

Supplementary Questions on Notice – Budget Estimates

1. Could you explain the case where a grant recipient was later placed into liquidation? What lessons do these situations provide for future financial viability checks?

Grant outline

This case is referred to in Case Studies 3 and 5 of the Auditor-General's Local Small Commitments Allocation report, on pages 15 and 17. This involved a grant for \$130,000 to an organisation to purchase a bus, where the recipient organisation was subsequently deemed insolvent and placed into liquidation.

The report identifies that as part of the grant assessment process, assessors were required to have regard to the financial viability of the organisation that was to deliver the project. To enable this assessment, the organisations that applied for grants were required to confirm they were financially viable and provide a copy of their audited financial statements or annual report when they applied for the grant.

As noted in the report, the 2022–23 financial statements for this organisation recorded a loss for the year, but positive net assets, and the Independent Audit Opinion included an Emphasis of Matter that pointed to disclosures in the financial statements about the impacts of COVID 19 on the organisation.

The Program Office generally regarded motor vehicles as a 'purchase of supplies / equipment', which led to short form funding agreements being used. Short form funding agreements did not contain the 'Significant Asset' clause that was standard in the long form agreements. The asset clause in long form agreements was designed to provide additional NSW Government protection, in the form of greater accountability and oversight, and allowed for the potential recovery of the asset if the grant ends or the asset is misused.

Lessons for future financial viability checks

- **Absence of procedural instructions and guidance on assessing financial viability**

The LSCA Program Guideline and documentation available to assessors did not provide any further guidance as to what should be considered by assessors when assessing the financial viability of a nominated organisation when short form funding agreement is used.

Guidance for example, could have been provided on unacceptable financial risk such as when entities were making losses, pre-defined financial ratios were breached or issues identified in Independent Audit Reports.

- **Further information could have been requested**

Case study 3 on page 15 of the Local Small Commitments Allocation report notes that given the flagged uncertain impact of COVID 19 and the recorded loss in 2022–23, it may have been appropriate for the assessors to have asked for further information, such as forward-looking forecasts and budgets. Additional procedural instructions and guidance could have assisted the assessment panel in this regard.

- **A long form agreement may have been more appropriate**

The LSCA Program Guideline notes that short form agreements could be used for:

- grants of \$50,000 or less
- projects relating to the purchase of supplies / equipment, funding of events or charitable donations
- projects that had already been delivered.

For projects outside of these categories, the Program Office's funding agreement guide requires the use of long form funding agreements. Long form funding agreements contained lengthier terms and conditions which provided more detailed provisions to manage complex risks, responsibilities and legal obligations.

Page 17 of the Local Small Commitments Allocation report notes that where equipment purchases relate to assets with significant expected future useful lives that can be easily re-sold, such as motor vehicles, it may have been more appropriate for the Program Office to require long form agreements.

- 2. The LSCA Program was funded from the Community Services and Facilities Fund (CSFF). Your report notes the merit criteria did not fully reflect the legislative purposes of that fund. What are the risks if Ministers are not provided with sufficient guidance to be “satisfied” about compliance with the CSFF’s purposes?**

To the extent that the criteria do not align with the legislative purposes of the CSFF, there is risk that the Minister will not be provided with sufficient guidance to reach the required state of satisfaction that amounts paid promote the purpose of the Fund. As a result, there is a risk that the funds may not be used for its intended purpose.

I note that the Premier’s Department responded to the report (Appendix 1, p23), in relation to the finding that the merit assessment criteria in the LSCA Guidelines should align with the purpose of the CSFF, that:

“... the Premier’s Department considers that the LSCA program was so aligned. The CSFF is directed to providing funding for cost-effective facilities and services throughout NSW that improve the wellbeing of communities and the lives of the people of NSW. That purpose is set out in section 12 of the *NSW Generations Funds Act 2018*, which also lists types of facilities and services that support that purpose. One of the assessment criteria for the LSCA was that ‘the project will enhance wellbeing and deliver benefits to the local community’. This is in line with the legislative purpose of the CSFF. The projects identified in Table 2 of [the Audit Office’s] report may be considered as aligning with the purpose of the CSFF and the assessment criteria noted.”

- 3. The report notes errors in the “master list” of commitments provided by the Premier’s Office, which required later corrections. How did those errors affect the administration of grants?**

The Local Small Commitments Allocation report notes that the list of election commitments given to the Program Office on 28 July 2023 contained some errors. The Premier’s Office advised of corrections to the master list on 1 February 2024, by which time the Program Office had commenced the initial processing of the grants.

For the example noted in the report relating to the Sydney electorate, the organisations that had their funding withdrawn or reduced due to the corrections subsequently received the equivalent amount to the original list allocation from the Premier’s discretionary fund.

The Sydney electorate’s total allocation from the LSCA Program remained at \$400,000 after the corrections.

- 4. Based on this audit, do you consider the NSW public sector currently has adequate guidance and controls for managing election commitment grants?**

The Local Small Commitments Allocation report includes the following observations on the adequacy of guidance in the Grant Administration Guide (the Guide):

- the first recommendation is that the NSW Government should consider updating the Guide to include additional guidance on how the public sector is to address financial accountability, probity, record keeping and administrative obligations when a grants administration process has been initiated as an election commitment
- page 8 of the Local Small Commitments Allocation report notes that the Guide could be clearer about how the public sector is to administer grants that are initiated as election commitments
- page 9 of the Local Small Commitments Allocation report notes that the Guide does not articulate how it is to be applied by the public sector, when activities commenced as election commitments. The Guide instead sets out the requirements that apply to the end-to-end implementation of grants from the ‘Planning and design’ phase onwards, on the assumption that grants programs are fully controlled by the public sector. The Guide could be enhanced to be more specific about the public sector’s role from the point at which an election commitment becomes a government-administered grants process.

- 5. Would strengthening the Grants Administration Guide to explicitly address election commitments improve transparency and accountability in future programs?**

Yes. Refer question 4 above.

6. What are your key recommendations to ensure that future grant programs avoid the weaknesses you identified here?

The Local Small Commitments Allocation report included the following recommendations

By December 2025, the NSW Government should:

1. consider updating the Grants Administration Guide to include additional guidance on how the public sector is to address financial accountability, probity, record keeping and administrative obligations when a grants administration process has been initiated as an election commitment.

As a matter of priority, the NSW Premier's Department should:

2. ensure complete conflicts of interest processes are implemented as intended for all future grant programs.