of Climate Change and Energy Efficiency maintain adequate records of its assessment of applications in terms of their eligibility and compliance with other mandatory (or gateway) criteria.

DCCEE response: Agreed. The Department will amend the program standard operating procedures to ensure adequate record keeping of completeness and eligibility checks.

Recommendation No.3:

ANAO recommends that the Department of Climate Change and Energy Efficiency, in planning for the implementation of competitive, applications-based grant programs, develop strategies to effectively manage the risk of funding rounds being over-subscribed including, as appropriate, identifying in the program guidelines any adjustments that may be made to the eligibility and/or merit assessment approach where this situation arises.

DCCEE response: Agreed. The Department will ensure that future program guidelines provide clarity in the processes to be applied to eligibility and merit assessment should strategies be required to deal with over-subscription.

2

Recommendation No.4:

The ANAO recommends that, consistent with the transparency and public accountability principals of grants administration outlined in the Commonwealth Grant Guidelines, the Department of Climate Change and Energy Efficiency ensure that the assessment and merit ranking of applications and any significant changes as they proceed through the assessment process are appropriately documented.

DCCEE response: Agreed. The Department will provide further detail in the program standard operating procedures relating to record keeping during the merit assessment, and (as per Recommendation 2) provide adequate resources to the PAC secretariat function to implement these procedures.

Yours sincerely

Blair Comley
I 3 December 2012

3

Appendix 2:   EEIG PAC merit assessment form

EEIG Merit Assessment

Note:

1. *This form is to be used in conjunction with Section 2.2 of the Energy Efficiency Information Grants Program Guidelines (February 2012).*

Organisation (Applicant):	
Project:	
Funding Sought: $	

Summary Assessment

COMMENTS	Rating
Section 2.2.1: Project Effectiveness (60%)	/60
Section 2.2.2: Project Design and Management (20%)	/20
Section 2.2.3: Value for Money (20%)	/20
Additional comments:	

Detailed Assessment

Note, this part of the assessment form is designed to assist in making specific comments in the summary assessment above. The questions listed under each criterion do not represent an exhaustive list of considerations.

Section 2.2.1: Project Effectiveness 60%

Read **Questions 4.1 to 4.9** of the Application Form to assess this criterion.

	Comments
Trusted Information Source (refer Questions 4.3 and 4.5)	
Identified target audience?	
What is the frequency, depth and nature of previous interactions with the target audience?	
What is the extent of services previously provided to the target audience, including uptake?	
What is the degree of recognition and trust of Applicant by the target audience?	
Other information relevant to Trusted Information Source	
Effective Delivery Approach (refer Questions 4.8 and 4.9)	
Is the delivery method appropriate for target audience?	
Have key decision makers within target group been identified and targeted?	
Understanding and use of existing interactions/channels of successful delivery methods?	
On completion of project, have follow up activities been identified?	
Other information relevant to Effective Delivery Approach	
Relevance of Information (refer Questions 4.4 and 4.7)	
Does target audience face a clear energy efficiency barrier?	
Extent of exposure to energy costs as a proportion of outgoings?	

Scale of potential benefit gained by action?	
Extent of lack of uptake of present energy efficiency opportunities (only where barrier is lack of effective information)?	
Other information relevant to Relevance of Information	
Quality of Information (refer Questions 4.6 and 4.7)	
Extent to which proposed information will be of high quality?	
Extent to which information addresses relevant energy efficiency need for target audience?	
Has access to appropriate technical energy efficiency expertise been identified for the project design and product development?	
Other information relevant to Quality of Information	

Section 2.2.2: Project Design and Management: (20%)
Read **Questions 5.1 to 10.2** of the Application Form to assess this criterion.

	Comments
Past record of successfully delivering similar projects? (Questions 4.5 and 5.1)	
Is there staff capacity and governance? (Question 7.1 and Attachment D)	
Is there access to appropriate expertise, e.g. energy efficiency, communications and education? (Questions 6.1 and 7.1)	
Is the grant application of reasonable quality, including relevant attachments, project budget and timelines?	
Other information relevant to Project Design and Management	

Section 2.2.3: Value for Money (20%)
Read **Questions 4.3, 4.9, 6.1 and 8.1 to 8.5** of the Application Form to assess this criterion.

	Comments
Number of SMEs/community organisations that will be reached directly? (Question 10.1)	
Is proposed budget appropriate to support project activities and ensure viability?	
Extent of co-funding and/or in-kind contributions?	
Is grant funding required for the project to proceed? (Question 8.4)	
Potential for project content/and/or delivery method to be used by sectors or locations other than target audience? (Question 4.9)	
Will the project facilitate access to other government (state, territory, local) assistance programs?	
Other information relevant to Value for Money	

Signed by Program Advisory Committee member: _____Date: _____

Appendix 3:   Merit assessment criteria and guidance

Project effectiveness: the extent to which the proposal demonstrates potential to increase action or awareness by the intended target audience, by having regard to:

- the strength of the relationship between the applicant and the target;

- the likelihood of the delivery method attracting the attention of the target audience;

- the relevance of energy efficiency to the target audience; and

- whether the information content is of high quality.

Project design and management: the applicant's efficiency and effectiveness in delivering the proposal, by having regard to:

- the past record of successfully delivering similar projects;

- staff capacity;

- access to appropriate expertise; and

- the quality of the grant application.

Value for money: by having regard to the:

- number of SMEs or community organisations that will be reached;

- appropriateness of the proposal's budget;

- level and type of any co-funding and in-kind contributions;

- need for the grant for the project to proceed;

- potential for the content or delivery method to be used in other sectors or locations; and

- facilitation of access to other government assistance programs.

Source: ANAO analysis of EEIG program guidelines, pp.10–12.

Index

A

ANAO Better Practice Guide, 35, 47, 78, 80, 84, 87, 89, 90

Applications
eligible, not funded, 60–61, 64, 66, 68–70, 71, 72–73, 77, 79, 85, 86, 92
ineligible, 46, 54, 55, 77, 85, 92
successful, 23, 51, 60–61, 63–64, 65–68, 70, 71, 72–73, 77, 79, 80, 81, 83, 84, 85, 86, 88, 93

Assessment process, departure from, 51–52, 55, 61, 62–64, 65–70, 72–73, 78

C

Commonwealth Grant Guidelines (CGGs), 21, 26, 28, 30, 31, 32, 33, 35–36, 39, 41, 42, 62, 64, 75, 77, 78, 80, 83, 90, 91, 93

D

Department of Finance and Deregulation, 29, 30, 35, 83

Department of the Prime Minister and Cabinet, 29, 30

E

EEIG Program Advisory Committee
contractual arrangements, 37–39, 41, 58, 62, 63
meeting minutes, 20, 39–40, 41, 59, 63, 64, 72
merit assessment report, 34, 39, 63, 64, 66, 67, 70, 71, 77, 78, 79, 82
PAC secretariat function, 33, 36, 38, 41, 58, 65, 75
scoring and ranking, 23, 39, 59, 60–61, 62, 64, 65–70, 71, 72–73, 74–75, 78, 82, *See also* Assessment process, departure from
subject to Commonwealth Grant Guidelines, 35–36, 41, 64, 86

F

Feedback to applicants, 40, 81, 84–86

Financial Management and Accountability Act 1997, 28, 33, 35–36, 64

Financial Management and Accountability Regulations 1997, 28, 35–36

Funding
agreements, 52, 72, 81, 87–90, 91, 92, 93
announcement, 22, 23, 24, 80, 85, 87
distribution, 22, 23, 30, 77, 81–82, 83–84, 92

J

Joint Committee of Public Accounts and Audit, 36, 84

P

Probity
advice, 27, 32–34, 36, 39, 58, 60, 62, 72
conflict of interest, 38, 39, 41, 58, 67, 68
report, 34, 58, 61, 78

Program over-subscription, 21, 27, 47, 54, 59, 60, 61, 73, 74

Program timetable (first round), 29, 31, 54, 57, 59, 65, 74, 87

R

Recommendation to the Minister, ranking, 68, 70, 76, 79

Record of assessment
destroyed records, 62–64, 74, 82, 86, 92
documented requirements, 38–39, 51, 52, 61–62, 78
process and outcome, 33, 39–40, 41, 50–51, 55–56, 63–64, 65, 67–68, 70, 74–75, 78, 86, 92

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Department of Defence

Defence Materiel Organisation

ANAO Audit Report No.7 2012–13

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Department of Education, Employment and Workplace Relations

ANAO Audit Report No.8 2012–13

Australian Government Coordination Arrangements for Indigenous Programs
Department of Families, Housing, Community Services and Indigenous Affairs

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Community Organisation*
Department of Defence
Department of Veterans' Affairs

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Department of Health and Ageing

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Component of the Local Jobs Stream of the Jobs Fund*
Department of Sustainability, Environment, Water, Population and
Communities

ANAO Audit Report No.12 2012–13

*Administration of Commonwealth Responsibilities under the National Partnership
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Australian National Preventive Health Agency
Department of Health and Ageing

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Australian Federal Police

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Education, Employment and Workplace Relations
Office of the Fair Work Ombudsman

ANAO Audit Report No.15 2012–13

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Defence Materiel Organisation

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