

Award of a \$443.3 Million Grant to the Great Barrier Reef Foundation

Department of the Environment and Energy

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ISSN 1036–7632 (Print)

ISSN 2203–0352 (Online)

ISBN 978-1-76033-416-1 (Print)

ISBN 978-1-76033-417-8 (Online)

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Canberra ACT
16 January 2019

Dear Mr President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Department of the Environment and Energy. The report is titled *Award of a \$443.3 Million Grant to the Great Barrier Reef Foundation*. 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.

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

Yours sincerely



Rona Mellor PSM
Acting 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

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits, financial statement audits and assurance reviews of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Summary and recommendations

Background

1. Following back-to-back coral bleaching events in 2016 and 2017 and Tropical Cyclone Debbie (in March/April 2017), the 2018–19 Budget included \$535.8 million over five years from 2017–18 to accelerate the delivery of activities set out in the Reef 2050 Plan.¹ The relevant budget measure included \$443.3 million for a partnership grant to the Great Barrier Reef Foundation (the foundation), and \$5.2 million to the Department of the Environment and Energy (DoEE or the department) to cover its costs of developing and overseeing the grant to the foundation.
2. Figure 1.1 on page 19 illustrates key events that led to the Budget funding, as well as key steps in the process that led to a grant agreement being signed with the foundation and \$443.3 million being paid to the foundation on 28 June 2018.

Rationale for undertaking the audit

3. An audit of the partnership with the foundation was included in the Australian National Audit Office's (ANAO's) 2018–19 Annual Audit Work Program. The focus of the published topic was on the design of the partnership.
4. This audit is of the decision-making processes for the award of the grant to the foundation. It was undertaken in light of:
 - parliamentary and public interest in the processes that led to the decision to offer a \$443.3 million grant to the foundation;
 - the size of the grant awarded through a non-competitive process with the full amount paid at the time the grant agreement was signed notwithstanding that the funded activity is to be delivered over six years (to 30 June 2024); and
 - requests received in August 2018 from the Senate Environment and Communications References Committee and the Secretary of the Department of the Environment and Energy that an audit of the partnership be undertaken as a matter of priority.

Audit objective, criteria and scope

5. The objective of the audit was to assess whether the award of a \$443.3 million grant to the foundation was informed by appropriate departmental advice and through processes that complied with the grants administration framework.
6. To form a conclusion against the audit objective, the ANAO adopted the following high-level criteria:
 - Was appropriate departmental advice provided to ministers to inform the decision to establish a tied partnership fund with the foundation?

1 The Reef 2050 Plan was developed by the Australian and Queensland Governments in consultation with scientists, industry, traditional owners and non-government organisations. It was originally released in March 2015, and then updated in July 2018. It provides an overarching framework for protecting and managing the Great Barrier Reef, including actions, targets, objectives and outcomes under seven broad themes.

- Were comprehensive program guidelines developed that complied with the requirements of the Commonwealth Grants Rules and Guidelines (CGRGs)?
 - Was the decision to award a grant to the foundation informed by written departmental advice that met the content requirements of the CGRGs?
 - Was there appropriate scrutiny of the foundation's proposal to inform departmental advice on whether a grant should be awarded, and the subsequent development of a grant agreement?
7. The scope of the audit included:
- the decision-making processes that led to the decision to create a tied reef fund in 2017–18, with a partner outside the general government sector;
 - the identification of the foundation as this partner;
 - the development and application of program guidelines and a closed grant application process to give effect to the decision to offer the funding opportunity to the foundation; and
 - departmental scrutiny of the funding proposal submitted by the foundation.

Conclusion

8. All decisions in the process through which a \$443.3 million grant was awarded and paid in 2017–18 to the foundation were informed by departmental advice. The department's advice and administrative processes to give effect to Government decisions clearly recognised that funds needed to be paid and accounted for in 2017–18. There were shortcomings in aspects of the department's advice, partly as a result of non-compliance with elements of the grants administration framework.

9. All decisions taken by ministers were informed by written advice prepared by the department. In the compressed timeframe needed to meet the objective of spending the funds in 2017–18, the department identified the foundation as the 'obvious' entity for the Australian Government to seek to enter into a \$443.3 million partnership with. Only one other potential partner (the Queensland Government) was explicitly canvassed by the department in its written advice. Advice to the ANAO from the department was that there had been informal discussions within the department about other potential partners, but there are no records evidencing this consideration. The department also did not explore opportunities to introduce some competition into the grant giving process (the grants framework seeks to encourage competitive, merit-based selection processes), with the department advising the ANAO it considered that it did not have time to do this.

10. Program guidelines were developed and published. The CGRGs require that program guidelines include clear and specific objectives for the grant funding. They also set out the importance of assessment criteria being included in program guidelines. For non-competitive grants, assessment criteria provide a transparent means of assessing whether the particular proposal under consideration is of a satisfactory standard that approving a grant would represent value for money. When analysed by the ANAO against the CGRGs, there were two key shortcomings identified with the program guidelines:

- the level of detail provided in relation to the desired program outcomes. Applying the proportionality principle set out in the CGRGs, given the significant quantum of funding involved there would have been benefits in the guidelines setting out some clear targets for what was expected to be achieved (such as how much funding the Australian Government expected to be leveraged from the private sector using the grant funding); and
 - clear assessment criteria were not included. The approach taken in the guidelines for this \$443.3 million partnership grant did not enable an appropriate assessment of whether a partnership proposal represented value for money. The reasons later given by the department (in its advice to the Minister) for concluding that the proposal represented value for money differ in important respects from the matters the program guidelines required that the proposal address.
11. Detailed and clear written departmental advice that met the content requirements of the CGRGs was provided to the Minister for the Environment and Energy (the Minister). The Minister was advised that the foundation's proposal fully met the criteria in the program guidelines but those guidelines had not included clear assessment criteria. Instead, the department cited six reasons that supported its conclusion that the foundation's proposal represented value with money and a proper use of Commonwealth resources. Not all of the reasons cited by the department can be adequately traced back to the program guidelines.
12. The department assisted the foundation to develop its funding proposal, in parallel with the development of the program guidelines and the evaluation of that proposal. To address risks to the objectivity of the evaluation, a senior level review of the evaluation was undertaken by the department's internal Reef Project Board, the members of which had not been directly involved in the co-development of the foundation's proposal.
13. There was insufficient scrutiny of the foundation's proposal in three key areas examined by the ANAO, being the:
- capacity and capability of the foundation's delivery partners to scale-up their activities;
 - foundation's past fundraising performance; and
 - total administration costs of the partnership model (the department focused on the foundation's costs, with no evaluation attention given to the administration costs of the foundation's delivery partners).

Supporting findings

Decision to partner with the foundation

14. Advice provided to ministers in 2017–18 on additional funding for reef protection activities reflected comprehensive policy development work that had already been undertaken by the department, including in relation to the establishment of the Reef Trust. The result of this was the Government deciding that significant Reef funding should be provided in 2017–18 to a private sector partner.
15. The department provided advice to Government on a partner outside the general government sector in a timeframe consistent with the funds being paid in full in 2017–18. The

records did not evidence that, in the time that was available (11 business days), there had been wide consideration of possible partners. Advice from the department to the ANAO was that there had been informal discussions between departmental executives on alternative delivery partners before deciding that the foundation was the best option.

16. Opportunities to introduce some competition into the grant giving process were not explored and reasons for not employing a competitive, merit-based selection process to identify the partner were not documented.

17. Advice from the department addressed the benefits and risks involved in paying the \$443.3 million grant in full to the foundation in 2017–18 for the delivery of activities over the following six years. The financial cost to the Australian Government of paying the funds in advance of need was not estimated or brought to the Government's attention.

Program guidelines

18. Program guidelines were developed by the department, approved by the Minister for the Environment and Energy (the Minister) and published on the department's website.

19. The objectives and desired outcomes of the partnership were outlined in the guidelines. The desired outcomes were broad and did not include targets or other performance measures.

20. The guidelines outlined key program governance arrangements and clearly identified that the foundation had been selected as the only candidate to submit a funding proposal. They also identified the process by which the Minister would make a final decision on the award of grant funding to the foundation.

21. Relevant and appropriate eligibility requirements were established. The guidelines did not include clear assessment criteria to be applied in evaluating whether the award of a grant to the foundation would represent value for money and proper use of Commonwealth resources.

Decision to approve grant funding

22. The department provided the Minister with a clear funding recommendation. The department recommended that the Minister accept the risks and its risk management plan detailed within the advice, and approve expenditure of \$443.3 million as a one-off, ad hoc grant to the foundation. The Minister recorded his acceptance of the department's advice.

23. The written grant funding approval briefing provided to the Minister stated that the foundation's proposal fully met the criteria included in the program guidelines. An attachment to the briefing set out that the department had concluded that the foundation satisfied the published eligibility criteria. The briefing to the Minister identified six reasons why the department concluded the proposal from the foundation represented value for money and was a proper use of Commonwealth resources. The matters referenced by the department were not drawn directly from the program guidelines, as those guidelines had not included clear assessment criteria.

24. Departmental advice to the Minister clearly stated that the award of the grant to the foundation would provide value for money and was a proper use of Commonwealth resources. The department informed the Minister of six reasons why the department reached this conclusion.

Scrutiny of the foundation's proposal

25. As it had done with previous ad hoc grants from the Reef Trust to various entities, the department assisted the foundation to develop the grant funding proposal. The risk that the department's involvement in the development of the funding proposal presented to an objective evaluation of that proposal was identified in the department's risk assessment and management plan for the grant. The key risk management strategy adopted involved having the department's internal Reef Project Board review and endorse the evaluation work undertaken by the Reef Branch (staff from this branch had provided the assistance to the foundation). This strategy did not fully address the risk that the department's involvement in the development of the funding proposal presented to an objective evaluation of that proposal, and conflict of interest risks were not adequately addressed.

26. The department applied adequate scrutiny to factors relevant to the foundation's ability to scale-up its governance structures and resourcing levels. Insufficient scrutiny was applied in the evaluation of the grant funding proposal as to whether the delivery partners (including subcontractors) on which the foundation relies will be able to scale up their capacity and capability. The department has advised the ANAO that the risks associated with subcontractors will be managed through the grant agreement and across the grant lifecycle by the foundation.

27. The department's assessment applied inadequate scrutiny to the foundation's past performance and future plans to attract private and philanthropic investment. Its written assessment repeated statements made by the foundation in its proposal. The department did not seek to analyse the statements in the proposal against the foundation's financial statements (the two most recent of which had been included with the funding proposal). Overall, insufficient information was obtained and analysed to assess past performance and future plans.

28. The grant agreement does not include specific co-investment targets. Instead, the agreement requires the development of a co-financing strategy which, in combination with annual work plans (the first of which is due by 30 June 2019), is expected to set out how the foundation will use the grant to raise contributions from other sectors. The foundation is required to consult on those plans, but the department does not have approval rights over the plans. The co-financing strategy provided to the department in September 2018 includes targets totalling \$300 million to \$400 million over the next six years. The targets may be adjusted as the foundation has not yet tested the feasibility of achieving them.

29. Total administration costs of the foundation and its delivery partners could be up to \$86.41 million.² The department applied insufficient scrutiny to the likely administration costs of the partnership. In particular, the assessment work and resulting advice to the Minister focused on the foundation's administration costs (capped in the grant agreement at \$44.33 million), notwithstanding that it was evident that the foundation would be relying heavily on subcontractors for program delivery. The grant agreement seeks to cap the administrative costs of subcontractors at a further \$42.08 million.

2 This is in addition to the \$5.2 million made available to the department to cover its costs of developing and overseeing the agreement with the foundation. It also does not include the costs of implementing the monitoring and evaluation plan the foundation is required to develop (the costs of developing the plan are included in the cap).

Recommendations

Recommendation no.1
Paragraph 2.33 The Department of the Environment and Energy develop overarching Reef Trust proposal guidelines to improve the transparency of, and accessibility to, Reef Trust funding.

Department of the Environment and Energy response: *Noted*

Recommendation no.2
Paragraph 3.21 The Department of the Environment and Energy include performance targets in program guidelines for Reef Trust grants to assist it to decide whether funding proposals represent value for money having regard to the quantum of funding that is being sought.

Department of the Environment and Energy response: *Noted*

Recommendation no.3
Paragraph 3.44 The Department of the Environment and Energy include clear assessment criteria in program guidelines for any grant proposals that are being considered through non-competitive processes.

Department of the Environment and Energy response: *Noted*

Recommendation no.4
Paragraph 5.12 The Department of the Environment and Energy document a probity framework to manage the risks associated with it assisting potential grant recipients develop their funding proposals/applications.

Department of the Environment and Energy response: *Agreed*

Recommendation no.5
Paragraph 5.27 The Department of the Environment and Energy obtain assurance over the achievement of value for money in the foundation's use of delivery partners by requesting the foundation benchmark prices being offered against rates charged prior to the announcement of the \$443.3 million in grant funding. This benchmarking will be particularly important in circumstances where open competition has not been employed by the foundation when selecting delivery partners.

Department of the Environment and Energy response: *Agreed*

Recommendation no.6
Paragraph 5.71 The Department of the Environment and Energy develop strategies that allow it to be assured about the rigour of the foundation's subcontracting processes.

Department of the Environment and Energy response: *Agreed*

Summary of entity response

30. The proposed audit report was provided to the Department of the Environment and Energy, which provided a summary response that is set out below. The full department response is reproduced at Appendix 1.

The Department welcomes the Auditor-General's findings that it provided detailed and clear advice to the Minister on the awarding of the \$443.3 million grant to the Great Barrier Reef

Foundation, and that the Partnership was informed by comprehensive policy development work spanning several years.

The Department agrees with the report's findings that relate to process improvements, such as more detailed record-keeping, the preparation of a probity plan and formally documenting declarations of interest. The six recommendations of the report all relate to processes that are either already established in the Department or are now being implemented as lessons learned.

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

- The Department's advice and processes demonstrated compliance with the Commonwealth's grants administration framework.^a Given the available timeframes, and consistent with Cabinet's decisions, the approach taken to establish the partnership was sensible and thorough. The Department's conclusion that the proposal represented value-for-money for public resources was reasonable, and based on a clear understanding of the objectives and desired outcomes the Government was seeking from the grant.
- The grant guidelines did include 'assessment criteria', but we accept that they were not clearly labelled.^b The absence of the heading 'assessment criteria' did not affect the rigor of the Department's evaluation, which included an assessment of the Foundation's proposal against each of the criteria in the guidelines.^c The Department's advice to the Minister included the evaluation against the assessment criteria in full, as well as other matters the Department considered were relevant to the value-for-money assessment.
- Program outcomes and performance targets were appropriately specified in the grant guidelines, in line with the outcomes of the Reef 2050 Plan.^d The grant agreement requires the Foundation to develop more detailed performance measures and implementation plans within the first 12 months of the grant being established, and to implement a rolling design, reporting and evaluation process to ensure that performance targets are further detailed, refined and reported against over the six year life of the Partnership.

Keeping in mind the outcomes that we all want to achieve for Australia, this grant is well targeted to improve the health of the Great Barrier Reef and to leverage additional funding to further boost outcomes. Already, the Foundation has successfully delivered early milestones and established an ambitious fund raising target of \$300-400 million. Further, the Partnership serves as an innovative model that could be adopted to address other policy priorities for Australia.

The Department welcomes the ANAO's insights which will assist in the ongoing administration of this Partnership grant.

ANAO comments on DoEE's summary response

a: Paragraphs 4.12 to 4.14 sets out the ANAO's analysis of the department's advice on whether the proposal represented value for money. Paragraphs 3.33 to 3.42 sets out the ANAO's analysis of the evidence concerning whether the program guidelines included assessment criteria on which to base an assessment of the proposal's value for money.

b: Paragraphs 3.33 to 3.42 examines whether the program guidelines included clear assessment criteria. This analysis was informed by ANAO analysis of: all departmental records of the development of the guidelines; matters raised by the Department of Finance in relation to the content of the guidelines and DoEE's response to the Department of Finance; the content of the

guidelines against the reasons the department recorded for concluding that the proposal from the foundation represented value for money; the department's template grant program guidelines; and the approach taken by the department for other non-competitive Reef Trust grants.

c: In terms of the rigour of the department's assessment: paragraphs 5.21 to 5.25 outlines that the department did not consider whether delivery partners, on which the foundation relies, could be expected to be able to scale up their capacity and capability; paragraphs 5.30 to 5.44 set out that inadequate scrutiny was applied by the department to the foundation's past performance and future plans to attract private and philanthropic investment; and paragraphs 5.65 to 5.69 identifies that the department's evaluation did not address subcontractor administrative costs (which may be as high as \$42.08 million).

d: Paragraphs 3.12 to 3.19 sets out the ANAO's analysis that the outcomes were broad and did not include targets or other performance measures. In particular, paragraph 3.19 identifies that fundraising was not specifically addressed in the guidelines as either an objective of the partnership or an output to be delivered notwithstanding the importance of the foundation's past and planned fundraising efforts to the decision to partner with that entity.

31. An extract of the proposed audit report was provided to the Great Barrier Reef Foundation. Its response is reproduced at Appendix 2.

Key messages from this audit for all Australian Government entities

32. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Commonwealth entities.

Governance and risk management

- Clearly identifying the avenue and process through which proponents can submit funding proposals for consideration can encourage and assist other sectors to seek to partner with the Australian Government. A transparent and fair approach also helps to manage probity risks.
- In appropriate circumstances, working with project proponents on the design and development of funding proposals can add value. It is important that the evaluation of the finalised proposal be conducted objectively. This is aided by having a separation between those conducting the evaluation of the proposal and those that were involved with its design and development.

Policy/program design

- Drawing from prior policy development work and research can assist departments to be agile when responding to requests from ministers for an innovative approach.

Grants

- The Australian Government's grants administration framework is principles based. Entities have flexibility to apply the principles in a fit for purpose way that is proportionate to the grant program's scale, nature, complexity and risks. Where the grant arrangement is less developed, such as in a partnership-type arrangement and/or where further development of the detail in the proposal will occur after award of the grant, then more emphasis would be

expected to be placed on the capability and experience of the grant beneficiary as a partner to deliver the agreed outcomes.

Records management

- When decisions are taken to depart from departmental policies and proven practices, it is important that the reasons for any departures be recorded, including in advice to decision-makers.

Audit findings

1. Background

Introduction

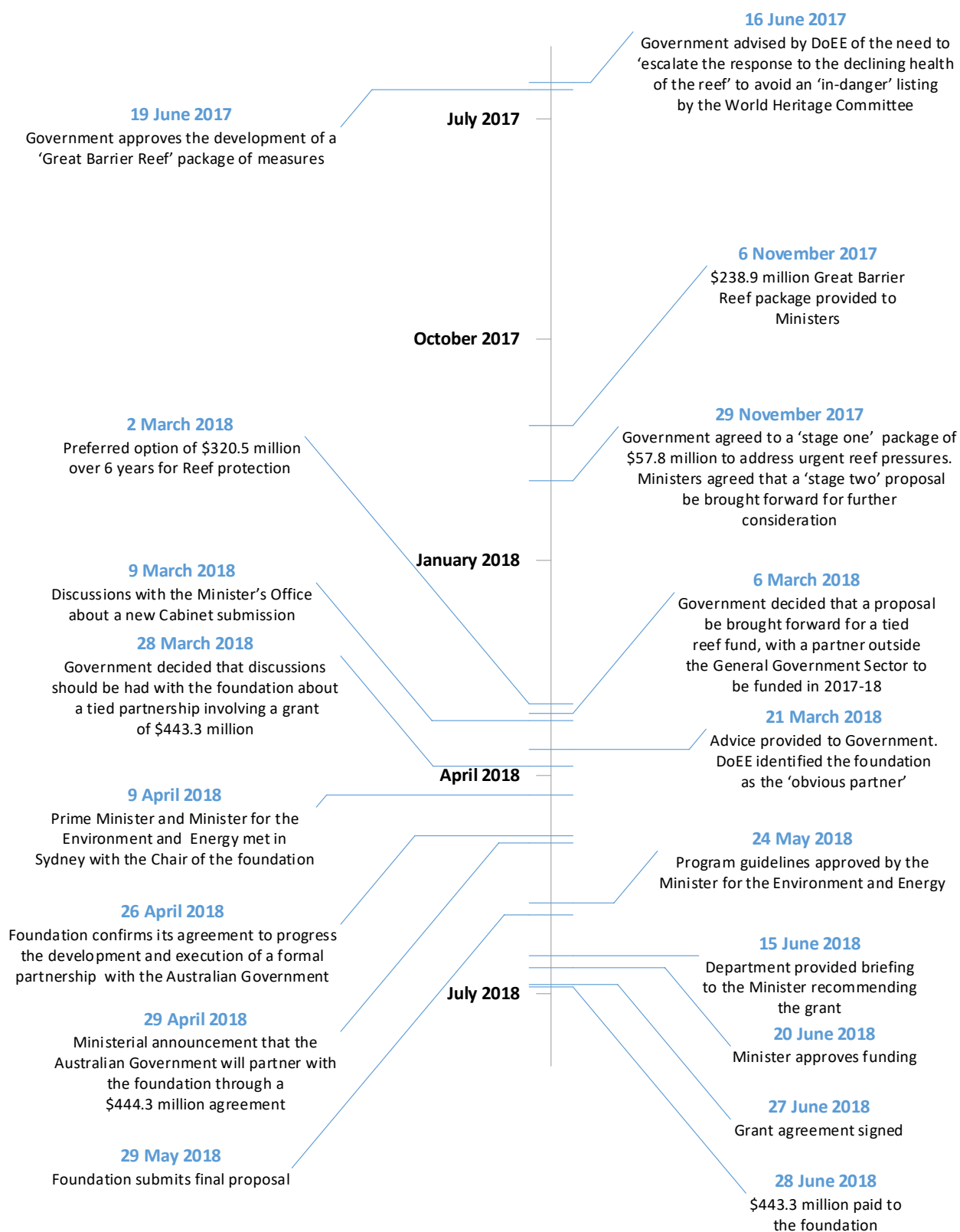
1.1 Australia's Great Barrier Reef is the world's largest coral reef system and is considered to be one of the world's premier natural resources. In 1975, the Australian Government established the Great Barrier Reef Marine Park in recognition of the reef's environmental significance and, in 1981, the Great Barrier Reef was declared a World Heritage Area.

1.2 In July 2011, the World Heritage Committee requested that Australia undertake an assessment of the World Heritage Area to enable development of a long-term plan for sustainable development that would protect the outstanding universal value of the reef. In response, the Australian and Queensland governments developed the Reef 2050 Plan, released in March 2015, which is intended to be the overarching framework for protecting and managing the Great Barrier Reef from 2015 to 2050. The outcomes framework established under the plan is structured around seven themes (ecosystem health, biodiversity, heritage, water quality, community benefits, economic benefits and governance) and linked to the criteria considered by the World Heritage Committee in determining outstanding universal value.

Award of grant funding to the Great Barrier Reef Foundation

1.3 Following back-to-back coral bleaching events in 2016 and 2017 and Tropical Cyclone Debbie (in March/April 2017), the 2018–19 Budget included \$535.8 million over five years from 2017–18 to accelerate the delivery of Reef 2050 Plan activities. The relevant budget measure included \$443.3 million for a partnership grant to the Great Barrier Reef Foundation (the foundation), and \$5.2 million to the Department of the Environment and Energy (DoEE or the department) to cover its costs of developing and overseeing the grant to the foundation.

1.4 Figure 1.1 illustrates key events that led to the Budget funding, as well as key steps in the process that led to a grant agreement being signed with the foundation and \$443.3 million being paid to the foundation on 28 June 2018.

Figure 1.1: Key events in the process to award the grant

Source: ANAO analysis of departmental records.

Audit rationale and approach

1.5 An audit of the partnership with the foundation was included in the Australian National Audit Office's (ANAO's) 2018–19 Annual Audit Work Program. The focus of the published topic was on the design of the partnership.

1.6 This audit is of the decision-making processes for the award of the grant to the foundation. It was undertaken in light of:

- Parliamentary and public interest in the processes that led to the decision to offer a \$443.3 million grant to the foundation;
- the size of the grant awarded through a non-competitive process with the full amount paid at the time the grant agreement was signed notwithstanding that the funded activity is to be delivered over six years (to 30 June 2024); and
- requests received in August 2018 from the Senate Environment and Communications References Committee and the Secretary of the Department of the Environment and Energy that an audit of the partnership be undertaken as a matter of priority.

Audit objective, criteria and scope

1.7 The objective of the audit was to assess whether the award of a \$443.3 million grant to the Great Barrier Reef Foundation was informed by appropriate departmental advice and through processes that complied with the grants administration framework.

1.8 To form a conclusion against the audit objective, the ANAO adopted the following high-level criteria:

- Was appropriate departmental advice provided to ministers to inform the decision to establish a tied partnership fund with the foundation?
- Were comprehensive program guidelines developed that complied with the requirements of the Commonwealth Grants Rules and Guidelines (CGRGs)?
- Was the decision to award a grant to the foundation informed by written departmental advice that met the content requirements of the CGRGs?
- Was there appropriate scrutiny of the foundation's proposal to inform departmental advice on whether a grant should be awarded, and the subsequent development of a grant agreement?

1.9 The scope of the audit included:

- the decision-making processes that led to the decision to create a tied reef fund in 2017–18, with a partner outside the general government sector;
- the identification of the foundation as this partner;
- the development and application of program guidelines and a closed grant application process to give effect to the decision to offer the funding opportunity to the foundation; and
- departmental scrutiny of the funding proposal submitted by the foundation.

Audit methodology

1.10 Key elements of the audit methodology were examination of DoEE records, interviews of relevant departmental staff and engagement with the foundation.³

1.11 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of \$328 000.

1.12 Team members for this audit were Amy Willmott, Tessa Osborne and Brian Boyd.

3 The ANAO also had regard to the findings from a 2013 performance audit of two ad hoc grants administered by a predecessor department to DoEE and the resulting recommendation that the department apply a high standard of assessment and advice to all grant spending proposals, irrespective of whether they arise from a competitive process, relate to an election commitment or are another form of ad hoc grant. See further in Auditor-General Report No. 32 2012–13, *Grants for the Construction of the Adelaide Desalination Plant*.

2. Decision to partner with the foundation

Areas examined

This chapter examines whether appropriate departmental advice was provided to ministers to inform the decision to establish a tied partnership fund with the Great Barrier Reef Foundation (the foundation).

Conclusion

All decisions taken by ministers were informed by written advice prepared by the Department of the Environment and Energy (DoEE, or the department). In the compressed timeframe needed to meet the objective of spending the funds in 2017–18, the department identified the foundation as the ‘obvious’ entity for the Australian Government to seek to enter into a \$443.3 million partnership. Only one other potential partner (the Queensland Government) was explicitly canvassed by the department in its written advice. Advice to the ANAO from the department was that there had been informal discussions within the department about other potential partners, but there are no records evidencing this consideration. The department also did not explore opportunities to introduce some competition into the grant giving process (the grants framework seeks to encourage competitive, merit-based selection processes), with the department advising the ANAO it considered that it did not have time to do this.

Area for improvement

The ANAO made one recommendation aimed at improving the way in which Reef Trust funding is able to be accessed by project proponents.

Was a comprehensive policy development process undertaken by departments to inform ministerial decision-making?

Advice provided to ministers in 2017–18 on additional funding for reef protection activities reflected comprehensive policy development work that had already been undertaken by the department, including in relation to the establishment of the Reef Trust. The result of this was the Government deciding that significant reef funding should be provided in 2017–18 to a private sector partner.

2.1 The Reef Trust was designed following the September 2013 Federal Election. In designing the Reef Trust, the department engaged with a range of government and non-government stakeholders from the environmental sector. Of particular note is that both the World Wildlife Fund for Nature (WWF) and the foundation met separately with the Minister for the Environment during the Reef Trust design phase in November 2013. The original concept for the Reef Trust was provided to the Australian Government by the WWF⁴, but the foundation had also expressed parallels between the Reef Trust and its own ‘Reef Bond’ concept.

2.2 The Reef Trust was intended to be financially innovative in the acquisition and distribution of funding, with a key objective of attracting non-government funding.⁵ When considering design

4 See: Auditor-General’s Report No.27 2016–17, *Reef Trust — Design and Implementation*, p.22. Available from: https://www.anao.gov.au/sites/g/files/net5496/f/ANAO_Report_2016-2017_27.pdf

5 *ibid.*, p. 26.

options in late 2013, the Minister was advised that two of the key risks associated with establishing the trust within an Australian Government entity was the 'likelihood that the corporate and institutional architecture will not attract donations from the private and philanthropic sectors', and that the 'Queensland Government may be less likely to consider contributing to or working with the Reef Trust'. The Minister accepted these risks noting that he was 'concerned not to be competing directly with the [foundation] for private dollars'.

2.3 Funding from the trust has typically been distributed to projects periodically through Reef Trust 'investment phases'⁶ employing a range of funding mechanisms. The announcement of new phases and respective projects have been communicated by the department through the release of corresponding 'Investment Strategy' documents. To date, six investment phases have been announced.

2.4 There has been relatively little in the way of cash contributions into the Reef Trust Special Account from sources other than the Australian Government. To date, the Queensland Government has provided a total of \$2.1 million⁷ to the Reef Trust as compared with the Australian Government's \$706 million (including the \$443.3 million grant to the GBRF and other funding distributed outside of the investment phases).

2.5 The 23 Australian Government funded projects or programs that have been conducted to date under an investment phase of the Reef Trust program have involved the contribution of additional funds outside of the Reef Trust Special Account from various private or state government sources. From departmental records, the ANAO identified contributions totalling \$60.6 million⁸ comprising:

- five recipient and delivery partner co-contributions totalling \$26.4 million; and
- other⁹ cash and in-kind contributions totalling \$34.2 million.

2.6 Until the fifth investment phase of the Reef Trust (announced in March 2017), the department had secured only one proposal involving a co-contribution from the private sector. Specifically, this partnership involved \$2 million of Australian Government funding and a \$2 million matching co-investment from Greening Australia. The Minister announced this partnership in December 2015 as 'the first project to be funded with co-investment from the Australian Government and the private sector through the Reef Trust.'

6 The \$443.3 million grant to the foundation in June 2018 was distributed from the Reef Trust Special Account, but was not announced as part of one of the investment phases. Similarly, a \$300,000 ad hoc grant that was not attributed to an investment phase was approved by the Minister for payment from the Special Account in February 2017 to The Nature Conservancy and Kilter Rural.

7 In addition to this investment, the Queensland Government has provided other funding directly towards reef initiatives, such as \$419 million (between 2013 and 2022) through the Queensland Reef Water Quality Program. This funding was not invested via the Reef Trust Special Account.

8 In December 2018, DoEE advised the ANAO that total cash and in-kind contributions were \$76.2 million.

9 These contributions were from landholders, industry and other stakeholders as part of the competitive grants programs under the third and fourth Reef Trust Investment Phases.

2.7 For much of 2016, the department worked with the WWF on the development of a partnership project that was intended for delivery under the fourth Reef Trust investment phase.¹⁰ Negotiations between the parties did not progress in time for the project to go ahead as planned, but a memorandum of understanding (MoU) was negotiated by the end of 2016 and signed by the department and the WWF in March 2017. The department advised the ANAO in November 2018 that WWF was to subsequently consider which, if any, projects it wished to develop further for the department's consideration and that, to date, no further engagement has occurred between the department and WWF.

2.8 The fifth and sixth investment phases involved considerably more leveraged funding from non-government sources. By November 2016, the department had commenced discussions with the foundation on the development of a 'signature project' for delivery through the sixth investment phase.¹¹ Leveraging from the MoU development process that had been conducted for the WWF, the department suggested that the foundation also consider entering into one with the department. The parties executed the MoU shortly thereafter, in December 2016.

2.9 In addition to the MoUs executed between the department and each of the WWF and the foundation¹², the department has also entered into agreements with Greening Australia in investment phases three and five under the Reef Trust that have involved the leveraging of private funding. The department noted in respect of Greening Australia's proposal in November 2015, that it had a 'demonstrated history of successfully leveraging private investment to support environmental projects and delivering on-ground biodiversity outcomes.'

2.10 In June 2017, the department sought and received the required authority from the Government to develop a package of measures to escalate the Australian Government's response to the declining health of the Great Barrier Reef.

2.11 The department finalised a package of measures totalling \$239.8 million¹³ in early November 2017. A seven year funding profile from 2017–18 to 2023–24 was proposed to enable longer term funding security for the up-scaled efforts required. The package was aimed at responding to key threats to the reef by accelerating existing effective measures and exploring innovative and cost-effective approaches for coral adaption and restoration. Specifically, the measures addressed:

- controlling the outbreak of crown-of-thorns starfish;
- ramping up marine park management; and
- investing in further research and development to find low cost, innovative coral restoration and adaption solutions; and

10 The parties were negotiating the WWF's involvement in a competitive grants round to be delivered under the Reef Trust. Specifically, options were being explored and legal and probity advice obtained in respect to the WWF being involved in the application assessment process so as to select recipients for additional funding to be provided by the WWF (up to a total of \$2 million).

11 This was the 'Reef Islands — Restoring and protecting island ecosystems' project. As planned, it formed part of the Reef Trust Phase VI Investment Strategy, which was published in August 2018.

12 The foundation and WWF are the only entities outside of the general government sector to have entered into MoUs with the department to date. An MoU with the Great Barrier Reef Marine Park Authority has also been entered into.

13 This amount included \$236.4 million of administered funding to the Reef Trust Special Account and departmental funding of \$3.4 million over seven years.

- improving the water quality of reef catchments.

2.12 The latter was aimed at accelerating priority actions for meeting the water quality improvement targets agreed under the Reef 2050 Plan. The department advised the Government that progress towards these targets had been slow. To support the proposed expenditure, the Government was advised that:

- the link between poor water quality and the declining health of the Great Barrier Reef had been well documented;
- the World Heritage Committee and Reef research and advisory bodies had all recommended a substantial increase to existing efforts in improving the water quality of the Reef;
- some water quality interventions can take several years, and the longer proposed funding period would enable greater flexibility, adaptive management of efforts and lasting water quality improvements by preventing recidivism to poor farming practice;
- agreeing to the proposal would ensure that new activities could be funded during the next Queensland dry season (May to October 2018), which was identified as the only practical period for on-ground works in much of the state.

2.13 A revised, staged package of measures was developed to enable short, medium and long-term responses to the declining health of the reef. In December 2017, the Government approved an 18 month stage one package of \$57.8 million to address the most urgent reef pressures. It was also agreed that a stage two proposal be developed for further consideration.

2.14 The department provided its stage two proposal for Government consideration in March 2018. The Government was informed that additional funding was required due to the partial funding committed in December 2017. Consistent with previous advice, dealing with poor water quality from farm run-off, managing the crown-of-thorns starfish outbreak and strengthening on-water marine park management were the key areas identified as needing additional funding. The proposal indicated that while the full and preferred amount of funding needed was \$320.5 million over six years (plus \$10.2 million each year after 2024–25), a lower cost option of \$90 million could continue the investment for another year at the scaled-up level agreed for the December 2017 commitment. The lower cost option would necessitate further proposals to be developed in future budget contexts.

2.15 On 6 March 2018, the Government decided that an alternative proposal should be brought forward. The effect of the proposal was to ensure that the funding occurred in 2017–18 by requiring it to include the establishment of a tied reef fund with a partner outside the general government sector, for activities to be agreed between the Australian Government and with appropriate governance arrangements.

Was the decision to establish a tied partnership fund with the foundation informed by written advice of an appropriate standard?

The department provided advice to Government on a partner outside the general government sector in a timeframe consistent with the funds being paid in full in 2017–18. The records did not evidence that, in the time that was available (11 business days), there had been wide consideration of possible partners. Advice from the department to the ANAO was that there had been informal discussions between departmental executives on alternative delivery partners before deciding that the foundation was the best option.

2.16 Immediately following the 6 March 2018 decision, the department commenced work on preparing advice for the Government.

2.17 Consistent with the criteria set by the Government, the department excluded any options that did not meet the future year's fiscal impact test (that is, funds were to leave the Consolidated Revenue Fund in full in 2017–18 and expenses would not appear in the forward estimates).

2.18 Funding had previously been provided through the Reef Trust to a number of entities outside the general government sector. These were: the Queensland Government (receiving \$3 million during the first investment phase of the Reef Trust and \$4.9 million in the sixth phase), Greening Australia (\$2 million and \$5 million in the third and fifth phases, respectively), the Reef and Rainforest Research Centre (\$2 million in the first investment phase), MSF Sugar (\$4.5 million in the fifth phase), the Cairns and Fitzroy Island Turtle Rehabilitation Centre (\$300,000 in the first phase) and the foundation (\$5 million in the sixth investment phase). The department had this and predecessor reef programs experience to draw upon as well as investigations it had commenced in late 2015 into alternative funding approaches for the delivery of private investment through the Reef Trust (see Box 1).

Box 1: Earlier work by the department looking at alternative funding approaches

In October 2015, the department commenced work to investigate alternative funding approaches that may be viable for the delivery of private investment through the Reef Trust. This work included the establishment of a Reef Trust Innovative Financial Mechanisms Panel¹⁴ in December 2015 and the engagement of an external provider to provide 'evidence-based advice on considerations in attracting private investment to government-led environmental programs.'

This advice identified a number of entities in its research as potential partners for Reef Trust initiatives. The foundation was identified as the most developed in terms of corporate partnerships (at the time it was recorded as raising an average of around \$3.4 million per annum from private investors). A range of other entities were also identified, including the WWF and the Australian Marine Conservation Society.

2.19 An option initially explored by the department was the provision of grant funding to the Queensland Government through the Natural Heritage Trust single holding account. A number of

14 Panel members included representatives from: Credit Suisse; Zurich Insurance Company Ltd; ANZ; Commonwealth Bank; National Australia Bank; the Great Barrier Reef Foundation; and Philanthropy Australia and the Australian Environmental Grantmakers Network.

shortcomings were identified that led the department to conclude that it was not preferable. One of these was the department's assessment of the likelihood that the Queensland Government would be able to use the Australian Government funding to leverage significant funds from non-government sources.

2.20 The department soon focussed its considerations on the foundation as a potential partner. There was no evidence that the department was directed or influenced by ministers (or their offices) to focus on the foundation. The final advice to the Government identified that other non-government organisations with strong interests in reef protection may have seen themselves as a potential partners. The department did not document any consideration of the merits of other non-government sector partners, such as the WWF, Greening Australia and the Australian Marine Conservation Society. In this respect, the department advised the ANAO in November 2018 that:

The Department considered additional options including the Queensland Government, the Australian National Parks Fund and a private provider. There were informal discussions between departmental executives ... on alternative delivery partners before deciding that the foundation were the best option. Alternatives raised during these informal discussions (which were not documented) included natural resource management bodies, the University sector (e.g. James Cook University) and non-government organisations working on Reef-related issues (e.g. Greening Australia, Australian Conservation Foundation, Australian Marine Conservation Society, World Wide Fund for Nature). These options were not progressed further as the [foundation] was identified as the preferred partner for a range of reasons that are outlined in the [advice to Government].

2.21 After deciding on 9 March 2018 to propose the foundation as the partner, the department developed draft advice in seven days. The draft advice was distributed for comment to the Minister's office, the Great Barrier Reef Marine Park Authority (GBRMPA) and the three central agencies (the Departments of Finance; Prime Minister and Cabinet; and the Treasury). After considering the comments received, advice for the Minister to take to his colleagues was finalised by the department on 21 March 2018. The material prepared by the department:

- summarised the need for additional spending on reef protection activities;
- proposed a \$500 million funding package, including a \$443.3 million partnership grant with the foundation;
- identified the financial implications and budget impacts of the package;
- outlined why the foundation was considered a reliable partner for the grant and that it was expected that the foundation would be able to use a grant to strengthen its capacity to leverage philanthropic and business funding;
- identified that the foundation had not been approached about the proposal as well as the key risks identified with the partnership model (along with how the risks could be managed); and
- identified one alternative potential partner (the Queensland Government) and why this potential partner was not the preferred.

2.22 The department also addressed the foundation's level of administrative costs. As outlined at paragraphs 5.53 to 5.54, the department's advice was not accurate or comprehensive in this respect.

Were the reasons documented for allocating funding other than through a competitive, merits-based selection process?

Opportunities to introduce some competition into the grant giving process were not explored and reasons for not employing a competitive, merit-based selection process to identify the partner were not documented.

2.23 The Commonwealth Grant Rules and Guidelines (CGRGs) state that:

Competitive, merit-based selection processes can achieve better outcomes and value with relevant money. Competitive, merit-based selection processes should be used to allocate grants, unless specifically agreed otherwise by a Minister, accountable authority or delegate. Where a method, other than a competitive merit-based selection process is planned to be used, officials should document why a different approach will be used.

2.24 For the \$443.3 million partnership grant, the 6 March 2018 decision did not ask that a funding partner be identified through a competitive process. It also did not preclude the department from identifying ways of employing competitive pressure in the selection process. For example, similar to a select tender, the department could have examined and advised on the merits of seeking to identify two or more potential partners and then inviting each candidate to submit a partnership proposal that could be assessed on merit.

2.25 The department's advice canvassed two potential partners (the foundation and the Queensland Government) and identified the foundation as the 'obvious' partner. It was proposed that negotiations be undertaken with the foundation on a confidential, without prejudice basis and that, if an alternative was required, the Queensland Government could be approached to determine its willingness to deliver the tied fund. A range of reasons were given in support of the foundation. Namely, it:

- is a not-for-profit organisation established in 2000 to raise funds to protect and preserve the Reef;
- has a proven track record of generating philanthropic funding, and of working with government and non-government organisations to deliver reef protection activities; and
- has sound corporate governance and a board that includes current and former chief executive officers, chairs and executive officers of some of Australia's largest companies.

2.26 The department also included in its advice alternative funding options that did not involve creating a tied reef fund with a partner outside the general government sector and payment in 2017–18. The department did not consider providing advice on options that may have involved funding more than one partner outside the general government sector.

2.27 The lack of competition in the selection of the partner for the \$443.3 million tied reef fund was not inconsistent with how the Reef Trust has been administered to date, although the partnership grant involved a significantly greater sum. As illustrated in Table 2.1, while majority of the funds that were allocated prior to the \$443.3 million grant were through competitive processes (grants or tenders), ad hoc or one-off grants have been a common mechanism employed (35 per cent of projects).

Table 2.1: Project delivery mechanisms used under the Reef Trust since establishment

Funding mechanism	No. of projects	Total value of Australian Government funding provided
Competitive grants programs	6	\$112.7 million
Ad hoc or one-off grants	8	\$23.3 million
Procurement — sole source	1	\$3.4 million
Procurement — competitive tender	2	\$12.1 million
Inter-agency payments	6	\$23.7 million
Total	23	\$175.2 million

Source: ANAO representation of DoEE records.

2.28 In December 2016, the department advised its Minister that a perpetual expression of interest (Eoi) process should be introduced and announced in conjunction with the release of the fifth Reef Trust Investment Strategy (which was released in March 2017). In the absence of any previous public call for ad hoc and one-off proposals, this was to ‘formalise the process for inviting innovative and co-investment proposals for reef conservation’. The department also advised that the Eoi process was ‘to provide equal opportunity for others to put forward ideas and proposals for conservation financing projects for consideration by the Reef Trust.’

2.29 The department commenced discussions in November 2016 with the foundation on the development of a new signature partnership project, for which it requested that the foundation submit a ‘brief project concept’ through the upcoming Eoi process. This was the ‘Reef Islands — Restoring and protecting island ecosystems’ project that was subsequently announced in August 2018 for delivery under the sixth investment phase of the Reef Trust (see paragraphs 2.8 and 5.3).

2.30 The Eoi process was subsequently opened in May 2017 by the department updating its ‘Reef Trust — Partnerships for the Reef’ webpage¹⁵ and releasing the ‘Reef Trust Partnership Guidance’¹⁶ document. The guidance document is brief (just over three pages long) and remains available on the department’s website (as of November 2018). It invites proposals from a range of sources¹⁷ and states that it is intended to assist potential partners in submitting a proposal for consideration by the Reef Trust. It specifies a number of desirable characteristics for proposals, including projects that:

- are focussed on delivering on-ground actions that will have an enduring legacy;
- involve collaboration with local stakeholders (including, but not limited to, Traditional Owner groups, natural resource management bodies and landholders);

15 Available from: <http://www.environment.gov.au/marine/gbr/reef-trust/partnerships> [accessed 28 November 2018].

16 Department of the Environment and Energy, *Reef Trust Partnership Guidance*, May 2017. Available from: <http://www.environment.gov.au/marine/gbr/publications/reef-trust-partnership-guidance> [accessed 28 November 2018]

17 Specifically, from ‘both individuals and organisations from industry and the finance, corporate, philanthropic, natural resource management, community and environmental sectors for projects to enhance Reef conservation.’

- propose co-investment between the potential partner/s and the Reef Trust; and
- have a total value of at least \$2 million.

2.31 The introduction of this guidance suggests that the department recognised the program accessibility issues inherent in the approach it had previously adopted in identifying potential projects for funding.¹⁸ Specifically, these issues included:

- a lack of transparency that ad hoc and one-off Reef Trust grant funding opportunities existed; and
- the department's focus on ideas and proposals provided by entities seeking funding opportunities notwithstanding that the Commonwealth Grants Rules and Guidelines outline a preference for competitive, merit-based processes.

2.32 An opportunity exists to further improve the transparency of and accessibility to the Reef Trust by developing the guidance document further. In particular, overarching grant opportunity guidelines would have a number of advantages over the department's current practice of developing one-off or ad hoc grant guidelines for the Reef Trust in response to funding proposals being brought forward for consideration. This would also be consistent with work the department is undertaking more broadly to enable partnering ideas to be developed with stakeholders through fair and transparent processes.¹⁹

Recommendation no.1

2.33 The Department of the Environment and Energy develop overarching Reef Trust proposal guidelines to improve the transparency of, and accessibility to, Reef Trust funding.

Entity response: Noted

2.34 The department will continue to draw on standard departmental templates and frameworks (as revised from time to time) for the development of Reef Trust funding proposals. Templates will be adapted on a case-by-case basis to address the specific requirements of a project, and the type of investment (that is, competitive grant, competitive tender, ad hoc partnership proposal). All Reef Trust guidelines and tender documentation will continue to include a clear and consistent description of the Reef Trust Investment Principles.

18 The department's approach prior to this was the release of a prospectus publication titled 'Partnerships for the Reef' in December 2015. This document listed various potential reef projects for potential investors and partners, but was not as explicit in inviting new proposals as the May 2017 guidance.

19 The framework, in draft form at the time of the ANAO's audit, included an initial screening of proposals against predetermined threshold criteria, followed by a detailed assessment (for those proposals that meet the threshold criteria) against five predetermined assessment criteria.

Did the advice address the benefits and costs/risks involved in making a full payment of the grant amount in 2017–18?

Advice from the department addressed the benefits and risks involved in paying the \$443.3 million grant in full to the foundation in 2017–18 for the delivery of activities over the following six years. The financial cost to the Australian Government of paying the funds in advance of need was not estimated or brought to the Government's attention.

2.35 The 6 March 2018 decision required that grant funds be paid in full in 2017–18. This was so that the payment of the grant would impact on the budget in 2017–18 alone (and not in subsequent years). Ministers have subsequently indicated that this was because²⁰ the budget position in 2017–18 was substantially better than had been forecast.

2.36 The department identified some other benefits from paying the grant in full in 2017–18, as follows:

- maximising the foundation's flexibility to find the most efficient and effective pathways to achieve the desired outcomes;
- maximising the foundation's capacity to leverage non-government funding by providing a clear signal of the Government's interest in partnering with others outside the general government sector; and
- allowing the foundation to cover some of its administrative costs through interest payments (see paragraph 5.62).

2.37 The department also identified risks associated with paying all grant funds in 2017–18. Ministers were advised that there were financial management risks relating to the advance payment, the quantum of the funding could reduce the foundation's ambitions to secure philanthropic investment, health and safety risks relating to the on-ground work that would be funded, and risks associated with the foundation broadening and rapidly scaling up its operations. The advice was that the risks could be managed through the grant agreement that would be negotiated with the foundation before any payment was made.

2.38 The department obtained accounting and legal advice to inform the development of the grant agreement. In obtaining this advice, the department was conscious that the Australian Government could not exercise such control over the foundation's activities under the grant agreement or the June 2018 payment would not be able to be fully accounted for in 2017–18 (see further at paragraphs 4.4 and 5.19 to 5.20).

2.39 While consideration was given to the amount of interest the foundation may earn to help fund administrative costs (see paragraph 5.62), no consideration was given to the financial cost to the Commonwealth (in terms of additional public debt interest) of paying the full grant amount in 2017–18. This upfront payment was more likely to have resulted in greater public debt interest

20 See 14 October 2018 interview of the Finance Minister on the ABC Insiders program. Available from: <https://www.abc.net.au/insiders/mathias-cormann-joins-insiders/10375058> [accessed 29 October 2018]; and letter from the Hon Malcolm Turnbull to the Chair of the Senate Standing Committee on Environment and Communications Available from: https://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/GBRPartnershipProgram/Additional_Documents [accessed 29 October 2018]

expense than periodic payments over six years reflecting the cash flow needs of the foundation in delivering the partnership (or to specific delivery milestones).

3. Program guidelines

Areas examined

This chapter examines whether comprehensive program guidelines were developed that complied with the Commonwealth Grant Rules and Guidelines (CGRGs).

Conclusion

Program guidelines were developed and published. The CGRGs require that program guidelines include clear and specific objectives for the grant funding. They also set out the importance of assessment criteria being included in program guidelines. For non-competitive grants, assessment criteria provide a transparent means of assessing whether the particular proposal under consideration is of a satisfactory standard that approving a grant would represent value for money. When analysed by the ANAO against the CGRGs, there were two key shortcomings identified with the program guidelines:

- the level of detail provided in relation to the desired program outcomes. Applying the proportionality principle set out in the CGRGs, given the significant quantum of funding involved there would have been benefits in the guidelines setting out some clear targets for what was expected to be achieved (such as how much funding the Australian Government expected to be leveraged from the private sector using the grant funding); and
- clear assessment criteria were not included. The approach taken in the guidelines for this \$443.3 million partnership grant did not enable an appropriate assessment of whether a partnership proposal represented value for money. The reasons later given by the Department of the Environment and Energy (in its advice to the Minister) for concluding that the proposal represented value for money differ in important respects from the matters the program guidelines required that the proposal address.

Areas for improvement

The ANAO has made two recommendations relating to the inclusion of performance targets in guidelines for ad hoc grants as well as the development of assessment criteria for all grant proposals that are being considered through non-competitive processes.

3.1 The development of program guidelines is an important element of the Australian Government's grants administration framework set out in the Commonwealth Grant Rules and Guidelines (CGRGs).²¹ Program guidelines play a central role in the conduct of effective, efficient and accountable grants administration. Clear and comprehensive guidelines promote effective and efficient grants administration by encapsulating in one document all relevant information concerning the program (including any relevant legislative provisions; program 'entry' criteria and assessment criteria; the process that will be applied in determining successful applicants; and the obligations that funding recipients will be required to satisfy).

3.2 A key role for guidelines is to provide the basis against which funding recommendations are made. For this reason, the CGRGs require that the basis for recommending or rejecting each

21 The CGRGs require that guidelines be developed for all new grant opportunities (including one off and ad hoc grants), and revised where significant changes have been made to a grant opportunity.

proposed grant should reflect the particular merits of each grant activity in terms of the program guidelines, including evaluation against the eligibility and assessment criteria.

Were program guidelines developed?

Program guidelines were developed by the Department of the Environment and Energy (DoEE, or the department), approved by the Minister for the Environment and Energy (the Minister) and published on the department's website.

3.3 Work on the guidelines began soon after ministers had decided to partner with the Great Barrier Reef Foundation (the foundation). The development of the guidelines occurred concurrently with the development of the foundation's proposal and the drafting of the grant agreement.

3.4 On 15 May 2018, the department provided draft guidelines to:

- the foundation, to assist with the development of the funding proposal; and
- its Minister, for his approval.

3.5 When providing the draft guidelines to the foundation, the department informed the foundation that the guidelines had not yet been approved by the Minister.

3.6 The Minister was advised that the draft guidelines had been developed to reflect the:

- elements of the proposed partnership decided upon by ministers on 28 March 2018; and
- collaboration principles agreed with the foundation.

3.7 The Minister was further advised that:

The Department of Finance has flagged some issues regarding the grant process. Primarily these relate to achieving transparency in decision making, the level of detail outlined in the Grant Guidelines, and the need to ensure you, as the decision maker, are appropriately briefed on the risks associated with the grant.

3.8 The Department of Finance (Finance) had raised two significant issues concerning the grant. The first related to the classification of the grant. The department provided specific advice to the Minister on this issue in its briefing, as follows:

Finance initially suggested that rather than making an ad hoc grant, the partnership should be established through a restricted, non-competitive grant, which would require a longer and more complex process requiring more detail to be included in the guidelines and for them to be approved by the Minister for Finance.

The form of grant used is a matter for you to determine. Finance has acknowledged that the proposal has many of the characteristics of an ad hoc grant. It also recognised that many of the issues it suggested should be dealt with in the guidelines could reasonably be dealt with in the negotiation of the funding agreement. Noting this, the department and the Australian Government Solicitor believe that the use of an ad hoc grant is appropriate and represents a pragmatic approach to balancing the risks involved against the short timeframes to get the partnership in place prior to 30 June 2018.

3.9 The other significant issue raised by Finance related to the absence of clear assessment criteria in the guidelines. This was referred to by the department in its advice as 'achieving

transparency in decision making'. The lack of clear assessment criteria in the guidelines is examined at paragraphs 3.33 to 3.43.

3.10 The Minister approved the guidelines (without amendment) on 24 May 2018. He asked that the department 'Continue to work with Finance and ensure risk is managed thoroughly in further briefing'.

3.11 The guidelines were published on the department's website on 31 May 2018.

Were the objectives and desired outcomes defined?

The objectives and desired outcomes of the partnership were outlined in the guidelines. The desired outcomes were broad and did not include targets or other performance measures.

3.12 The purpose of the partnership was described in the guidelines as the implementation and achievement of key actions and outcomes under the Reef 2050 Plan. The Reef 2050 Plan was developed in 2014 by the Australian and Queensland Governments in consultation with scientists, industry, traditional owners and non-government organisations. It provides an overarching framework for protecting and managing the Great Barrier Reef, including actions, targets, objectives and outcomes under seven broad themes.

3.13 The guidelines identified the partnership's expected outcomes as:

- Improved management of the Great Barrier Reef World Heritage Area and relevant activities in the adjacent catchments.
- Protection of attributes that contribute to the Outstanding Universal Value of the World Heritage Area, including species, habitats and Indigenous values.
- Management of key threats to the Great Barrier Reef World Heritage Area, including poor water quality and crown-of-thorns starfish outbreaks.

3.14 The guidelines further stated that these outcomes would be achieved in five key program areas: water quality; crown-of-thorns starfish control; reef restoration and adaption science; indigenous and community reef protection actions; and reef integrated monitoring and reporting. Each of the program areas had an indicative funding allocation set out in the program guidelines.

3.15 The expected outputs in the five key program areas were described in general terms rather than as specific, measurable results.²² For example, in the areas of water quality (indicative funding of \$201 million) and crown-of-thorns starfish control (indicative funding of \$58 million), the outcomes were, respectively, 'addressing ... water quality improvement targets' and 'expanding efforts to control crown-of-thorns starfish'. There were no proposed targets or other performance indicators.

3.16 By way of comparison, the expected water quality outcomes in the \$56 million Reef Trust Phase III guidelines included 'a ten per cent reduction in the Reef-wide anthropogenic dissolved inorganic nitrogen load' and 'a 191 kiloton reduction in the long term, annual average sediment load delivered to the Reef'. The outcomes were supported by eight key performance indicators, some of which were quantifiable (such as 'the area of land under intensive agricultural use managed

22 The CGRGs state (at paragraph 10.3) that officials should ensure that the objectives of particular grant opportunities are clear and specific.

by solutions that reduce land based pollutants and increase ground cover through improved stocking rates to match capacity’).

3.17 Similarly the guidelines for the \$20 million²³ (over six years) Phase IV Gully Erosion program included nine key performance indicators (but did not have any quantified outcomes) to be used to measure the success of the Program, including:

- the cost per tonne of sediment yield reduced or avoided; and
- the area of gully erosion managed by solutions that control stock access, reduce erosion of soil from active gullies (stabilising existing gullies), trap sediment within gullies and/or prevent new gullies from forming.

3.18 More recent Reef Trust program guidelines have not included quantified targets or performance indicators for the funding being made available.

3.19 Given the importance of the foundation’s past and planned fundraising efforts to the decision to partner with that entity, there would also have been benefits in the guidelines providing an indication of the quantum of funding the Australian Government expected should be raised from the foundation being able to leverage off a \$443.3 million grant paid in full upfront. Fundraising was not specifically addressed in the guidelines as either an objective of the partnership or an output to be delivered.

3.20 In November 2018, DoEE advised the ANAO that:

The Department does not agree that the level of detail provided in the guidelines in relation to the desired program outcomes is inconsistent with the content requirements of the CGRGs — i.e. the need to take an outcomes-based approach.

Setting of quantitative targets in the guidelines would have given an unrealistic impression of the precision with which outcomes can be predicted in the very early stages of this intervention in a highly dynamic and complex biophysical and socio-economic system.

The grant agreement requires the foundation to develop more detailed performance measures and a monitoring and evaluation plan as early deliverables, and for annual work plans to be developed and delivered adaptably across the life of the grant. Several of the funding streams will draw on program design and planning that is currently underway.

23 \$29.6 million in funding was awarded. See: <http://www.environment.gov.au/marine/gbr/reeftrust/addressing-stream-bank-gully-erosion>

Recommendation no.2

3.21 The Department of the Environment and Energy include performance targets in program guidelines for Reef Trust grants to assist it to decide whether funding proposals represent value for money having regard to the quantum of funding that is being sought.

Entity response: Noted

3.22 *The department notes that performance measures must be tailored on a case-by-case basis. In this case, the department considers that the approach taken to setting targets for the partnership, by linking them to the outcomes of the Reef 2050 Plan, was and remains appropriate due to the nature and duration of the grant.*

Do the guidelines clearly outline the program governance arrangements, selection and decision-making processes?

The guidelines outlined key program governance arrangements and clearly identified that the foundation had been selected as the only candidate to submit a funding proposal. They also identified the process by which the Minister would make a final decision on the award of grant funding to the foundation.

3.23 Program guidelines were developed by the department's Reef Branch, drawing on input from other relevant areas of the department (in particular, the General Counsel and Financial Services branches). It was able to draw upon:

- departmental-wide template guidelines for ad hoc grants dated March 2017;
- template guidelines for one-off or ad hoc guidelines for grants from the Reef Trust that had been finalised on 28 October 2016; and
- guidelines for various other ad hoc grants awarded from the Reef Trust.

3.24 The department consulted with the three central departments (the Departments of the Prime Minister and Cabinet; Treasury; and Finance) and the Great Barrier Reef Marine Park Authority on the content of the guidelines for the \$443.3 million partnership with the foundation.

3.25 The guidelines provided an overview of the intended partnership with the foundation, including the relationship of this partnership to the Reef Trust and the Reef 2050 Plan. The guidelines set out that the foundation had been chosen as 'the appropriate delivery partner' for a range of reasons including its 'strong track record of fundraising' and 'solid track record in managing funding from Commonwealth and state Government sources'.

3.26 The guidelines included information about the process by which a funding proposal would be developed. Specifically, the guidelines stated that '[t]he foundation will work collaboratively with the department in developing its proposal'. The guidelines did not outline that the Great Barrier Reef Marine Park Authority would also be involved in the development of the funding proposal (the Authority provided comments and suggestions on drafts of the funding proposal).

3.27 The guidelines also identified:

- the department's responsibility for making recommendations to the Minister about approval of a grant;
- the role of the department's Reef Project Board in reviewing the assessment of the foundation's proposal;
- the Minister would be responsible making final decisions about whether to award a grant;
- the monitoring, reporting and acquittal requirements that would apply to a grant; and
- that conflicts of interest could affect the performance of the partnership and that these would require management by both the foundation and the department (see further at paragraphs 5.10 and 5.11).

3.28 The guidelines indicated that, should the grant proceed, the grant agreement would include the governance framework for the partnership. The foundation was required by the guidelines to provide evidence of its willingness to enter into suitable project governance arrangements in its partnership proposal.

Were relevant and appropriate program eligibility requirements and assessment criteria established?

Relevant and appropriate eligibility requirements were established. The guidelines did not include clear assessment criteria to be applied in evaluating whether the award of a grant to the foundation would represent value for money and proper use of Commonwealth resources.

3.29 The CGRGs outline that selection criteria comprise eligibility criteria and assessment criteria. Eligibility criteria refer to the mandatory criteria which must be met to qualify to be considered for the award of a grant. Assessment criteria (sometimes called appraisal criteria) are the specified principles or standards against which grant funding proposals will be judged.

3.30 A key obligation under the grants administration framework is that officials must provide written advice to ministers, where ministers exercise the role of an approver (as was the case for the grant to the foundation). The CGRGs set out that this advice:

- must include the merits of the proposed grant or grants relative to the grant guidelines (including assessment against the eligibility and assessment criteria) and the key consideration of achieving value with public money; and
- should indicate whether the selection criteria have been fully, partially or not met.

Eligibility requirements

3.31 The program guidelines included a section titled 'Eligibility'. This section set out the four requirements the foundation needed to meet in order to be eligible to receive the grant being that it:

- is a legal entity, able to enter into a legally binding agreement;
- has an Australian Business Number;
- is registered for the purposes of taxation; and
- has an Australian bank account.

3.32 The eligibility section of the guidelines also set out those activities that were eligible and ineligible.

Assessment criteria

3.33 The CGRGs state that program guidelines should include 'clear assessment criteria (if applicable)'. The applicability of assessment criteria to grants awarded through a non-competitive process is that those criteria provide a transparent means of assessing whether the particular proposal under consideration is of a satisfactory standard that a grant should be approved. Appendix 3 provides background on the development of the grants administration framework as it relates to the applicability of assessment criteria to decisions on the award of non-competitive grants.

3.34 The department's 15 June 2018 briefing to the Minister recommending that the \$443.3 million grant be approved identified six reasons why the department had concluded the proposal from the foundation represented value for money and a proper use of Commonwealth resources.²⁴ The six reasons related to:

- the activities being funded having been developed in consultation with a range of relevant reef stakeholders;
- the governance arrangements proposed by the foundation being appropriate;
- on-ground projects will be designed and implemented in line with Reef Trust investment principles, including use of best available scientific and expert advice;
- funding for the foundation's administration and reporting costs being capped at five per cent of the grant amount (compared with the usual 15 per cent for Reef Trust contracts), with interest earned on the grant able to be used to fund further administration costs up to a maximum of another five per cent;
- the duration, certainty and magnitude of the funding enabling longer-term, strategic investments to be developed and adaptively managed; and
- the foundation's good track record of fundraising and project delivery along with its capacity to leverage additional co-investment.²⁵

3.35 It might be expected that these six reasons would relate to assessment criteria included in the program guidelines. However, the program guidelines had not included assessment criteria related to each of these six matters. Mapping undertaken by the department in November 2018 and provided to the ANAO indicated that three of the reasons (the first, fourth and fifth) did not directly relate to matters the program guidelines had stated needed to be addressed by the funding proposal.

3.36 Until 20 April 2018, drafts of the program guidelines had included a section titled '[t]he assessment criteria' with the assessment criteria clearly identifiable (six criteria in the initial drafts²⁶,

24 Section 71 of the *Public Governance, Performance and Accountability Act 2013* provides that a Minister must not approve a proposed expenditure of relevant money unless the Minister is satisfied, after making reasonable inquiries, that the expenditure would be a proper use of relevant money. 'Proper use' is defined as efficient, effective, economical and ethical use or management of public resources.

25 See paragraph 4.12 for the department's conclusions.

26 See Appendix 4.

and three criteria in later drafts²⁷). Departmental records dated 17 April and 18 April 2018 outline that the department wanted to adopt a 'light touch' approach to the guidelines and there were concerns within the department that the foundation may not be able to respond adequately to the proposed assessment criteria. On 20 April 2018 the draft guidelines were amended to:

- remove the heading 'The assessment criteria' and replace it with 'Proposal'; and
- replace the nominated assessment criteria with a series of dot points setting out matters the foundation's proposal was required to address.

3.37 A draft of the guidelines was provided to the Department of Finance (which is responsible for the grants policy framework) on 2 May 2018 requesting any comments the following day. Finance provided comments to DoEE on 3 May and 4 May 2018 that included suggesting that the guidelines be amended to:

- clearly identify the assessment criteria;
- draft the criteria to be high level and capture the foundation's governance, capacity to deliver and previous experience;
- include a separate criterion that dealt with collaboration (so as to better meet the objectives of the grant opportunity).

3.38 DoEE did not accept the Department of Finance's suggestion. Instead, DoEE retained the approach it had adopted in the draft provided to Finance of including two sets of five dot points (see Figure 3.1) under a heading 'Proposal'. In considering Finance's suggestion, DoEE recorded that it had 'taken an active decision not to artificially add assessment criteria'. This reasoning was communicated to Finance by DoEE in a 9 May 2018 meeting.

27 See footnote 31.

Figure 3.1: Extract from the program guidelines

<p>The Proposal should:</p> <ul style="list-style-type: none"> • demonstrate how the Foundation's performance of the Partnership will contribute to the Partnership Outcomes and delivery against the Reef 2050 Plan • align with the purposes of the Reef Trust Special Account Determination • align with the Reef Trust principles of investment • build on existing efforts and not duplicate or replace activities already being undertaken in the Great Barrier Reef World Heritage Area or Reef catchments • demonstrate how the Foundation plans to attract private and philanthropic co-investment to enhance delivery of the Partnership <p>Additionally, the Proposal should demonstrate the Foundation's capability and capacity to effectively deliver the Partnership by including in the Proposal:</p> <ul style="list-style-type: none"> • the Foundation's understanding of the linkages between the Partnership Outcomes and the Reef 2050 Plan, including its advisory bodies • evidence of the Foundation's ability to promptly build delivery capacity to effectively and efficiently deliver the Partnership outcomes • evidence of the Foundation's ability to provide timely, high quality project reporting information and data to meet a range of stakeholder requirements • evidence of the Foundation's ability to raise funds from the private sector • evidence of the Foundation's relevant expertise and experience in delivering activities similar to the Partnership components

Source: Reef Trust Partnership program guidelines, section 4 titled 'Proposal'.

3.39 In November 2018, after the ANAO raised with DoEE a concern that the guidelines should have included assessment criteria (for reasons set out in Appendix 3), the department advised the ANAO that, from its perspective:

- the department met the CGRG requirements by including selection criteria in the guidelines (as outlined in Figure 3.1), and conducting an evaluation of the foundation's proposal against them;
- the proposal requirements reflected in Figure 3.1 replaced the assessment criteria that had been included in early drafts of the guidelines (under the heading 'The assessment criteria');
- a comparison by the department of the three assessment criteria in the 19 April 2018 draft and the proposal requirements under the final guidelines showed that the original²⁸ three criteria were fully encompassed in the proposal requirements; and

28 The ANAO's analysis was that first drafts of the program guidelines had included six criteria.

- the Ministerial approval brief, including attachments, comprised a comprehensive assessment of the proposal against the guidelines and therefore met the requirements of the CGRGs.

3.40 The ANAO's analysis was that the ten dot points were not clearly identifiable as assessment criteria and the ANAO's analysis is that they were not well drafted to perform the role of assessment criteria. For example, a number were expressed in absolute terms (such as 'align with the Reef Trust principles of investment') rather than relative terms (for example, 'the extent to which the proposal aligns with the Reef Trust principles of investment'). In addition, there was duplication evident among the dot points, as follows:

- the first dot point ('The proposal should: demonstrate how the foundation's performance of the partnership will contribute to the partnership outcomes and delivery against the Reef 2050 Plan') was similar to the sixth dot point (being that the proposal demonstrate the foundation's 'understanding of the linkages between the partnership outcomes and the Reef 2050 Plan, including its advisory bodies')²⁹, and
- the fifth dot point ('The proposal should: demonstrate how the foundation plans to attract private and philanthropic co-investment to enhance delivery of the partnership') addressed the same consideration as the ninth dot point ('evidence of the foundation's ability to raise funds from the private sector'). Combining these two considerations and expressing them as an assessment criterion — requiring the department to form a view on the foundation's past performance and future plans — may have assisted the department to have applied greater scrutiny applied to the foundation's ability to use the grant funding to attract private and philanthropic co-investment (see paragraphs 5.30 to 5.39).

3.41 An important characteristic of sound assessment criteria is that they be comprehensive, with a strong link to the desired outcomes. A desired outcome from the partnership with the foundation was leveraging the Australian Government funding to obtain private sector contributions. Yet no dot point in the relevant section of the guidelines addressed the administration costs of the partnership model. In contrast, the level of administration costs was one of six reasons referenced by the department in its advice to the Minister as to whether the grant represented value for money. Including an assessment criterion focused on the level of administration costs may have assisted the department to have more thoroughly examined the likely quantum of these costs and therefore provide more accurate and complete assessment advice to the Minister (see paragraphs 5.51 to 5.68).

3.42 The ANAO's analysis was that the department's approach to the guidelines for the \$443.3 million partnership with the foundation was inconsistent with:

- the department's template grant program guidelines. Specifically:
 - template guidelines for one-off or ad hoc guidelines for grants from the Reef Trust that had been finalised in October 2016. On 6 April 2018, this template was shared within the team in the department's Reef Branch that was progressing the partnership grant to the foundation. Under the heading 'assessment criteria' the

29 There may also have been benefits in combining the first and sixth dot points with the second, third and seventh dot points, as all five of these dot points were reasonably interrelated. This was reflected in the department's written assessment, which did not give equal prominence to each dot point.

- template included six assessment criteria (and considerations that were to be taken into account in evaluating a proposal against those criteria), and drafts of the guidelines for the \$443.3 million reef partnership of up to and including 17 April 2018 had also included those six criteria (see Appendix 4); and
- department-wide template guidelines for one off ad hoc grants that had been finalised in March 2017. The template included guidance on the inclusion of assessment criteria, and how they should be drafted along with three standard criteria (under the heading ‘assessment criteria’).³⁰ On 12 April 2018, in the context of developing the guidelines for the \$443 million partnership grant, this template was provided to the team within the department’s Reef Branch that was progressing the partnership grant to the foundation. Those three criteria³¹ had been included in draft guidelines dated 18 April and 19 April 2018; and
 - the approach taken for other non-competitive Reef Trust grants. Most recently, on 9 March 2018, the foundation had submitted a grant funding proposal against program guidelines for the ‘Reef Trust — Phase VI Island Restoration Partnership’. This was for a \$5 million ad hoc grant awarded to the foundation without a competitive selection process.³² The guidelines for this grant included five explicit assessment criteria.

3.43 More broadly, the department has developed a Partnership Statement and is developing an internal operating framework to provide a systematic way for it to receive and respond to partnering proposals. Relevantly, the framework to discuss, receive and consider partnering proposals that was in draft form at the time of the ANAO’s audit included an initial screening of proposals against predetermined threshold criteria, followed by a detailed assessment (for those proposals that meet the threshold criteria) against five predetermined assessment criteria.

Recommendation no.3

3.44 The Department of the Environment and Energy include clear assessment criteria in program guidelines for any grant proposals that are being considered through non-competitive processes.

Entity response: Noted

3.45 *The department will continue to apply clear criteria for assessing grant proposals, as it did in this case. Where opportunities exist, the department will include clear labelling of ‘assessment criteria’, noting that flexibility is provided by the Commonwealth Grants Rules and Guidelines.*

30 These were:

- how will the grant activity contribute to the objectives of the grant program?
- what is the need for the particular grant activity in the particular location/demographic or how does the proposed grant activity address a specific need?
- what is the capability and capacity of the applicant to undertake the grant activity?

31 Which were:

- How will the proposed grant activities contribute to the objectives of the grant program?
- How do the proposed grant activities address delivery of each of the required grant outcomes?
- What is the capability and capacity of the applicant to deliver the objective and outcomes?

32 The total project value is \$10 million over five years with the foundation expected to match the grant dollar-for-dollar with funds raised from private donors.

4. Decision to approve grant funding

Areas examined

This chapter examines whether the decision to award a grant to the Great Barrier Reef Foundation (the foundation) was informed by written departmental advice that met the content requirements of the Commonwealth Grants Rules and Guidelines (CGRGs).

Conclusion

Detailed and clear written departmental advice that met the content requirements of the CGRGs was provided to the Minister for the Environment and Energy (the Minister). The Minister was advised that the foundation's proposal fully met the criteria in the program guidelines but those guidelines had not included clear assessment criteria. Instead, the Department of the Environment and Energy (DoEE, or the department) cited six reasons that supported its conclusion that the foundation's proposal represented value with money and a proper use of Commonwealth resources. Not all of the reasons cited by the department can be adequately traced back to the program guidelines.

Areas for improvement

The key shortcoming in the advice provided was a consequence of assessment criteria not being included in the program guidelines. An ANAO recommendation in Chapter 3 addresses this.

Was the Minister given a clear funding recommendation?

The department provided the Minister with a clear funding recommendation. The department recommended that the Minister accept the risks and its risk management plan detailed within the advice, and approve expenditure of \$443.3 million as a one-off, ad hoc grant to the foundation. The Minister recorded his acceptance of the department's advice.

4.1 A key obligation under the grants administration framework is that officials must provide written advice to ministers, where ministers exercise the role of an approver — as was the case for the \$443.3 million partnership grant awarded to the foundation. The CGRGs also include various content requirements for the briefing of ministers.

4.2 Following the department's assessment of the proposal from the foundation, the department provided detailed advice to the Minister on 15 June 2018. The advice comprised:

- a nine-page briefing that summarised various aspects of the proposed grant, including the due diligence that had been undertaken to assess the foundation's suitability to receive the grant, and a summary of the foundation's proposal;
- an overview of the expected content of the grant agreement; and
- a range of supporting material in the form of eight attachments comprising:
 - the Department's risk assessment and management plan;
 - legal risk advice;
 - draft letters to the Prime Minister, Treasurer and Minister for Finance;
 - an outline of how the approach taken complied with the requirements of the grants administration framework;

- a copy of the program guidelines;
- a copy of the proposal received from the foundation;
- a 21 page document outlining the Department’s assessment of the proposal against the program guidelines; and
- a report from the Department’s legal adviser on the due diligence it had conducted on the foundation.

4.3 The department sought the assistance of the Department of Finance and the Australian Government Solicitor in preparing advice for the Minister. This assisted the department to ensure that its advice to the Minister met the minimum requirements of the CGRGs. In particular, the briefing:

- clearly identified that the spending proposal being recommended was a grant;
- provided information on the applicable requirements of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and CGRGs;
- stated that the department considered the proposed expenditure to be a proper use of relevant money; and
- set out the legal authority for the award of the proposed grant.

4.4 The brief explicitly brought the risks associated with the grant proposal to the Minister’s attention, along with the department’s risk management plan. Risks identified in the brief included:

- the foundation’s ability to scale up its operations and project management capabilities;
- the decision to provide a single, up-front payment as compared to a grant made available progressively on achievement of milestones;
- to ensure that the upfront payment would be fully accounted for in 2017–18 meant that: some key process-related and governance controls have not been able to be included in the funding agreement. These include that the Commonwealth does not have approval rights over the investment strategy and annual work plans.

4.5 The briefing included four recommendations being that the Minister:

- accept the identified risks associated with the grant along with the department’s risk management plan;
- approve expenditure of \$443.3 million under section 71 of the PGPA Act as a one-off, ad hoc grant;
- sign letters to the Prime Minister, Treasurer and Finance Minister informing them that grant funding had been approved and outlining the key details of the grant agreement that was being negotiated; and
- note that the execution of the grant agreement would be made by a delegate within the department.

4.6 The Minister was also advised that:

If there are other reasons why the Government decided to select the foundation to receive a one-off, ad hoc grant that are not described in the relevant Cabinet documents, you may wish to indicate these by annotating the first page of this brief.

4.7 On 20 June 2018 the Minister signed the briefing recording that he had accepted each of the four recommendations. This provided an appropriate record of the reason for the decision to award the funding (as required by the CGRGs). No annotation was made by the Minister in relation to any reasons additional to those recorded in the documents as to why the foundation had been selected.

Was the Minister advised in writing on the extent to which the foundation's proposal met the program criteria?

The written grant funding approval briefing provided to the Minister stated that the foundation's proposal fully met the criteria included in the program guidelines. An attachment to the briefing set out that the department had concluded that the foundation satisfied the published eligibility criteria. The briefing to the Minister identified six reasons why the department concluded the proposal from the foundation represented value for money and was a proper use of Commonwealth resources. The matters referenced by the department were not drawn directly from the program guidelines, as those guidelines had not included clear assessment criteria.

4.8 The CGRGs require (at paragraph 4.7) that departmental advice to a minister on the award of grant funding should indicate whether the selection criteria have been fully met, partially met or not met.

4.9 The department advised the Minister that the foundation's proposal 'fully meets the criteria described in the grant guidelines' and referred him to an attachment to the briefing. That attachment was a table that set out the department's assessment of compliance with the relevant requirements of the grants administration framework.

4.10 Also attached to the briefing was another table titled 'Proposal Evaluation' and which was introduced as representing the department's evaluation of the proposal against the program guidelines. This table included the department's advice as to how the foundation had satisfied the eligibility requirements set out in the program guidelines.

4.11 As discussed at paragraphs 3.33 to 3.43, the program guidelines did not include clear appraisal criteria to be applied in assessing whether the award of a grant to the foundation would represent value for money and proper use of Commonwealth resources. Rather, the guidelines included a series of dot points of matters the foundation's funding proposal was expected to address (see Figure 3.1 on page 41). The 'Proposal Evaluation' table attached to the department's briefing discussed whether the proposal had addressed those matters (in some instances explicitly referencing the relevant section of the program guidelines). Separately, the covering briefing identified six reasons (see paragraph 4.12) why the department concluded the proposal from the foundation represented value for money and was a proper use of Commonwealth resources.

Did the briefing address whether the award of a grant would provide value with relevant money?

Departmental advice to the Minister clearly stated that the award of the grant to the foundation would provide value for money and was a proper use of Commonwealth resources. The department informed the Minister of six reasons why the department reached this conclusion.

4.12 The department's briefing advised the Minister that it had concluded that the proposal from the foundation represented value for money and a proper use of Commonwealth resources. The briefing listed six dot points as the reasons for reaching this conclusion. Those reasons were:

- the activities to be funded by the grant had been developed in close consultation with a range of Reef stakeholders;
- the foundation has proposed appropriate governance arrangements that will be enshrined in the grant agreement;
- on-ground projects will be designed and implemented in line with Reef Trust investment principles, including the use of best available scientific and expert advice;
- funding for the foundation's administration and reporting costs will be capped at five per cent of the grant value (compared with the usual 15 per cent for Reef Trust contracts), with interest earned on the grant funds able to be used to fund further administration costs up to a maximum of another five per cent;
- the six year duration, certainty and magnitude of funding should enable longer-term, strategic investments to be developed and managed over the life of the grant; and
- the foundation has a good track record of fundraising and project delivery and is well placed to leverage additional co-investment.

4.13 The 'Proposal Evaluation' table attached to the brief supported this advice with an eight page discussion in response to the question 'Does the proposal represent value for money and proper use of Commonwealth resources?' This discussion addressed each of the six reasons cited by the department in support of a conclusion that the award of a grant represented value for money (organised into six sub-sections that aligned with the six reasons cited by the department). As part of this performance audit, the ANAO examined the evaluation work undertaken by the department in relation to two of those reasons:

- the foundation's ability to use the grant funding to attract private and philanthropic co-investment (discussed at paragraphs 5.29 to 5.50); and
- total administration costs of the foundation and its delivery partners (see paragraphs 5.51 to 5.69).

4.14 The ANAO also examined the department's assessment of the foundation's ability to scale-up its delivery capacity and capability (see paragraphs 5.14 to 5.26). Although not listed as a reason in support of its conclusion that the foundation's proposal represented value for money, the department's assessment provided to the Minister had concluded that the foundation should be able to scale-up its delivery capacity and capability, and manage a significantly expanded portfolio of projects.

5. Scrutiny of the foundation's proposal

Areas examined

This chapter examines whether there was appropriate scrutiny of the Great Barrier Reef Foundation's (the foundation's) proposal to inform departmental advice on whether a grant should be awarded, and the subsequent development of a grant agreement.

Conclusion

The Department of the Environment and Energy (the department, or DoEE) assisted the foundation to develop its funding proposal, in parallel with the development of the program guidelines and the evaluation of that proposal. To address risks to the objectivity of the evaluation, a senior level review of the evaluation was undertaken by the department's internal Reef Project Board, the members of which had not been directly involved in the co-development of the foundation's proposal.

There was insufficient scrutiny of the foundation's proposal in three key areas examined by the ANAO, being the:

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

Areas for improvement

The ANAO made three recommendations relating to:

- the management of probity and other risks where the department assists entities develop their grant funding proposals;
- obtaining assurance over the achievement of value for money in the foundation's use of delivery partners; and
- steps for the department to obtain assurance about foundation's subcontracting processes, including the quantum of administration costs being charged by subcontractors.

Were risks associated with the department assisting the foundation develop its grant proposal identified and managed?

As it had done with previous ad hoc grants from the Reef Trust to various entities, the department assisted the foundation to develop the grant funding proposal. The risk that the department's involvement in the development of the funding proposal presented to an objective evaluation of that proposal was identified in the department's risk assessment and management plan for the grant. The key risk management strategy adopted involved having the department's internal Reef Project Board review and endorse the evaluation work undertaken by the Reef Branch (staff from this branch had provided the assistance to the foundation). This strategy did not fully address the risk that the department's involvement in

the development of the funding proposal presented to an objective evaluation of that proposal, and conflict of interest risks were not adequately addressed.

5.1 The department engaged extensively with the foundation following the 9 April 2018 meeting between ministers and the foundation and, at a detailed level, particularly once collaboration principles had been agreed on 26 April 2018.³³ Reflecting that there were only nine weeks available after the collaboration principles were agreed if grant funds were to be paid in 2017–18, there was significant overlap in key stages of the grants administration process (see Figure 5.1). In particular:

- work on the foundation's grant funding proposal commenced while the program guidelines were still under development, rather than in response to a finalised set of program guidelines. In this respect, the foundation provided the department with a draft outline of the content of the proposal on 7 May 2018 more than one week before the department provided³⁴ the foundation with the program guidelines that had been provided to the Minister for his consideration (the foundation was informed that the guidelines had not yet been approved by the Minister).³⁵ Drafts of the proposal were provided to the department on 15 May and 21 May 2018 and the foundation submitted its finalised proposal on 29 May 2018, five days after the guidelines were approved by the Minister on 24 May 2018;
- evaluation activities, and development of the grant agreement, commenced prior to the foundation finalising and submitting its funding proposal. This enabled the department's Reef Branch to provide its Reef Project Board with a draft evaluation briefing package on 30 May 2018³⁶, the day after it had received the final version of the foundation's funding proposal; and
- departmental staff provided assistance and input to the development of the funding proposal, including hosting foundation staff in departmental premises as part of the co-development process and providing comments and suggestions on the developing content of the proposal.³⁷ Transparency about this assistance was aided by the program

33 An 'initiation' working level meeting between the foundation and the department on the development of the proposal and its assessment was held on 19 April 2018.

34 The draft guidelines were provided to the foundation at 3:14pm on 15 May 2018, 19 minutes after the foundation had emailed the department a first draft of the funding proposal.

35 The department had similarly, on 9 March 2018, provided the foundation with a draft of the program guidelines for another ad hoc grant to the foundation (\$5 million for a project to rehabilitate and conserve reef islands over the period 2018–19 to 2022–23).

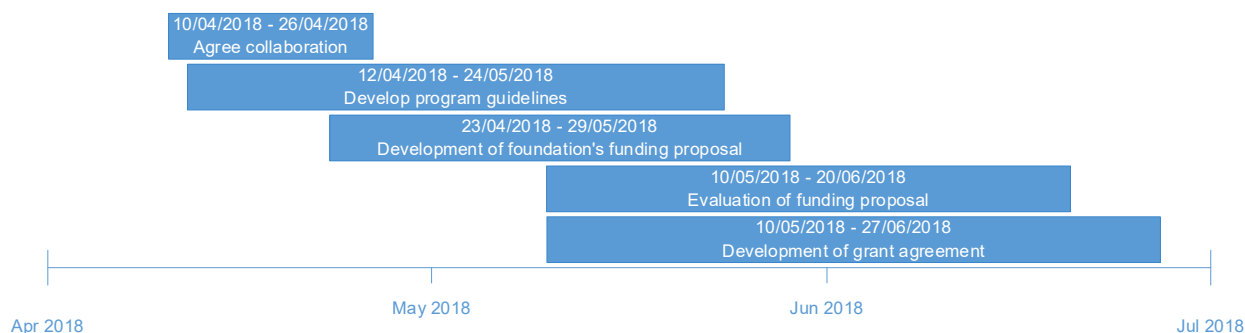
36 In November 2018, the department advised the ANAO that: 'We confirm that, to the best of our records and recollection, the draft evaluation was provided to the Project Board in hardcopy format the day after the department received the final version of the foundation's funding proposal i.e. 30 May 2018'.

37 For example, on 24 May 2018 the department provided the foundation with 'feedback' on a draft of the proposal (including appendices) provided by the foundation on 21 May 2018. The feedback included:

- asking that more examples be provided against statements of capacity/capability in the main document or greater reference to relevant appendices;
- requesting more detail about the systems the foundation has in place to efficiently manage projects and programs;
- a high level indication of the systems the foundation will develop to manage disbursement of funds/funding rounds; and
- a suggested governance diagram to replace the one currently in the proposal.

guidelines disclosing that ‘The foundation will work collaboratively with the department in developing its proposal’. The Great Barrier Reef Marine Park Authority also provided comments and suggestions on drafts of the funding proposal.

Figure 5.1: Overlap in key grants administration activities



Source: ANAO analysis of departmental records.

5.2 The department would have had difficulty meeting the timeline of making full payment of the grant in 2017–18 had it conducted the above grants administration activities sequentially. There was also a risk that, had the department not assisted with the development of the foundation’s funding proposal, evaluation work may not have concluded that the proposal was of an adequate standard to support a recommendation that grant funding be awarded.

5.3 The \$443.3 million partnership grant was not the first occasion on which the department has overlapped the conduct of key grants administration processes and assisted the foundation (or other entities that have received ad hoc grants from the Reef Trust) to develop a grant funding proposal. This was the case with a \$5 million grant that was awarded by the Minister in April 2018 for a project to rehabilitate and conserve reef islands over the period 2018–19 to 2022–23. A grant for the reef islands project had been raised by the foundation with the department in the latter part of 2017 and, in advance of the development and Minister approval of program guidelines, the department assisted the foundation with the development of the funding proposal.³⁸

5.4 Departments assisting entities to develop grant funding proposals/applications results in increased probity risks.³⁹ For example, parallel development of the program guidelines and assistance with developing the funding proposal brings with it a risk that the guidelines would be framed to reflect the developing content of the funding proposal, rather than vice versa. There are also risks to the objectivity of the evaluation process where those assisting with the development of the funding proposal are involved in the evaluation of the proposal that is subsequently received.

38 This included, on 13 November 2017, providing the foundation with a project proposal template which the department had populated with some indicative text and instructions, and providing comments on subsequent drafts on 30 November 2017 (with advice that ‘a little bit more work is needed on the focus of the project and on the separation of activities from the Joint Field Management Program’) and on at least one further occasion (2 March 2018).

39 The ANAO has previously drawn attention to the need to manage attendant risks when those responsible for assessing grant funding proposals also play a role in the preparation of the proposal that they will later assess (Auditor-General Report No. 11 2014–15, *The Award of Grants Under the Clean Technology Program*). In that instance, the ANAO recommended that, an advisory role is being performed to assist with the development of funding proposals in addition to the assessment of funding proposals, a clear separation should be maintained between the roles so as to maintain the objectivity of the assessment stage.

5.5 The department did not develop a probity plan or obtain probity advice. Although the department's grants administration framework does not require that a probity plan be prepared, it includes guidance on the development of a probity plan. Specifically, the guidance states that a probity plan is to ensure:

- the assessment process is conducted objectively and consistently
- all confidential information is secured and handled appropriately
- all actual, potential or perceived conflicts of interest are addressed and effectively managed
- that accountability is maintained; confidence is preserved in the chosen processes and decisions and processes are defensible.

5.6 Indicating that, more broadly, the department had an appreciation of the importance of managing probity when entering into partnerships, in early April 2018 the department had commenced the development of a probity framework to inform stakeholders both internally (for example, staff and ministers) and externally (potential partners) of the probity controls, processes and principles that would apply when the department engages in partnerships. The firm engaged on 20 April 2018 for this work was also engaged (in early May 2018) to assist with developing a probity framework for a partnership arrangement involving the department's Australian Antarctic Division. No similar actions were taken to address probity considerations in relation to the progression of a partnership with the foundation.

5.7 In October 2018, the department advised the ANAO that:

At their meeting on 24 September 2018 the Project Board discussed the assurance project being undertaken by the Reef Trust and requested that a [*Probity*] Plan be brought forward to bring together governance arrangements already in place for the grant and processes for future management.

5.8 The department's risk management plan for the grant addressed one of the matters identified at paragraph 5.1. Specifically, the risk management plan recognised that the department assisting the foundation develop its funding proposal represented a risk to the objectivity of the assessment process. The three identified risk management strategies each related to the role played by the Reef Project Board. This internal board comprised four Senior Executive Service officers from the department. Two of those members had responsibilities that included overseeing staff involved in progressing the partnership with the foundation.

5.9 The board met on four occasions in relation to the partnership grant to the foundation, with the second and third occasions related primarily to overseeing the evaluation of the foundation's proposal (see Table 5.1). The board had not oversights the evaluation work conducted in relation to other funding proposals where the Reef Branch had been involved in the development of the proposal.

Table 5.1: Reef Project Board meetings relating to the partnership funding proposal

Date	Meeting purpose
18 May 2018 3:00pm–4:00 pm	Approved the department's project plan and agreed to board terms of reference to provide senior oversight and review of the evaluation process and to endorse the grant funding approval brief to be provided to the Minister at the conclusion of the evaluation.
4 June 2018 11:45am–2:30pm	Review of the draft grant approval package to be provided to the Minister, including providing comments and required additions/edits on individual sections of the department's evaluation document and the draft covering brief. Received an update on the status of the grant agreement and negotiations with the foundation. Requested changes to the department's risk assessment and management plan. Discussed a Management Initiated Review (MIR) requested by the department (on 25 May 2018) from its internal audit contractor of the process and procedures used to establish the grant.
12 June 2018 3:30pm–6:10pm	Second review of the draft grant approval briefing package. Received an update on the grant agreement. Board agreed that it did not need to reconsider the revised briefing package before it was provided to the Minister, but would meet on 19 June 2018 to discuss any outstanding issues that had not been resolved in the negotiation of the draft grant agreement.
19 June 2018 3:00pm–4:00pm	Received an update on the status of the briefing package (had been submitted to the Minister). Discussed key matters being negotiated in the grant agreement. Noted updates to the risk assessment and management plan.

Source: ANAO analysis of departmental records (in particular, meeting agendas and minutes). Meeting durations reflect advice from DoEE to the ANAO during the course of the audit, as the department advised the ANAO that the meeting minutes for the 4 June and 12 June meetings did not reflect the actual time the meetings concluded.

5.10 The department's grants administration framework requires that conflicts of interest be a standard agenda item for each assessment committee meeting. Notwithstanding the important role it was playing in the evaluation process, conflicts of interest were not recorded as having been addressed in the agendas or minutes of any of the Reef Project Board meetings. In October 2018, the department advised the ANAO that:

The Project Board's recollection is that in its early meeting there was a general discussion regarding how to appropriately manage issues such as probity and conflicts of interest. This discussion was informed by a number of documents (these are in the email sent to the Board on 11 May 2018) including the Project Plan (including Risk Plan), draft Terms of Reference for the Project Board's role and the draft Grant Guidelines. Section 11 of the draft Guidelines deals with conflicts of interest and included the requirement that "Conflicts of interest for Australian Government staff will be handled as set out in the Australian Public Service Code of Conduct (section 13(7) of the *Public Service Act 1999*).\" Under the Code of Conduct an APS employee must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment.

The Project Board recognises that the minutes of the meeting do not explicitly reflect this however the outcome of the discussion was manifested in the final Terms of Reference agreed by the Project Board and in the updates made to the Risk Plan. The Project Board states for the record that in undertaking their role in relation to the Great Barrier Reef Foundation Partnership each member has acted in accordance with their obligations under the Code of Conduct including in relation to conflicts of interest. Noting this, at their meeting on 24 September 2018 the Project Board directed that conflict of interest would be added as a standing agenda item at all future meetings.

5.11 The department also did not require relevant staff involved in assisting the foundation prepare its proposal or the evaluation of that proposal to complete declarations identifying whether they had any perceived or actual conflicts and, if so, the proposed management strategies. The absence of conflict of interest declarations for staff involved with evaluation of the foundation's proposal as well as the Board members was at odds with the program guidelines, the Commonwealth Grant Rules and Guidelines⁴⁰ and observed practice in other Australian Government departments.⁴¹

Recommendation no.4

5.12 The Department of the Environment and Energy document a probity framework to manage the risks associated with it assisting potential grant recipients develop their funding proposals/applications.

Entity response: Agreed

5.13 *The department will build on the existing documented probity guidance and arrangements used by the Reef Trust. In relation to the grant to the foundation, the department is reviewing governance arrangements to ensure that appropriate processes and systems are in place and fit-for-purpose.*

Did the department take adequate steps to satisfy itself about the foundation's ability to scale-up delivery capacity and capability?

The department applied adequate scrutiny to factors relevant to the foundation's ability to scale-up its governance structures and resourcing levels. Insufficient scrutiny was applied in the evaluation of the grant funding proposal as to whether the delivery partners (including subcontractors) on which the foundation relies will be able to scale up their capacity and capability. The department has advised the ANAO that the risks associated with subcontractors will be managed through the grant agreement and across the grant lifecycle by the foundation.

5.14 The \$443.3 million grant is to be spent over six years. In its previous six years of operation, the foundation received total revenue of \$42.3 million (an average of \$7 million per annum). To the extent the foundation is successful in obtaining contributions from other government grants as well as the private and philanthropic sectors (see paragraphs 5.30 to 5.39), the scaling-up challenge for the foundation will be even greater.

5.15 Departments recognised in the lead-up to the 28 March 2018 Government decision (see Figure 1.1) that the foundation's capacity to broaden and rapidly scale up its operations was a key risk to the partnership succeeding. They also flagged that this risk would be difficult to manage. The advice to Government stated that the risks could largely be managed through contracting and by the foundation engaging with existing advisory bodies.

40 Which require (at paragraph 13.8) that accountable authorities establish appropriate mechanisms for identifying and managing potential conflicts of interest including requiring the completion of conflict of interest declarations and maintaining a register of declared interests.

41 See, for example, Auditor-General Report No.2 2017–18, *Administration of the Data Retention Industry Grants Program*, pp. 35–36.

5.16 The department's assessment concluded that the foundation should be able to scale-up its delivery capacity and capability, and manage a significantly expanded portfolio of projects. The department's assessment included consideration of:

- the legal framework in which the foundation operates;
- existing governance arrangements including committee charters and memberships and the ability to access technical expertise in a range of areas through its board and committee members;
- past performance by the foundation in delivering reef protection projects, particularly previous Australian Government grant-funded projects;
- plans articulated by the foundation for scaling up its activities, including a high level transition plan covering the period from the second quarter of 2018 to the first quarter of 2019;
- the identification of risks and strategies to manage those risks (informed, in part, by a legal risk analysis undertaken for the department by the Australian Government Solicitor); and
- legal due diligence checks undertaken for the department by the Australian Government Solicitor. The department also referenced advice from the foundation that it had recently 'passed' due diligence checks of its systems, policies, financial controls, procedures and governance undertaken by two other entities.

5.17 Although satisfied overall with the foundation's ability to scale-up, the department identified that the foundation:

- needed to expand experience/skills relevant to four out of the five partnership components (being water quality improvement, crown-of-thorns starfish control, indigenous and community reef protection actions, and integrated monitoring and reporting); and
- had not delivered a grant of this scale before, with the department relying on advice from the foundation that its governance structures, policies and procedures were equivalent to those seen in organisations many times its size.

5.18 The department's risk assessment and management plan considered whether the foundation would be able to scale up its organisational capacity or recruit adequate numbers of suitably qualified staff as one source of risk to the partnership achieving its outcome and objectives. The department identified that there was a low residual risk on the basis that the grant agreement would set out clear early milestones relating to scaling up activities and plans.

5.19 In relation to the likely effectiveness of the grant agreement requirements, the department:

- does not have any approval rights over the plans and strategies the foundation is required to prepare. Rather, the foundation is required under the grant agreement to give the department drafts of each of the plans and strategies and take into account any comments of the department in finalising the plans and strategies; and
- is not able to withhold the payment of any grant funding in the event it is not satisfied with the content of the plans and strategies. Legal advice to the department was that the up-front payment of all of the grant funding carried with it a higher risk that the grant

would not achieve its intended outcomes than a grant made available progressively on the achievement of specified milestones.

5.20 The department was not in a position to introduce greater controls over these matters into the grant agreement as to do so would have put the transaction at risk of being accounted for in a way that the payment of funds would have impacted on budget aggregates in years after 2017–18.

The foundation's reliance on delivery partners

5.21 In its proposal, the foundation outlined that it operates on a partnership model for the delivery of projects. The foundation stated that this approach allows it to expand rapidly and continue to actively manage the delivery of complex projects as its 'internal expansion of capability is solely focused on scaling up the commercial and supporting functions of the organisation, rather than scaling delivery capability'.

5.22 The department's May 2018 project plan recognised that the support and capacity of the foundation's potential delivery partners would directly influence success or otherwise of reef protection activities. This recognition was not reflected in the department's assessment work.

5.23 The need to address capacity of delivery partners was raised by the department in its input to the foundation on the drafting of the funding proposal. Specifically, on 17 May 2018, the department provided the foundation with comments on what was described as 'an early version of the grant funding proposal'. Those comments included that: 'It would be good to discuss capacity amongst delivery partners and ways to manage this. Many delivery partners have little spare capacity.' Compared to this draft of the proposal, the relevant section of the final submitted proposal included the following: 'We promote collaborative partnerships to ensure we have strong and diverse delivery teams, and to grow capacity and help mitigate risks associated with single delivery partners.'

5.24 The department's documented assessment did not include consideration of whether delivery partners, on which the foundation relies, could be expected to be able to scale up their capacity and capability. Further, if this could be achieved, whether the increased demand for provider products and services expected to result from the \$443.3 million grant would have any impact on prices that are charged by subcontractors.⁴²

5.25 Similarly, the department's risk assessment and management plan did not address scaling up by delivery partners. As a result, the department did not document any strategies to manage any price impacts from increasing demand, or risks to quality where less qualified/experienced providers are engaged.

5.26 In November 2018, the department advised the ANAO that:

The risks associated with subcontractors will be managed through the grant agreement and across the grant lifecycle by the Foundation. In accordance with Clause 8.8 of the CGRGs, the foundation is the party best placed to manage such risks. To provide assurance that risks will be managed effectively by the Foundation, the department required the foundation to develop a Risk

42 The only commentary on this aspect in the department's written assessment was a comment that the 'six year duration, certainty and magnitude of funding should ... permit the foundation to appropriately profile funding across out-years and delivery partners to ramp up their capacity to match the level of funding available (e.g. recruitment and training of personnel).'

Management Plan and appoint a Risk and Compliance officer as an early deliverable and this was delivered on 30 September 2018.

The Department has established other appropriate governance arrangements and protocols in the grant agreement to promote proper use and management of grant funds and believe these are proportionate to the risks identified and outcomes sought. This includes for example, ensuring the Foundation consults effectively and has adequate policies, procedures, guidelines and internal controls in place and appointing a Commonwealth Observer on the Foundation's Board and departmental representative on the Partnership Management Committee.

Recommendation no.5

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

Entity response: Agreed

5.28 *The department will draw this recommendation to the attention of the foundation and its board. The department will also takes this recommendation into account in developing future funding opportunities.*

Was adequate scrutiny applied to the foundation's ability to use the grant funding to attract private and philanthropic co-investment?

The department's assessment applied inadequate scrutiny to the foundation's past performance and future plans to attract private and philanthropic investment. Its written assessment repeated statements made by the foundation in its proposal. The department did not seek to analyse the statements in the proposal against the foundation's financial statements (the two most recent of which had been included with the funding proposal). Overall, insufficient information was obtained and analysed to assess past performance and future plans.

The grant agreement does not include specific co-investment targets. Instead, the agreement requires the development of a co-financing strategy which, in combination with annual work plans (the first of which is due by 30 June 2019), is expected to set out how the foundation will use the grant to raise contributions from other sectors. The foundation is required to consult on those plans, but the department does not have approval rights over the plans. The co-financing strategy provided to the department in September 2018 includes targets totalling \$300 million to \$400 million over the next six years. The targets may be adjusted as the foundation has not yet tested the feasibility of achieving them.

5.29 The department's June 2018 risk assessment and management plan⁴³ identified the foundation 'fails to raise additional funding from other donors' as one source of risk to the partnership achieving its outcomes and objective. The department identified that the consequence of this risk being realised would be the undermining of a key argument supporting direct grant to the foundation. Similarly, the foundation's understanding was its capacity to raise corporate and philanthropic dollars to support the Reef was an important reason it was selected.

Past performance in attracting private and philanthropic co-investment

5.30 The funding proposal included statements as to the foundation's fundraising track record. The department did not seek an explanation from the foundation for the reasons why the amount of fundraising was stated as being \$80 million in one section of the proposal but \$90 million in another section (see Table 5.2). In November 2018, the department commented to the ANAO that:

The department acknowledges that there were some inconsistencies regarding the fundraising figures provided by the foundation, but does not consider these to be sufficiently material to question the conclusions drawn.

Table 5.2: Fundraising statements in the foundation's grant proposal

Page 25	Page 29
Over the past 10 years the foundation has secured more than \$80M of cash investment for the GBR, with \$30M of this secured in the last 18 months.	Over the past decade the foundation has raised \$90 million from a combination of corporate, philanthropic and government funding. Of this amount, just under \$30 million was secured in 2017 and 2018 alone, including a \$12.5 million grant from the BHP Billiton Foundation, \$5 million from Lendlease, \$1 million from a private donor, \$650k from the Tiffany & Co. Foundation and \$8 million in matched funding from State and Federal governments.

Note: Following public commentary on its fundraising performance, on 16 August 2018 the foundation released a media statement that it had raised over \$90 million since it was established. The amounts cited by the foundation totalled \$96.6 million including \$58.87 million from the corporate (\$52.87 million) and philanthropic sectors (\$6 million) and \$29.71 million from government sources (\$22.35 million from the Australian Government and \$7.36 million from the Queensland Government).

See <https://www.barrierreef.org/latest/news/media-statement-fundraising-breakdown> [accessed 28 August 2018]

Source: ANAO analysis of departmental records.

5.31 In November 2018, the foundation advised the ANAO that:

We picked up the discrepancy in the funds raised soon after the funding proposal was submitted and brought this error to [DoEE's] attention. Both figures should read as \$90 million. The \$80 million was accurate in 2017 so had been in some template text used when preparing the proposal. The department had registered this correction.

5.32 Although the foundation had advised that \$90 million was the correct figure, the department's documented assessment provided to the Minister stated that the foundation had raised more than \$80 million in the past 10 years to advise the Minister that the foundation 'has a good track record of fundraising'.

5.33 The program guidelines required that the foundation include with its proposal its audited financial statements for the two most recent consecutive financial years. Accordingly, the

⁴³ Provided to the Minister on 15 June 2018 in support of the department's brief recommending the award of grant funding.

foundation provided to the department its financial statements for 2016 and 2017 (the foundation's financial year ends on 31 December). The most recent financial statements set out that the foundation recognised revenue from:

- donations at the earlier of when the donation is received or is entitled to be received by the foundation;
- corporate grants when the grant is entitled to be received by the foundation; and
- government grants when they have been received into the foundation's bank account or are entitled to be received by the foundation at year end.

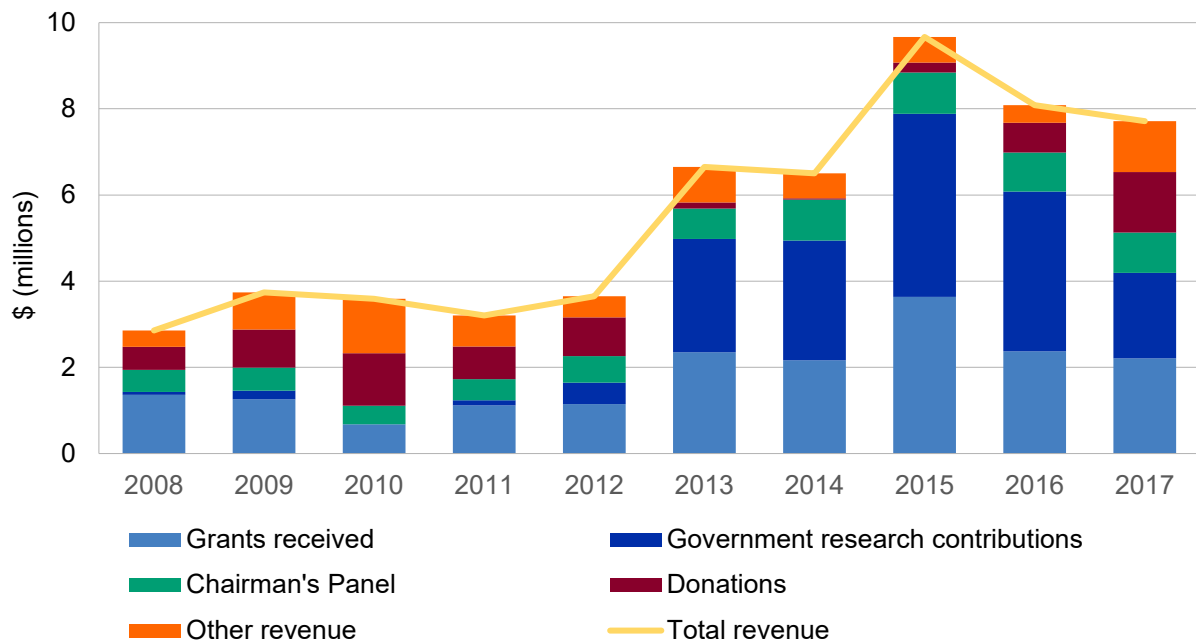
5.34 In terms of analysing the foundation's performance over time in attracting co-investment when evaluating a grant proposal that was to cover a six year period, DoEE's approach of obtaining the two most recent sets of financial statements was inadequate (which included data for three years, as the 2016 statements included comparative figures for 2015).

5.35 Audited financial statements from the foundation, back for more than ten years, were publicly available to the department for analysis.⁴⁴ The department did not obtain or analyse those financial statements in the context of the fundraising statements made by the foundation, or clarifying how much had been raised in the first five months of 2018 (as this would not have been reflected in the most recent financial statements, for the period ended 31 December 2017).

5.36 ANAO analysis of the financial statements for the ten years up to and including 2017 outline that:

- the foundation received cash from grants and donations totalling \$53.6 million;
- the foundation had total revenue of \$55.7 million, with government research contributions (29.2 per cent) and project grants (25.5 per cent) comprising the majority; and
- rising contributions from government had contributed significantly to the growth in total revenue over the period (see Figure 5.2).

44 Either from the foundation's website or the National Library of Australia's website archival facility.

Figure 5.2: Reported main sources of revenue and total revenue: 2008–2017

Source: ANAO analysis of the foundation's financial statements.

5.37 In November 2018, the department advised the ANAO that:

The department considers that reviewing all previous annual reports from the foundation was not necessary to inform consideration of the foundation's fund-raising history and capacity. Both the foundation's work and the profile of Reef activities has changed considerably in recent years, meaning that recent financial records provide the most relevant information.

5.38 This perspective was not reflected in the records of the department's evaluation work and advice provided to the Minister. Specifically:

- there was also no record of any analysis by the department of the foundation's 2016 and 2017 performance and the advice to the Minister simply repeated the statement included by the foundation in its proposal that it had raised \$80 million over the last ten years⁴⁵; and
- the department obtained information from the foundation on its fundraising performance to cover the first three months of 2018 which disclosed total income of \$993,956, mainly from fundraising activities. The department's evaluation provided to the Minister did not comment on this. The foundation advised the ANAO in November 2018 that it 'took steps to proactively increase its activities, profile and fundraising from 2017 and this is documented in our strategic plan' such that it had raised \$25 million in new reef funding in 2018.

45 As outlined at paragraph 5.31, the foundation had advised the department that the correct figure was \$90 million.

5.39 The department also did not seek to establish whether, as part of its governance arrangements, the foundation sets fundraising targets (so as to provide a benchmark against which to assess the foundation's actual performance).⁴⁶

Plans to attract private and philanthropic co-investment

5.40 The decision to approach the foundation about entering into a partnership was informed by advice that a large, upfront grant would strengthen the foundation's capacity to leverage philanthropic and business funding. Following the Budget, the foundation issued a media release stating that 'we are committed to leveraging these new funds with additional private funding'.⁴⁷

5.41 The program guidelines stated that the foundation's proposal should demonstrate how it plans to attract private and philanthropic co-investment to enhance delivery of the partnership. The foundation's proposal included three paragraphs directly in response to this requirement. The proposal did not demonstrate how the foundation planned to attract co-investment. Rather, it:

- recognised that the grant provides the opportunity for attracting additional investment;
- referenced the foundation's track record;
- identified that non-cash contributions (in addition to cash contributions) provide value; and
- reiterated its target of applying 80 per cent of funding to costs other than administration.

5.42 The foundation's proposal also stated⁴⁸ that:

Prior to the Reef Trust — Great Barrier Reef Foundation Partnership being discussed, the foundation's Board had already approved an ambitious plan for a \$100 million public-facing fundraising campaign to commence in 2019.

...The foundation will develop strategies to boost funding from private, philanthropic and government sources in Australia and overseas and foster new partnerships to fund or deliver projects. This includes launching and implementing a \$100 million fundraising campaign, as approved by the foundation's Board in March 2018. This also includes co-funding of planned programs or specific projects and activities made possible by the Reef Trust Partnership, but also for new work. The partnership will further raise the profile, presence and respect for the foundation as a significant player globally — given our experience in international engagement we are very optimistic that significant leverage of the Reef Trust investment will be possible over the next 6 years and beyond. Apart from cash investments the foundation will actively seek contributions in the form of high-value non-financial resources such as equipment and expertise. Such partnerships can also later lead to cash investments.

5.43 The proposal did not identify, and the department did not otherwise seek to ascertain, how much of the \$100 million existing target the foundation was aiming to raise from private or philanthropic sources rather than from governments.⁴⁹ It also did not identify the extent to which

46 Evidence given by the foundation to the Senate Environment and Communications References Committee on 30 July 2018 was that annual fundraising targets are set (and had been met in the last two and a half years, being the period in which the current Managing Director was able to speak to).

47 <https://www.barrierreef.org/latest/news/half-billion-dollar-landmark-reef-investment> [accessed 14 September 2018]

48 Page 26 and page 36.

49 In December 2018 the foundation advised the ANAO that it had not included any government funding in the \$100 million.

the foundation was aiming to use the Australian Government grant to leverage private and philanthropic investment above that already targeted by the foundation (\$100 million over the next ten years), or how it planned to do this. These matters were also not addressed by the department in its documented evaluation.

5.44 The department's assessment advice to the Minister was that the foundation 'is well placed to leverage additional co-investment to deliver partnership outcomes' in support of a conclusion that awarding a grant represented value for money and proper use of Commonwealth resources.

Setting of targets

5.45 Prior to the March 2018 decision to approach the foundation to enter into a partnership, the department and the Department of the Treasury each identified that a large grant could have the unintended consequence of 'softening' the foundation's ambitions to seek private and philanthropic investment.

5.46 To address this risk, the department envisaged that the foundation would be required under the grant agreement to set co-funding targets and seek cash or in-kind support from proponents for the sub-programs supported by the grant. This is the approach that the department has been taking with the agreement for another ad hoc grant to the foundation in the same time period the \$443.3 million partnership grant was being progressed. Specifically, a \$5 million grant was awarded by the Minister in April 2018 for a project to rehabilitate and conserve reef islands over the period 2018–19 to 2022–23. The grant agreement signed on 30 October 2018 requires that the foundation secure a matching \$5 million contribution from a named private source.

5.47 A draft terms sheet for the agreement for the \$443.3 million partnership grant was provided by the department to the foundation for comment on 16 May 2018 as 'a starting point for discussions around the content of the final agreement'. The draft terms sheet had proposed that schedules to the grant agreement include specific co-funding targets. The approach was changed after the foundation responded on 23 May 2018 advising that 'We won't be in a position by the time of this funding agreement execution to provide a target that is tested and guaranteed to be achieved. We can provide this in annual plans.'

5.48 As a result, the bespoke grant agreement⁵⁰ developed and signed before the \$443.3 million was paid to the foundation did not include any co-funding targets. Rather, the agreement:

- requires the foundation to seek cash and in-kind contributions for all non-administrative components;
- anticipates, but does not require, that co-financing arrangements be included in the annual work program for each funded component⁵¹; and
- requires the foundation to 'prepare, consult on and finalise' by 30 September 2018 a co-financing strategy plan that sets out how it will leverage the up-front payment of the grant to raise contributions from private and philanthropic donors. The department does

50 Standard grant agreements developed within the Australian Government have included a requirement for grant recipients to specify the amount of financial and/or in-kind contributions that would be obtained from parties other than the Australian Government. For example, see: <https://www.finance.gov.au/sites/default/files/Commonwealth-Low-risk-Grant-Agreement-Template-July2014.pdf> [accessed 28 August 2018].

51 The first annual work plan (for 2019–20) is due by 30 June 2019.

not have approval rights over the foundation's plans (as to do so would have been an indication that the Australian Government had accounting control over the grant funds that had been paid, which would have adversely impacted on the intended Budget presentation of the grant funding).

5.49 The co-financing strategy prepared by the foundation as required by the grant agreement includes a target of raising \$300 million to \$400 million over the next six years. The largest single component (\$200 million median within an unspecified target range) is expected to come from formal agreements with research and delivery partners. Other key components involve median targets⁵² of:

- \$100 million from a marine science fundraising campaign in Australia;
- \$50 million from developing corporate partnerships with iconic Australian businesses; and
- \$7 million from building awareness of the foundation and acquiring new individual donors through regular giving, planned giving, bequests and community fundraising.

5.50 The foundation's median targets indicate a leverage ratio of 1:0.35:0.45 for government: corporate/private: delivery partner co-investment. The foundation's funding proposal had stated that 'under its collaborative investment model, the foundation consistently leverages 1:1:1 with government: corporate: delivery partner co-investment'. To achieve a similar co-investment outcome under the partnership would require the foundation's median targets to be increased overall by \$529.6 million (an additional \$286.3 million from corporate/private sources and \$243.3 million from delivery partners). In December 2018, the foundation advised the ANAO that:

The funding proposal showed our historical approach to raising funds for specific projects using a leverage model (1:1:1 — government, corporate & delivery partner investment). The proposal did not state that a 1:1:1 leverage target would be applied to the Reef Trust partnership.

Under the Reef Trust partnership, the same principle of collaboration across government, corporate and research and delivery partners is outlined in the Collaborative Investment Strategy document published on 12 October 2018 but with greater detail and nuance.

Under the Reef Trust partnership model the foundation seeks to leverage the Reef Trust partnership grant (subsidised funds) with investment from philanthropy, corporate or individual giving (raised funds), and investment from research or delivery partners (contributed funds).

Specific targets have been allocated to the raised funds and contributed funds based on benchmarking, existing track record and expert advice and review. These do not equate to 1:1:1.

52 The strategy did not specify the range that applied to each specified median target. The strategy stated that 'each target will be tested via a feasibility study in the planning stage, and targets will be confirmed or adjusted accordingly, a standard fundraising practice'.

How much funding can be spent on administration costs?

Total administration costs of the foundation and its delivery partners could be up to \$86.41 million.⁵³ The department applied insufficient scrutiny to the likely administration costs of the partnership. In particular, the assessment work and resulting advice to the Minister focused on the foundation's administration costs (capped in the grant agreement at \$44.33 million), notwithstanding that it was evident that the foundation would be relying heavily on subcontractors for program delivery. The grant agreement seeks to cap the administrative costs of subcontractors at a further \$42.08 million.

5.51 When Australian Government entities are allocated responsibility for administering grant programs the decision-making process includes identifying the extent to which funding will be provided to meet departmental administration costs. For the grant to the foundation, administration costs can be expected to be incurred by three different categories of entities (including DoEE).

Department of the Environment and Energy

5.52 For the grant to the foundation, a total of \$5.2 million in additional departmental funding for DoEE was agreed to for the period from 2017–18 to 2023–24.

Great Barrier Reef Foundation

March 2018 decision

5.53 The 28 March 2018 decision to establish a partnership with the foundation was informed by advice from DoEE that the foundation 'currently' seeks to restrain administrative costs to 15 per cent of total costs. This advice was not accurate. Specifically, the foundation's:

- 2016 annual report stated that it 'was committed to striving to limit administrative and fundraising expenses to 15 per cent'; and
- 2017 annual report states it 'was committed to striving to limit administrative and fundraising expenses to 20 per cent'.

5.54 The March 2018 advice to the Government also did not outline the foundation's reported achievement against its target. The foundation's 2016 annual report stated that the percentage of total administration and fundraising expenses was 18.1 per cent in 2016.⁵⁴ The foundation's 2017 annual report disclosed that the percentage of total administration and fundraising expenses rose to 19.7 per cent in 2017 (the year the target was increased from 15 to 20 per cent).

June 2018 assessment

5.55 Early drafts of the foundation's proposal provided to the department included the following statement:

53 This is in addition to the \$5.2 million made available to the department to cover its costs of developing and overseeing the agreement with the foundation. It also does not include the costs of implementing the monitoring and evaluation plan the foundation is required to develop (the costs of developing the plan are included in the cap).

54 On 10 August 2018, the foundation published on its website a media statement that related to its fundraising performance and the proportion of fundraising that has been applied to administration costs. <https://www.barrierreef.org/latest/news/fundraising-media-statement> [accessed 16 August 2018].

Apart from our capacity to deliver projects and raise capital and commitments for co-investment, we are also a 'standout' in the charitable sector in that approximately 85% of every dollar donated to the Foundation goes to the GBR.

5.56 This section of the foundation's proposal was amended during the drafting process with the final submitted proposal reflecting the situation outlined at paragraph 5.54, as follows:

Apart from our capacity to deliver projects and raise capital and commitments for co-investment, we are also a 'standout' in the charitable sector in that 80% of every dollar donated to the Foundation goes to the GBR.

5.57 The foundation was not required to estimate and include in its proposal the amount of funding it would require for administrative costs, or how it proposed that these costs would be funded. Instead, the program guidelines set out that:

An agreed proportion of the Partnership funds can be spent on administrative costs, this will include a direct payment of \$22.5 million, supplemented by the interest earned on the funding.

5.58 The foundation's funding proposal included a similar statement (on page 2).

5.59 In its assessment advice to the Minister, the department stated that 'low project delivery overheads' supported a conclusion that awarding a grant represented value for money and proper use of Commonwealth resources. The department outlined that:

Standard Reef Trust contracts typically allow for a 15 percent overhead (which consists of 10 per cent for administration and 5 per cent for project-level monitoring, evaluation, reporting and improvement (MERI)).⁵⁵ The overhead and MERI funding for the foundation is \$22.5 million (5 per cent), with additional overhead funding of up to a further 5 per cent to be provided from interest earned by the foundation on the grant funding (through appropriate investment). Any interest above this level must be invested in Partnership activities.

5.60 The assessment advice did not identify or address:

- the foundation's current target or recent record of achievement (see paragraphs 5.53 to 5.56) in terms of the level of administrative costs, or the grounds on which the department was satisfied that a lower level of administration costs would be achievable under the partnership grant; or
- the administrative costs of sub-contractors to the foundation.

Grant agreement

5.61 The grant agreement requires that the foundation undertake a range of administrative activities to ensure good governance is in place. This includes the establishment of systems and processes, effective project management and scaling up activities.⁵⁶ The types of activities are similar to those that are typically undertaken by Australian Government entities when they

55 In November 2018, the department advised the ANAO that: 'Excluding the interest component, the combined administrative costs is equivalent to approximately 15 per cent maximum (not 19 per cent) of the \$443.3 million grant. This is lower than other Australian Government Reef programs that allow 15 per cent for grant recipients and an additional 15 per cent for their subcontractors'.

56 See Component 1 of Schedule 2 to the agreement.

administer programs, including the preparation of various plans and establishment of governance and oversight arrangements.

5.62 The agreement provides that the foundation can spend up to 10 per cent of the grant amount (being \$44.33 million) on administrative activities. This comprises:

- \$22.505 million⁵⁷ of the total grant amount of \$443.3 million being specifically allocated to administrative activities; and
- up to \$21.825 million of the interest earned on grant funds.

5.63 The activities included in the cap include the foundation preparing, consulting on and finalising a monitoring and evaluation plan. This plan is required to detail how the part of the grant allocated for monitoring and reporting of each funded component will be spent, but the cost of implementing the monitoring and evaluation plan is not included in the cap on administrative costs.

5.64 In December 2018, the foundation advised the ANAO that:

The Grant Agreement refers to administrative costs. 'Administrative costs' in this context also includes project managements costs — that is the costs associated with delivering the Reef Trust partnership projects.

10 per cent of the grant has been allocated for administrative activities (\$44.3 million).

A breakdown of our projected costs are as follows:

- Project design/project management = 4.1 per cent of grant amounting to \$17.9 million
- Administrative costs = 5.9 per cent of grant amounting to \$26.3 million (which includes the operational costs, fundraising, scaling up, communications and engagement).

Sub-contractors to the foundation

5.65 Of the grant amount, \$420.798 million is required by the grant agreement to be spent on water quality activities, crown-of-thorns starfish control, reef restoration and adaption science, indigenous and community reef protection activities and integrated monitoring and reporting.⁵⁸

5.66 The foundation's proposal outlined that it:

- operates on 'a partnership model for the delivery of projects and services' involving it 'sourcing, securing and overseeing delivery partners' that include research organisations, government delivery partners, the private sector and community organisations; and
- will subcontract with implementation and delivery partners based on the principle of 'the best person or team for the job' and that, 'wherever appropriate', this will be through an open and competitive process but that direct negotiation may be more appropriate when building on or extending existing initiatives, and needing to leverage existing background Intellectual Property or for large-scale consortium style collaborations.

5.67 The foundation's proposal did not address the administration costs of its subcontractors.

57 Paragraph 2.1.1 of Schedule 2, Component 1.

58 Including supporting the implementation of the Reef 2050 Plan Reef Integrated Monitoring and Reporting Program.

5.68 The department's evaluation, including the briefing material provided to the Minister, also did not address subcontractor administrative costs.

5.69 The grant agreement allows the foundation to use delivery agents, including subcontractors and funding recipients, to deliver specific projects.⁵⁹ The grant agreement requires that the foundation:

- 'generally'⁶⁰ award each subcontract (including those relating to scaling up and other administrative activities) in accordance with 'principles of open, transparent competition, value for money and fair dealing' and that subcontractors will be selected 'using rigorous and robust assessment criteria'; and
- require that its contractors not use more than 10 per cent of project funds payable to them for administration. This equates to up to a further \$42.08 million of the grant to the foundation being spent on administration. Administration activities of subcontractors is not defined in the grant agreement. In this respect, the department advised the ANAO in November 2018 that it considers that project-level monitoring, evaluation, reporting and improvement activities of subcontractors are to be met from within the 10 per cent cap.⁶¹

5.70 In December 2018, the foundation advised the ANAO that:

The foundation will sub-contract delivery of projects to subcontractors. The foundation does not include a standard 10 per cent administrative component in every contract with subcontractors. This will form part of the commercial negotiations with certain delivery partners.

In relation to subcontractors, not all subcontractors will receive funding of up to 10 per cent for administrative costs as established delivery partners or government agencies do not require funding for scaling up activities, whereas smaller community-based delivery partners will require some administrative support for these activities. These costs are subject to commercial negotiation.

59 Risk analysis advice to the department stated that the foundation 'will, in large part, be a project manager of the activities'.

60 Where subcontractors are engaged other than as a result of an open, competitive process, the foundation is required to provide the department with notice of the reasons and justifications for the approach it has taken.

61 Departmental advice to the Minister when recommending he approve the grant to the foundation was that 'standard Reef Trust contracts typically allow for a 15 per cent overhead (which consists of 10 per cent for administration and 5 per cent for project-level monitoring, evaluation, reporting and improvement (MERI)).'

Recommendation no.6

5.71 The Department of the Environment and Energy develop strategies that allow it to be assured about the rigour of the foundation's subcontracting processes.

Entity response: Agreed

5.72 *The department will obtain assurance of the rigour of the foundation's subcontracting processes through the provisions specified in the grant agreement. The grant agreement encourages the foundation to award subcontracts in accordance with the principles of open, transparent and effective competition, value-for-money and fair dealing, and to select subcontractors using rigorous and robust assessment criteria. The department is also undertaking a review of the Reef Trust's assurance framework to ensure that appropriate and rigorous arrangements are in place for the management of the grant.*



Rona Mellor PSM
Acting Auditor-General

Canberra ACT
16 January 2019

Appendices

Appendix 1 Entity response



Australian Government

Department of the Environment and Energy

Finn Pratt AO PSM
Secretary

Ms Lisa Rauter PSM
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2600

Dear Ms Rauter

Thank you for responding to my request of 13 August 2018 to the Auditor-General to undertake an audit of the Australian Government's Great Barrier Reef Foundation Partnership as a matter of priority. The Department appreciates the significant effort of Audit Office staff in undertaking the audit within tight timeframes, and the opportunity to comment on the draft report.

Pursuant to section 19 of the *Auditor-General Act 1997*, the Department of the Environment and Energy has prepared a response to the report in this letter. I have also attached a response to the report's recommendations at [Attachment A](#) and additional comments on factual matters at [Attachment B](#).

I request that the following paragraphs and the response to the recommendations be included in the report in full, and I would appreciate that any revision of this text is confirmed with the Department prior to finalising the report.

The Department welcomes the Auditor-General's findings that it provided detailed and clear advice to the Minister on the awarding of the \$443.3 million grant to the Great Barrier Reef Foundation, and that the Partnership was informed by comprehensive policy development work spanning several years.

The Department agrees with the report's findings that relate to process improvements, such as more detailed record-keeping, the preparation of a probity plan and formally documenting declarations of interest. The six recommendations of the report all relate to processes that are either already established in the Department or are now being implemented as lessons learned.

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

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- The Department's advice and processes demonstrated compliance with the Commonwealth's grants administration framework.^a Given the available timeframes, and consistent with Cabinet's decisions, the approach taken to establish the partnership was sensible and thorough. The Department's conclusion that the proposal represented value-for-money for public resources was reasonable, and based on a clear understanding of the objectives and desired outcomes the Government was seeking from the grant.
- The grant guidelines did include 'assessment criteria', but we accept that they were not clearly labelled.^b The absence of the heading 'assessment criteria' did not affect the rigor of the Department's evaluation, which included an assessment of the Foundation's proposal against each of the criteria in the guidelines.^c The Department's advice to the Minister included the evaluation against the assessment criteria in full, as well as other matters the Department considered were relevant to the value-for-money assessment.
- Program outcomes and performance targets were appropriately specified in the grant guidelines, in line with the outcomes of the Reef 2050 Plan.^d The grant agreement requires the Foundation to develop more detailed performance measures and implementation plans within the first 12 months of the grant being established, and to implement a rolling design, reporting and evaluation process to ensure that performance targets are further detailed, refined and reported against over the six year life of the Partnership.

Keeping in mind the outcomes that we all want to achieve for Australia, this grant is well targeted to improve the health of the Great Barrier Reef and to leverage additional funding to further boost outcomes. Already, the Foundation has successfully delivered early milestones and established an ambitious fundraising target of \$300-400 million. Further, the Partnership serves as an innovative model that could be adopted to address other policy priorities for Australia.

The Department welcomes the ANAO's insights which will assist in the ongoing administration of this Partnership grant.

Thank you again for undertaking this review.

Yours sincerely



Finn Pratt

17 December 2018

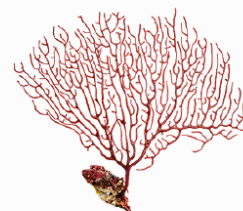
Attachments:

A: Response to recommendations in s.19 report

B: Additional comments on factual matters in s.19 report

- a. Paragraphs 4.12 to 4.14 sets out the ANAO's analysis of the department's advice on whether the proposal represented value for money. Paragraphs 3.33 to 3.42 sets out the ANAO's analysis of the evidence concerning whether the program guidelines included assessment criteria on which to base an assessment of the proposal's value for money.
- b. Paragraphs 3.33 to 3.42 examines whether the program guidelines included clear assessment criteria. This analysis was informed by ANAO analysis of: all departmental records of the development of the guidelines; matters raised by the Department of Finance in relation to the content of the guidelines and DoEE's response to the Department of Finance; the content of the guidelines against the reasons the department recorded for concluding that the proposal from the foundation represented value for money; the department's template grant program guidelines; and the approach taken by the department for other non-competitive Reef Trust grants.
- c. In terms of the rigour of the department's assessment: paragraphs 5.21 to 5.25 outlines that the department did not consider whether delivery partners, on which the foundation relies, could be expected to be able to scale up their capacity and capability; paragraphs 5.30 to 5.44 set out that inadequate scrutiny was applied by the department to the foundation's past performance and future plans to attract private and philanthropic investment; and paragraphs 5.65 to 5.69 identifies that the department's evaluation did not address subcontractor administrative costs (which may be as high as \$42.08 million).
- d. Paragraphs 3.12 to 3.19 sets out the ANAO's analysis that the outcomes were broad and did not include targets or other performance measures. In particular, paragraph 3.19 identifies that fundraising was not specifically addressed in the guidelines as either an objective of the partnership or an output to be delivered notwithstanding the importance of the foundation's past and planned fundraising efforts to the decision to partner with that entity.

Appendix 2 Response from the Great Barrier Reef Foundation



Great Barrier
Reef Foundation

6 December 2018

Ms Lisa Rauter PSM
Group Executive Director
Performance Audit Services Group
Australian National Audit Office

c/- Lisa.Rauter@anao.gov.au

Dear Ms Rauter

Thank you for the opportunity to respond to extracts from the proposed audit report prepared by the Australian National Audit Office on the *Award of a \$443.3 million grant to the Great Barrier Reef Foundation*. We note that we have not been provided with the full report and can only comment on the extracts provided.

At the time of its announcement, the Great Barrier Reef Foundation (GBRF) welcomed the ANAO's decision to conduct an audit as part of its annual work plan and are pleased to be able to assist in responding to your proposed audit report.

Given your guidance, the GBRF is providing this letter as a Letter of Reply for inclusion in the Appendix to the final audit report. The GBRF has also provided a document entitled 'Appendix A – Editorial Matters' which includes matters we request the ANAO consider incorporating in the context of the final report. This document goes to matters where the GBRF believes there are substantial or factual matters that require correction or more context from the proposed audit report.

We should also clarify – there are substantial tracts of the report which relate to the processes observed by the Commonwealth Government and its agencies, particularly the Department of the Environment and Energy. The GBRF does not seek to comment on those matters that are internal to government.

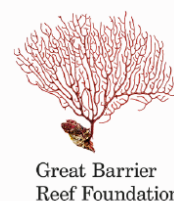
Progress against the Reef Trust Partnership Grant Agreement

The GBRF respects the need for the ANAO to undertake its work towards the objective of continuous improvement in public sector performance, including increased transparency and accountability and providing a range of audit and assurance services to the Parliament and Commonwealth Government.

The GBRF does believe however that since the proposal to form a partnership centred on the \$443 million grant was first raised with the Foundation on April 9, 2018, it has diligently worked to fulfil all the requirements of the grant – as well as establish the GBRF as good guardians of taxpayer funds.

This will ensure we have a robust work plan and governance in place to fulfil the objectives of the Partnership, comply with its requirements and support its core objective – which is to advance progress against the targets of the Reef 2050 Plan.

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The GBRF understands that Australians are rightly proud and passionate about the Great Barrier Reef – and want to see this extraordinary natural wonder saved. Given the recent IPCC warning about the dire prospects for the world's coral reefs, the window for acting is fast closing. As a result, we have started the process of delivering the Partnership.

The GBRF particularly notes that at the time of this submission, the GBRF has met all deadlines scheduled in the grant agreement, as well as all other obligations specified for completion by now.

These include:

- Establishing a **Partnerships Management Committee (PMC)** to oversee delivery of the \$443 million Reef Trust Partnership – with the PMC comprising a panel of 10 research, science, marine and project management experts
- Releasing, in accordance with the grant agreement:
 - a **Governance Arrangements Plan** that provides an overview of governance structure for the Partnership and its Component Activities
 - an **Investment Strategy and Annual Consultation Work Plan** that details the consultation plan for design and delivery of the Investment Strategy and Annual Work Plans
 - an **Activity Gantt Chart** for 2018-19 that details the scope of work, initiatives and budget commitments to be made for the current financial year
 - a **Resourcing Plan** that details the GBRF's approach to ensure it has the resources required to commence delivery of all elements of the Partnership (and confirms our capacity to 'scale up' the organisation)
 - a **Risk Management Plan** that which outlines our approach to risk oversight and management consistent with the relevant Australian/New Zealand Standards, and
 - A **Collaborative Investment Strategy** that outlines the GBRF's approach to co-financing and sets the objective of raising an additional \$300 million to \$400 million on top of the Commonwealth Government's contribution.

The GBRF is also currently on track to meet all other relevant deadlines in the grant agreement, including delivery and publication of other Plans specified in the agreement.

There are other elements of the proposed audit report and related to the Reef Trust Partnership where the GBRF has worked to fulfil its obligations, ensure appropriate frameworks are applied, or deliver against the objectives of the Partnership.

Scaling Up Activities

The GBRF always recognised there would need to be a substantial investment made in our organisational capacity to fulfil the obligations of the grant agreement. The Resourcing Plan referenced earlier has guided our work, but includes the following progress to date:

Personnel

The GBRF has also made substantial progress against the objectives of the *Resourcing Plan* – particularly the appointment of personnel critical to delivery of the RTP. The Plan identified a change in personnel from 15 at July 1, 2018, to 39 at July 1, 2019. The GBRF currently has 28 staff, with key roles across Finance and Operations, and Project Delivery already appointed.

The Great Barrier Reef is beautiful, diverse and under threat: *we must protect it*



Great Barrier
Reef Foundation

Policies and Procedures

The GBRF has also added or updated a suite of policies and procedures as a result of the review of our Governance Framework to ensure we have the most contemporary and rigorous framework possible. The list of updated or new policies and procedures includes:

Fraud, Anti-Bribery and Anti-Corruption Policy (and associated Plan)	Risk Management Policy
Conflicts of Interest Policy	Privacy Policy (in draft)
Whistleblowing Policy	Procurement Policy
Grievance Policy	Code of Conduct
IP Policy (in draft)	<i>New Governance Procedures</i>
Compliance Policy (in draft)	Gifts Register
Confidentiality Policy	Review of Committee Charter & Engagement

As well as these policies and procedures, we have also added a new Risk and Compliance Manager, and a new Grants and Contracts Manager to our personnel.

Water Quality

On November 13, 2018, the GBRF issued its first call for applications under the RTP – with \$20 million allocated for proven projects with a track record of improving water quality on the Great Barrier Reef. This seeks to ensure projects which address clearly articulated needs within Reef Catchments and assist in making progress towards the targets set in the Reef 2050 Water Quality Improvement Plan can be accelerated, and do not need to wait for the broader work plan to be finalised.

Administrative Costs

We have provided some comments in ‘Appendix A – Editorial Matters’ on the proposed audit reports comments on administrative costs, but believe it is also important to state them here too. This relates to the distinction within the 10 percent administrative costs cap between conventional administrative costs (that is, matters such as operational, fundraising, scaling up, and communication and engagement) and project management costs (which relate directly to project design and project management).

Within the strict ceiling of \$44.3 million, \$26.3 million – or 5.9 percent of total RTP funds – will be allocated to conventional administration costs, and \$17.9 million – or 4.1 percent of total RTP funds – will be allocated to project management costs. This further illustrates the efficiency of GBRF operations.

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Great Barrier
Reef Foundation

Subcontractors

In relation to subcontractors, the GBRF funding model is such that the majority of funding recipients under the RTP will receive no funds for administration of the project from the RTP grant. Historically, 100% of the funding provided by GBRF to its research and large implementation partners, including large government-funded research institutions, universities and other research and delivery organisations, has been dedicated to project delivery.

No funding, as a percentage or otherwise, has been provided for overheads or administration costs. Research partners have been required to fund their own staff overheads and administration costs and contribute these resources on an in-kind basis to the projects for which they receive funding. The same approach will be taken in relation to the RTP for larger organisations and government agencies.

In relation to smaller community-based organisations, some administrative costs will be negotiated into the contract. For example, within the Traditional Owner and Community Reef Protection component of the RTP an important element of the project is to also build capacity in the organisation to ensure enduring benefits and sustainability. It is expected that these projects will typically be associated with smaller, locally-based, community organisations receiving relatively small funding amounts. In all cases, no more than 10% of the project funds will be allocated towards this organisational and administrative capacity building in accordance with the terms of the RTP grant agreement.

Fundraising

In relation to Fundraising, a detailed breakdown is provided in 'Appendix A – Editorial Matters'. However, we'd like to note that:

- We have raised over \$90million (a mix of government, corporate and philanthropic donations) with a significant proportion raised in the last year.
- Our *Collaborative Investment (Fundraising) Strategy* released on 12 October 2018 details our strategy for amplifying the government investment.

Thank you for providing the opportunity to comment on the proposed audit report and if there are matters where the GBRF can further assist, please contact me.

Regards

Anna Marsden
MANAGING DIRECTOR

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Appendix 3 Development of the grants administration framework — aspects particularly relevant to the inclusion of assessment criteria in guidelines for non-competitive grants programs

1. Prior to late 2007, there was no official guidance provided to entities relating specifically to the administration of grant programs.
2. On 15 November 2007, during the Caretaker Period for the 2007 Federal election, a performance audit report on the Regional Partnerships program was tabled (Auditor-General Report No. 14 of 2007–08). That program was a non-competitive grants program with broadly based assessment criteria, projects subject to continuous assessment rather than being considered through structured competitive funding rounds and funding decisions being taken by Ministers on occasion without any departmental assessment of the project's merits against the assessment criteria. The ANAO concluded that:
 - the flexibility in the application assessment and Ministerial approval processes creates challenges in ensuring transparent, accountable and cost-effective administration and in demonstrating the equitable treatment of applicants; and
 - the manner in which the Programme had been administered had fallen short of an acceptable standard of public administration, particularly in respect to the assessment of grant applications and the management of grant agreements.
3. In light of the findings of this audit as well as significant parliamentary and ANAO concerns with the administration of various grants programs over a number of years, during the election campaign an announcement was made that the administration of Australian Government grants programs would be reformed.
4. In December 2007, Finance Minister's Instructions were issued that included new rules for the decision-making processes that were to apply to grants. In particular, the Instructions introduced a requirement that Ministers should not make any decisions on discretionary grants without first receiving departmental advice on the merits of the grant application relative to the guidelines for that program.
5. In February 2008, the Finance Minister announced that a comprehensive review of the value of discretionary grants and the transparency and effectiveness of existing programs would be undertaken. In establishing and undertaking the review, particular attention was paid to the findings and recommendations of the wide range of audits of grants administration undertaken by the ANAO.
6. The Strategic Review reported in July 2008 and its recommendations were accepted in December 2008. This included a recommendation that a whole-of-government, principles-based policy framework for the administration of grant programs be established. Another key recommendation of the Strategic Review accepted by the Government was that grants assessment and decision-making requirements should apply to all proposed grants, including those made in relation to election announcements and grant proposals that arise other than through a competitive process.

7. To give immediate effect to the recommendations of the Strategic Review, on 16 January 2009 the Finance Minister issued revised Finance Minister's Instructions with new requirements for grant approvals and reporting. The revised Instructions continued to require that Ministers should not approve grants without first receiving agency advice on the merits of the proposed grant relative to the program guidelines.

8. As of 1 July 2009, a new framework was introduced for the administration of grant programs through the issue of the Commonwealth Grants Guidelines (CGGs). The CGGs retained the requirements relating to agency advice being provided to Ministers on the merits of a grant relative to the guidelines. Specifically, paragraph 3.19 stated:

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

9. Issues continued to arise in some ANAO audits of grant programs around the inclusion of assessment criteria in guidelines and the resulting advice provided to Ministers. For example, Auditor-General Report No. 3 of 2010–11, tabled 27 July 2010 on the Strategic Projects Component of the Regional and Local Community Infrastructure Program concluded that:

- no version of the program guidelines outlined the assessment criteria that would be used to select the successful applications. This was notwithstanding that the House Standing Committee had recommended in its November 2008 Interim Report that key assessment criteria should be defined 'in the clearest possible way' and that the department should ensure that 'applicants and departmental staff are aware of these criteria'; and
- the Minister's Office had advised the department of a list of 137 projects the Minister intended to recommend to Cabinet for approval; and that this list had been derived taking into account one or more of three unpublished criteria. The ANAO observed that, whilst not inconsistent with the Program objectives and the published guidelines, these criteria had not been published or otherwise advised to stakeholders. Further, there was no documented assessment of each application against the three criteria outlining: the extent to which each application had been assessed as satisfying each criterion; the information relied upon in making the assessment; or an overall assessment.

10. Auditor-General Report No. 7 of 2011–12 (on the Infrastructure Employment Projects Stream of the Jobs Fund) tabled on 22 September 2011 outlined that the guidelines for that non-competitive program did not include assessment criteria. Finance agreed to a recommendation from the ANAO that it improve its guidance on the application of the seven key principles of grants administration outlined in the Commonwealth Grants Guidelines to all forms of granting, including non-competitive grants.

11. There was considerable engagement between Finance and the ANAO in the light of lessons learned under the new grants administration framework as reflected in these audit reports as well as other audit reports completed by the ANAO of individual grant programs. These discussions were also informed by the findings and conclusions of two cross-portfolio audits by the ANAO examining the administration of the grant reporting requirements (Report No. 21 of 2011–12) and the development and approval of grant guidelines (Report No. 36 of 2011–12).

- the former highlighted a need for Finance to articulate the minimum standards expected of agencies when advising Ministers on the merits of proposed grants (including on the value for money of grants being awarded through a non-competitive process) and the interaction of this advice with the reporting of certain types of grant decisions to the Finance Minister; and
- the findings of the latter included that:
 - a small number of agencies continue to administer a significant number of one-off or ad hoc grants, with this form of granting activity not subject to the requirement that grant program guidelines be developed;
 - the quality of grant program guidelines remains quite variable, with a significant proportion of the guidelines examined by ANAO not clearly identifying the person or persons who would make funding decisions; the threshold and assessment criteria that would be applied in making those decisions; and/or the way in which value for money considerations would be taken into account. The ANAO concluded that these are key matters to be addressed in any set of grant program guidelines in order to support transparent and accountable grants administration.

12. In May 2013 the ANAO completed an audit of the award of two non-competitive grants that were the responsibility of the Department of Sustainability, Environment, Water, Population and Communities (Auditor-General Report No. 32 of 2012–13). The ANAO concluded that:

- The first (\$228 million) grant had been assessed by the department against the eligibility and merit criteria included in the program guidelines and advice provided to the Minister. ANAO found that this process accorded with the grants administration framework but there were shortcomings in the underlying assessment work and the resulting advice did not fully inform the Minister. As a result, the ANAO made a recommendation to the department concerning its assessment of grant proposals directed at promoting the achievement of value for money by: a high standard of assessment and advice being applied to all grant spending proposals, irrespective of whether they arise from a competitive process, relate to an election commitment or are another form of ad hoc grant.
- The second (\$100 million) grant was awarded through a process that was inconsistent in a number of respects with the requirements of the Government's grants administration framework. In particular, there had been no departmental assessment of the grant proposal against the criteria set out in the program guidelines, and no funding recommendation had been made to Ministers.

13. Following engagement between Finance and the ANAO to take on board the lessons from the audits mentioned above as well as other ANAO performance audits of grants administration, as well as consultation by Finance with entities (including the Department of Sustainability, Environment, Water, Population and Communities and the Department of Climate Change), the next version of the CGGs expanded the guidance around Ministerial decision-making. Finance provided advice to entities in advance of the revision highlighting the various changes (including those relevant to the clearer and stronger application of the grant guideline development and grant funding briefing requirements to non-competitive grants).

14. Specifically, the June 2013 version of the CGGs: provided expanded guidance on the advice entities are required to provide to Ministers, principally by including 'minimum' content requirements, the fourth of which was 'include the merits of the proposed grant or grants relative to the grant guidelines and the key consideration of achieving value with public money'. An associated footnote was also included to make it clear that 'the basis for recommending or rejecting each proposed grant should be set out in the assessment material for each grant and should reflect the particular merits of each project in terms of the grant guidelines (including assessment against the eligibility and assessment criteria).' This is now in paragraph 4.6 of the CGRGs.

15. There was an associated Finance Circular (2013-02) to provide further guidance to entities on briefing of Ministers. Key inclusions were:

- The definition of assessment criteria made it clear that these criteria aren't relevant only to competitive processes: "assessment criteria are the specified principles or standards against which applications will be judged. These criteria are also used to assess the merits of proposals and, in the case of a competitive granting activity, to determine applicant rankings." This definition was retained in the CGRGs (page 40).
- Inclusion of the following guidance: "When briefing ministers on the merits of a grant or group of grants relative to the grant guidelines and achieving value with public money, agency staff should indicate: which grant applications fully meet the selection criteria; which applications partially meet the criteria; and which applications do not meet any of the criteria. Any specific recommendations regarding grant applications for approval can be in addition to this information." In the 2017 version of the CGRGs, this guidance became paragraph 4.7.

Appendix 4 Assessment criteria included in initial drafts of the program guidelines, based on the Reef Trust template guidelines for non-competitive grants

Table A.1: Assessment criteria included in initial drafts of the program guidelines, based on the Reef Trust template guidelines for non-competitive grants

Criterion	Assessment considerations
Alignment with, and contribution to the Reef Trust and relevant Reef 2050 Plan objectives and outcomes	<p>Assessment against this criterion will consider the extent to which the project:</p> <ul style="list-style-type: none"> • aligns with the Reef Trust outcomes (improving water quality and coastal habitat, biodiversity protection and conservation) and relevant strategic objective and outcomes of the Reef 2050 Plan • delivers environmental outcomes that value-add to the protection and conservation of the Reef • delivers on-ground action and addresses priority threats and pressures to the Reef • builds on existing efforts and does not duplicate or replace activities already being undertaken in the Reef or Reef catchments • aligns with the Reef Trust principles of investment.
Demonstrated capacity to deliver	<p>Assessment against this criterion will consider whether the:</p> <ul style="list-style-type: none"> • project focuses on delivering results and provides clear visible outcomes and outputs that are measurable • project has sound governance and oversight and that contractual obligations will be met • necessary knowledge, skills and experience will be applied to delivering the project.
Likelihood of success	<p>Assessment against this criterion will consider whether the:</p> <ul style="list-style-type: none"> • project is supported by a sound evidence-base and scientific rigor • project will be implemented with sound and proven approach/methodology and use targeted monitoring and evaluation • project is reasonably likely to succeed in achieving its stated aims having regard to planning undertaken, proposed resources, and expertise where relevant, how outcomes will be maintained into the future • potential risks to the project have been considered and appropriate mitigation strategies prepared.
Value for money	<p>Assessment against this criterion will consider whether the budget is adequately justified with respect to the project's scale and intended outcomes. Cost-effectiveness of the proposal will be considered and assessed under this criteria, including in relation to the proposed approach, methodology, monitoring and evaluation.</p>
Innovation	<p>Assessment against this criterion will consider whether the project is distinctive and/or innovative in its approach.</p>

Criterion	Assessment considerations
Reef Trust Special Account provisions	Assessment against this criterion will consider whether the Application aligns with the debiting provisions of the Reef Trust Special Account.

Source: ANAO analysis of departmental records.