

GOVERNMENT SECTOR FINANCE AMENDMENT (GRANTS) BILL 2023

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The *Government Sector Finance Amendment (Grants) Bill 2023* proposes amendments to the *Government Sector Finance Act 2018* (NSW) (the GSF Act), the *Government Information (Public Access) Act 2009* (NSW) (the GIPA Act) and the *Government Information Public Access Regulation 2018* (GIPA Regulation) to strengthen the regulation of grants administration in NSW and ensure government grants are administered fairly and achieve value for money. This is important given that the NSW Government typically spends \$4 billion on grants annually.

The two GSF Act amendments will:

- Provide that a Minister must not approve a grant unless satisfied that the grant is an efficient, effective, economical, and ethical use of money, and achieves value for money
 - This amendment will import into the GSF Act a modified version of section 71 of the *Public Governance, Performance and Accountability Act 2013* (Cth) (the PGPA Act), applying specifically to grants expenditure.
 - In doing so it will implement, in relation to grants expenditure specifically, Recommendation 2 of the Independent Commission Against Corruption's (the ICAC) Report on its investigation into pork barrelling in NSW (Operation Jersey). In that Report, the ICAC expressly recommended the amendment of the GSF Act to include a provision that reflects section 71 of the PGPA Act and also requires consideration of whether or not expenditure represents value for money.
- Require the grants decision-maker in approving or declining a grant to have regard to the key principles for administering grants set out in the Guide
 - This amendment will elevate the key principles, ensuring that consideration of the principles informs the grants decision-making process.

The GIPA Act and GIPA Regulation amendments will:

- Prescribe information relating to grants administered by an agency as open access information under the GIPA Act if the information is required, under a mandatory requirement of the Guide, to be published by the agency on a website specified in the Guide.
 - This amendment will reinforce the importance of transparency in grants administration and is supported by the Information Commissioner.

Objectives: What is the policy's objective couched in terms of the public interest?

The Government is committed to strengthening the regulation of grants in NSW through these amendments. It is in the public interest to ensure that grants are administered in the best interests of the community. Acting in the public interest is essential for government decisions about the use and expenditure of public money. Expenditure by way of government grants must serve a public purpose. A direct objective of these amendments, therefore, is to serve the public interest.

Options: What alternative policies and mechanisms were considered in advance of the bill?

Legislative change is required to give effect to the above reforms. The Government will consider additional options for strengthening the regulation of grants in NSW.

Analysis: What were the pros/cons and benefits/costs of each option considered?

As noted above, legislative change is required to give effect to the above reforms. The Bill does not impose any appreciable cost or burden on the public or any group of the public.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

If passed, the Bill will commence on 1 July 2023. Through the Grants Community of Practice, the Department of Premier and Cabinet will provide guidance to agencies to help them in implementing the amendments.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The seven key principles for administering grants are contained in the Guide, which was drafted as part of the *Review of Grants Administration in NSW* (the Grants Review) led by the Department of Premier and Cabinet in partnership with the NSW Productivity Commissioner. The Grants Review was informed by extensive stakeholder consultation, including with Government representatives from other jurisdictions, parliamentary, integrity and oversight bodies, and peak bodies.

The Information Commissioner was consulted on the amendments to the GIPA Act and the GIPA Regulation.

Key agencies were consulted on the amendments proposed in the Bill.