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Premier and Cabinet

Grants Administration Guide

September 2022

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1. Overview

1.1 Purpose

Grants are a way of distributing public money to achieve government policy outcomes for the benefit of the community.

The NSW Government is committed to ensuring that all public money is spent fairly, effectively and transparently. Grants administered by the NSW Government must:

- deliver value for public money in achieving their stated objectives

- involve robust planning and design

- adopt key principles of transparency, accountability and probity

- deliver a high-quality customer experience.

This Guide provides:

- an overview of the grants administration process

- overarching principles that apply to all NSW Government grants

- specific requirements that must be complied with when administering grants.

The Guide aims to harmonise grants administration processes across government and ensure that the key principles of transparency, accountability and probity are embedded in the way NSW Government grants are delivered.

Further materials to support the grants administration process, including templates and more detailed process guidance, will be developed to supplement this Guide and made publicly available online.

1.2 Who is required to comply with this Guide?

This Guide applies to:

- Ministers

- officials, being government sector employees within the meaning of the *Government Sector Employment Act 2013* (NSW), excluding employees of State Owned Corporations (**SOCs**)

- Ministerial staff.

The Guide applies to all grants administered by the government sector. The Guide does not apply to local government or SOCs. However, where local government or other third parties administer grants on behalf of the NSW Government, officials **must** satisfy themselves that there are practices and procedures in place for the administration of the grants consistent with the key principles and requirements of the Guide, with appropriate adaptations as necessary.

Boards and other committees established under NSW legislation may be involved in grants administration, including by providing advice to Ministers or officials who exercise the expenditure functions of government. The Guide applies to Ministers and officials carrying out those functions. All parties involved in grants administration for or on behalf of the NSW Government are encouraged to adhere to the Guide.

1.3 Is compliance with the Guide mandatory?

The Guide is issued under a Premier's Memorandum. Premier's Memoranda are binding on Ministers and agencies and compliance is required and expected. For government sector employees, failure to comply may result in disciplinary action under the *Government Sector Employment Act 2013* (NSW).

Ministerial staff must comply with this Guide in accordance with the terms of their employment under the *Members of Parliament Staff Act 2013* (NSW). In addition, under the NSW Office Holder's Staff Code of Conduct, staff must comply with all applicable laws, applicable codes of conduct and Premier's Memoranda.

The Guide provides best practice guidance and includes some mandatory requirements. Where a requirement is mandatory, this is indicated by the use of the word '**must**' or the words '**must not**' in relation to that requirement. Mandatory requirements are primarily located in Section 6 and are summarised in Section 3 of the Guide.

1.4 Legislative and policy framework

The Guide sits alongside other requirements that apply to the expenditure of public money in NSW, as well as laws and policies that govern ethical behaviour. The Guide does not affect the requirements of those laws and policies, and officials, Ministers and Ministerial staff must ensure that they comply with all relevant laws and policies when administering grants. Key requirements of that legislative and policy framework are set out below.

1.4.1 *Government Sector Finance Act 2018* (NSW) (**GSF Act**)

The GSF Act requires that the expenditure of money must be 'authorised', namely:

- with lawful authority, and

- in accordance with any delegation.[1]

Officials are to be guided by the values of accountability, integrity and transparency when managing public money, as follows:

- Accountability: take reasonable care so that use of government resources and related money is efficient, effective and prudent.

- Integrity: place public interest over private interest and not use position or information improperly for financial or personal gain.

- Transparency: ensure that any real or perceived conflicts of interest are effectively avoided, managed and disclosed.[2]

Additionally, the GSF Act imposes obligations on the accountable authority to implement:

- financial management policies and procedures

- effective systems for risk management, internal control and assurance (including by means of internal audits) that are appropriate systems for the agency

- arrangements for ensuring compliance with the GSF Act

and to ensure compliance with such policies and procedures.[3]

Various policies, including Treasury Policy Papers (**TPPs**), support requirements of the GSF Act. Where these policies are relevant to grants administration, they are mentioned in the Guide.

1.4.2 *Government Sector Employment Act 2013* (NSW) (**GSE Act**)

The Ethical Framework established under the GSE Act prescribes the core values of integrity, trust, service and accountability, and sets out the principles of expected behaviour of officials including:

- acting professionally with honesty, consistency and impartiality

- placing the public interest over personal interest; providing transparency to enable public scrutiny

- being fiscally responsible and focusing on efficient, effective and prudent use of resources.[4]

1.4.3 *State Records Act 1998* (NSW) (**SR Act**)

The SR Act requires public offices (including agencies and Ministerial offices) to keep full and accurate records of the activities of the office. It is an offence to, among other things, abandon, dispose of, damage or alter a State record.

1.4.4 *Government Information (Public Access) Act 2009* (NSW) (**GIPA Act**)

The GIPA Act provides for the proactive release of government information by agencies and gives members of the public an enforceable right to access government information held by an agency (which includes Ministerial offices). Access to government information is only to be restricted if there is an overriding public interest against disclosure.

1.4.5 *Independent Commission Against Corruption Act 1988* (NSW) (**ICAC Act**)

The ICAC Act provides for the Independent Commission Against Corruption (**the ICAC**) to investigate corrupt conduct involving or affecting public authorities and public officials. The ICAC's jurisdiction extends to government agencies, local councils, Ministers, members of Parliament (**MPs**) and persons employed under the *Members of Parliament Staff Act 2013*.

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1   GSF Act, section 5.5.
2   GSF Act, section 3.7(1).
3   GSF Act, section 3.6(1).
4   GSE Act, section 7.

While it can take many forms, corrupt conduct includes conduct involving a breach of public trust, the dishonest or partial exercise of official functions, or conduct that affects the honest or impartial exercise of official functions (s 8(1)).[5] Conduct by a Minister or MP that breaches an applicable code of conduct may also be investigated by the ICAC.[6]

1.4.6 NSW Ministerial Code of Conduct

The Ministerial Code of Conduct[7] establishes the standards of ethical behaviour required of Ministers, including imposing a duty to act honestly and in the public interest. In the exercise or performance of their official functions, a Minister must not act dishonestly, must act only in what they consider to be the public interest, and must not act improperly for their private benefit or for the private benefit of any other person.[8]

The Ministerial Code of Conduct also deals with conflicts of interest, including by providing that a Minister must not, without the written approval of the Premier, make or participate in the making of any decision or take any other action in relation to a matter in which the Minister is aware they have a conflict of interest.[9]

The Ministerial Code of Conduct is prescribed by the ICAC Regulation for the purposes of section 9 of the ICAC Act, meaning that a substantial breach of the code could amount to corrupt conduct under the ICAC Act.

1.4.7 Other laws and policies

The NSW Office Holder's Staff Code of Conduct sets out the ethical standards that apply to Ministerial staff, including the obligation to:

- behave honestly and with integrity

- acknowledge that staff do not have the power to direct public servants in their own right and that public servants are not subject to their direction

- recognise that executive decisions are the preserve of Ministers or authorised officials, and not staff acting in their own right

- comply with all applicable laws, applicable codes of conduct and Premier's Memoranda (including this Guide and the record keeping requirements under the SR Act).

1.5 Structure of the Guide

The Guide is structured as follows:

- Sections 1 and 2 of the Guide provide an overview and a list of key definitions.

- Section 3 sets out the responsibilities of Ministers, Ministerial staff and officials, which are considered in further detail in Sections 5 and 6.

- Sections 4 and 5 detail the key concepts and principles that underpin grants administration in NSW.

- Section 6 steps out the process for administering grants and the specific requirements that apply to Ministers, Ministerial staff and officials in relation to grants.

1.6 Acknowledgement

The Guide has been developed by close reference to the *Commonwealth Grants Rules and Guidelines 2017* (**CGRGs**). The Guide adopts a similar approach to the CGRGs – setting out key principles and mandatory requirements – and draws on the concepts and requirements contained in the CGRGs. The Commonwealth was consulted during the drafting of the Guide.

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5   ICAC Act, section 8(1).
6   ICAC Act, section 9.
7   Contained in the Appendix to the *Independent Commission Against Corruption Regulation 2017* (NSW) (**ICAC Regulation**).
8   Ministerial Code of Conduct, section 6.
9   Ministerial Code of Conduct, section 7(2).

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2. Definitions

Agency	Means government sector agency under the *Government Sector Employment Act 2013* (NSW)
Assessment team	The person or persons responsible for assessing individual grants against the grant guidelines
CGRG	*Commonwealth Grants Rules and Guidelines 2017* (Cth)
Eligibility criteria	The conditions which must be met by an applicant to qualify for a grant
Grants administration	Refers to the processes that an agency puts in place to deliver grants. It includes planning and design; promotion; assessment and decision-making; the making of a grant; the management of grant agreements; the ongoing relationship with grantees; reporting; and review and evaluation
Grant lifecycle	Refers to the stages of grants administration, from planning and design to evaluation
Grant guidelines	Refers to a document containing the relevant information required for potential grantees to understand: the purpose, outcomes and objectives of a grant; the application and assessment process; the governance arrangements (including roles and responsibilities); and the operation of the grant
Grant	As defined in Section 3 See also table 1 for definitions of competitive, non-competitive and one-off or ad hoc grants[10]
Grant opportunity	The grant process or program where grant(s) are made available to grantees and potential grantees
Grantee	Means the individual or organisation selected to receive a grant
Officials	Means persons employed in the government sector under the *Government Sector Employment Act 2013* (NSW), excluding employees of State Owned Corporations
Ministerial staff	Means persons employed under the *Members of Parliament Staff Act 2013* (NSW) by Ministers as a member of their staff

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10   The key principles and mandatory requirements set out in the Guide must be met for all grants. Where relevant, the Guide provides appropriate exceptions, such as exceptions that apply for non-competitive grants.

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3. Your responsibilities

		Reference in Guide

Ministers
- Be familiar and comply with the principles and grants administration processes set out in this Guide, as well as applicable laws and policies that guide ethical behaviour

- Promote compliance with this Guide by officials and Ministerial staff

- Comply with the following mandatory requirements:

  - Ministers who are involved in the grants administration process must administer the grant in accordance with the grant guidelines — **6.3**

  - A Minister must not approve or decline a grant without first receiving written advice from officials on the merits of the proposed grant or group of grants (see exceptions at 6.3 *Receiving and assessing grant applications* for non-competitive grants)[11] — **6.3**

  - A Minister (or other decision-maker) who approves or declines a grant must record the decision in writing, including the reasons for the decision (and any departure from the recommendation of officials), having regard to the grant guidelines and the key principle of achieving value for money, and manage these records in accordance with the requirements of the SR Act (see exceptions at 6.3 *Receiving and assessing grant applications* for non-competitive grants) — **6.3**

  - A Minister (or delegate) may approve the awarding of a grant, or opening of a grant opportunity, using a method other than a competitive, merit-based assessment process. The decision-maker must have regard to the advice of officials and must document the reasons for selecting the alternative process — **6.1**

Officials
- Be familiar and comply with the principles and grants administration processes set out in this Guide, as well as applicable laws and policies that guide ethical behaviour

- Provide full and frank advice to Ministers about grants, grants processes and decision-making

- Comply with the following mandatory requirements:

Planning and designing grant opportunities

- Officials must put in place practices and procedures to ensure that grants are administered consistently with the key principles and requirements in the Guide — **5**

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11 The exceptions for non-competitive grants at 6.3 *Receiving and assessing grant applications* do not apply to one-off, ad hoc grants. The principles and requirements in the Guide that apply to competitive grants apply in the same way to one-off, ad hoc grants (including the requirements that the Minister must receive written advice from officials and must record the reasons for the decision).

• Where local government or other third parties are engaged to administer grants on behalf of NSW Government, officials must satisfy themselves that there are practices and procedures in place for the administration of the grants consistently with the key principles and requirements of the Guide, with appropriate adaptations	**1.2**
• Officials must demonstrate at the planning and design stage how a grant opportunity will deliver value for money by identifying benefits and costs (economic, social, environmental and cultural)	**5.5**
• Officials must identify and manage risks for all grants, in accordance with agencies' responsibilities under the GSF Act	**6.1**
• Officials must develop and implement fraud controls that are proportionate to the value and risk of the grant and consistent with NSW public sector risk management requirements	**5.7**
• Officials must seek probity advice (whether external or internal) for all grant opportunities that are complex, high-risk or high-value (consistent with the agency's expenditure and risk management frameworks), to support the design, application, assessment and decision-making phases	**6.1**
• When designing the assessment process, officials must consider and develop a plan for managing any conflicts of interest that might arise	**6.1**
• Where a method other than a competitive merit-based selection process is to be used, officials must document why that method will be used and outline the risk mitigation strategies. This must be approved by the relevant Minister (or head of agency or delegate)	**6.1**
• Officials must prepare clear, consistent grant guidelines that contain information about a grant, including the details set out below at 6.1 *Planning and designing the grant opportunity*	**6.1**
• Where it is anticipated that a grant opportunity will involve input from MPs or other stakeholders, officials must ensure that the grant guidelines clearly outline the role of stakeholders and the engagement process, and that all stakeholder input is documented, including how it was considered in the assessment process	**6.3**
• Where significant changes are made in relation to a grant opportunity, officials must revise the grant guidelines accordingly	**6.1**
• Officials must ensure that information about grant opportunities, including the grant guidelines and any revised versions, is published on the NSW Government Grants and Funding Finder[12]	**6.2**

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12 Until agencies can publish all information on the NSW Government Grants and Funding Finder site (nsw.gov.au/grants-and-funding), officials should publish the information on the agency's website.

- Where grants are provided on a one-off or ad hoc basis, the grant guidelines are not required to be published. However, officials must ensure that information about the grant is made available on the NSW Government Grants and Funding Finder no later than 45 calendar days after the grant agreement takes effect, or, if there is no grant agreement, no later than 45 calendar days after the first payment is paid to the grantee — **6.1**

Assesment and decision-making

- Officials must administer a grant in accordance with the grant guidelines — **6.3**

- In limited circumstances where eligibility criteria are to be waived, officials must ensure the reasons are documented and the waiver must be approved by the decision-maker (whether as part of the final approval or otherwise) — **6.3**

- Where the Minister is the decision-maker, officials must provide written advice which includes, at a minimum, the matters outlined at 6.3 *Receiving and assessing grant applications* (see exceptions at 6.3 for non-competitive grants) — **6.3**

- An official who approves or declines a grant must record the decision in writing, including the reasons for the decision (and any departure from the recommendation of the assessment team) having regard to the grant guidelines and the key principle of achieving value for money, and manage these records in accordance with the requirements of the SR Act (see exceptions at 6.3 for non-competitive grants) — **6.3**

- Officials must ensure that (where relevant) all decisions in the assessment process are documented, as set out below at 6.3 *Receiving and assessing grant applications* (see exceptions at 6.3 for non-competitive grants) — **6.3**

Providing grants and publishing grant information

- Officials must ensure that grantees are subject to clear and specific written terms and conditions for a grant. This should be by way of a funding agreement, unless not practicable — **6.4**

- Officials must ensure that information on the decisions made in relation to grants awarded is published on the NSW Government Grants and Funding Finder no later than 45 calendar days after the grant agreement takes effect or, if there is no grant agreement, no later than 45 calendar days after the first payment is paid to the grantee (see exceptions at 6.5 *Publishing grant information)* — **6.5**

- Where there is a legal obligation to maintain confidentiality over certain grant information, officials must publish as much information as is permitted and the reasons for not publishing the information fully must be documented by officials (see exceptions at 6.5 *Publishing grant information)* — **6.5**

		Reference in Guide
	• Where there is a policy exception to the requirement to publish grant information, officials must publish as much information as is reasonably practical. The approval of the Minister must be obtained and the reasons for not publishing the information fully must be documented by officials and published (see exceptions at 6.5 *Publishing grant information*)	**6.5**
Ministerial staff	• Be familiar and comply with the principles and grants administration processes set out in this Guide, as well as applicable laws and policies that guide ethical behaviour	
	• Comply with the following mandatory requirements:	
	– Ministerial staff must put in place practices and procedures to ensure that Ministerial involvement in grants administration is conducted in a manner that is consistent with the key principles and requirements in the Guide	**5**
	– Where a Minister is the decision-maker, Ministerial staff must ensure that the decision is recorded in writing and the records are managed in accordance with the requirements of the SR Act	**6.3**

As noted above, where local government or other third parties administer grants on behalf of the NSW Government, practices and procedures must be in place to ensure that grants administration is conducted in a manner that is consistent with the key principles and requirements of the Guide, with appropriate adaptations as necessary.

Additionally, where boards and other committees established under NSW legislation are involved in grants administration, the Guide applies to Ministers and officials carrying out grants administration functions, with appropriate adaptations as necessary.

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4. What is a grant?

For the purposes of the Guide, a 'grant' is an arrangement for the provision of financial assistance by the NSW Government (or on behalf of the NSW Government) whereby money:

- is paid to a grantee other than the NSW Government

- is intended to help address one or more of the NSW Government's policy outcomes

- is intended to assist the grantee to achieve its objectives

- does not result in the return of goods or services by the grantee of an equivalent value to the NSW Government (i.e. it is a non-reciprocal exchange).

A 'grant' does not include:

- the purchase of goods and services for the direct use or benefit of the NSW Government (i.e. procurement or tender)

- engaging another party to carry out work on behalf of the NSW Government (i.e. commissioning)

- a gift of public property

- ex gratia and act of grace payments made to persons who have suffered a financial or other detriment as a result of the workings of government

- a payment to a person of a benefit or an entitlement established by legislation

- an arrangement that is explicitly for the purpose of the transfer of funds and/or assets between NSW Government entities or SOCs

- a tax concession or offset

- a loan provided on commercial terms

- a payment of remuneration, compensation or damages

- a payment from the Commonwealth where the NSW Government is used as an intermediary to distribute funds to other parts of government or to non-government entities

- a scholarship

- a sponsorship arrangement in which the NSW Government provides money to an organisation or individuals to carry out a particular event or activity in return for sponsorship rights.

The Guide applies to all payments that meet the above definition, including payments made:

- as a result of a selection process, regardless of whether that process is open, closed, targeted, competitive or non-competitive

- where particular criteria are satisfied
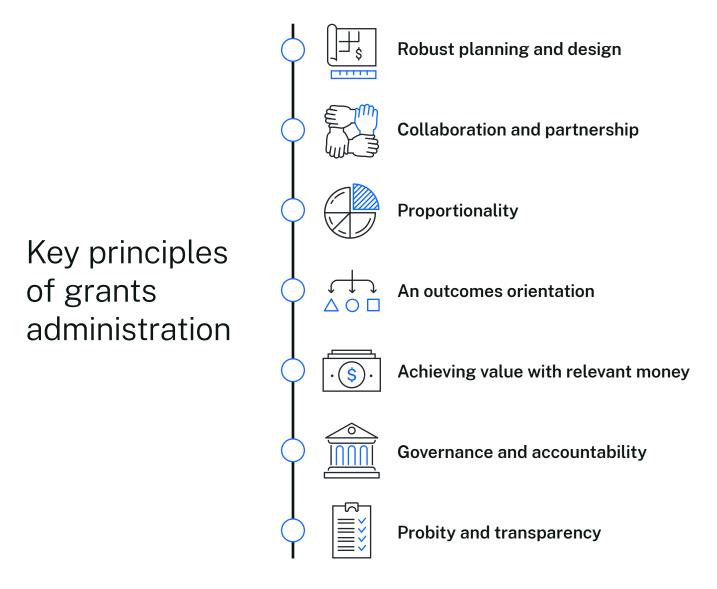
- on a one-off or ad hoc basis.

The above definition informs the scope of the Guide. Other NSW legislative instruments or policies such as the *Public Works and Procurement Act 1912* (NSW) may apply to other financial arrangements which do not fit within the definition.

5. Key principles of grants administration

The GSE Act establishes the government sector core values of integrity, trust, service and accountability. These values underpin the work of government and should be embedded in grants administration. This includes requirements to be fiscally responsible, to focus on efficient, effective, and prudent use of resources, and to provide transparency to enable public scrutiny.

The CGRGs set out 7 key principles to be applied in administering grants:

Key principles of grants administration

- Robust planning and design
- Collaboration and partnership
- Proportionality
- An outcomes orientation
- Achieving value with relevant money
- Governance and accountability
- Probity and transparency

These key principles are adopted in this Guide and are set out in further detail below. The principles reflect the government sector core values and provide a strong foundation for grants administration.

Officials **must** put in place practices and procedures to ensure that grants are administered in a manner that is consistent with the following key principles and requirements in the Guide. Similarly, Ministerial staff must put in place practices and procedures to ensure that Ministerial involvement in grants administration is conducted in a manner that is consistent with the key principles and requirements in the Guide.

5.1 Robust planning and design

Effective planning and design facilitates fair, effective and transparent grants administration. It helps ensure that grants meet identified needs and deliver value for money. Planning and implementation issues should be considered before commencing a grant opportunity. The specific issues to be addressed will depend on the grant, including its complexity and scale.

Grant planning is also about being strategic in establishing the grant and having regard to activity across the government sector in identifying a particular need that could be met through a grant. Officials should make use of all available information and existing evidence in devising and implementing grants, including through collaboration and partnership.

Officials should have regard to whether a grant is the best vehicle to achieve the intended policy objectives. This involves developing a range of feasible options that would meet the intended objectives. For instance, it may be more effective, in certain circumstances, to provide a direct service or commission a contracted service rather than establish a grant.

If a grant is the appropriate mechanism, officials should then consider different options for the design of the grant to determine the best approach for achieving the objectives.

Planning a grant should include having regard to:

- the rationale for the grant initiative and how the grant initiative will meet government objectives, including expected outcomes and benefits and how to measure these

- the potential for co-design with prospective grantees and/or other stakeholders to best meet identified needs

- the expected costs and benefits of the grant initiative and the risks and sensitivities associated with these

- any taxation or accounting treatments required in respect of the grant

- commercial considerations, including consideration of an appropriate funding strategy and grant agreement

- management issues, including:

  - the approach to engaging and communicating effectively with stakeholders

  - risk identification and management

- accountability, probity and transparency in administering the grant

- appropriate application and selection processes to be used

- the role of decision-makers

- appropriate performance measures

- monitoring and evaluation (which may be under a benefits realisation planning framework)

- appropriate documentation, including guidelines and application information

- applicable legal, policy and governance requirements (see 1.4 *Legislative and policy framework*), such as the GSF Act and NSW Government appraisal and evaluation policies (see 6.1 and 6.7).

Once the parameters of a grant have been established, officials should consider the risks associated with the grant opportunity. This entails identifying the risks that may arise and taking steps to avoid or mitigate those risks. This should be built into the grants process.

Risk management activities will vary depending on the grant. Some risks can be appropriately mitigated or managed through the grant agreement, while other risks are better managed across the grant life cycle. Administration processes should be proportionate to the scale and risk profile of the grant. Specific mandatory requirements regarding risk management are outlined further below at 6.1 *Planning and designing the grant opportunity*.

Officials should ensure that the party who is best placed to manage a specific risk is identified and tasked with managing that risk. In a jointly funded or delivered grant opportunity, it may be appropriate to share the responsibility for some risks. Active risk management should occur throughout the grant life cycle.

See 6.1 *Planning and designing the grant opportunity* for information on how to plan and design a grant and specific policy requirements.

5.2 Collaboration and partnership

Collaboration and partnership with stakeholders is an important part of grants administration. The needs of stakeholders should be considered in the development of grant opportunities, and it should not be assumed that the same approach will suit all grant opportunities.

Officials should consider the interaction of the grant with other government or non-government funded activities, particularly where there are similar policy outcomes.

Where policy responsibility or grants administration is shared between different agencies or levels of government, or where an agency or third party is responsible for the grants administration of another agency or entity, a focus on collaboration and partnership is critical.

Consultation and cooperation with government and non-government stakeholders can:

- improve the design and delivery of grants

- identify and reduce fragmentation and unnecessary duplication in grants

- improve the responsiveness, flexibility and relevance of grants

- reduce administration costs for government and non-government stakeholders

- support the appropriate sharing of responsibility for costs and risks among stakeholders

- support the development of appropriate outputs, accountability requirements, governance structures and documentation for the grant

- assist potential grantees to understand the grants administration process.

Co-design of grants with stakeholders may be appropriate in some cases, enabling stakeholders to have input on the design of the grant opportunity to meet their needs more effectively.

Effective collaboration and partnership with grantees is important throughout the grants administration process. A well-designed grant agreement will help establish the basis for effective working relationships based on collaboration between the grantee and the agency, and a shared understanding of objectives and expectations. Longer term grant agreements may be conducive to improved partnerships between grantees and agencies and should be considered where appropriate.

In pursuing collaboration and partnership opportunities, due regard should be had to any issues that may arise in respect of probity, conflict of interest and the potential for competitive advantage.

5.3 Proportionality

Grants may vary in scale and complexity. Effective grants administration requires a customised approach for each grant opportunity according to the value and complexity of the grant and the associated risks.

Officials should tailor grant guidelines, application processes, assessment processes, grant agreements, and reporting and acquittal requirements taking into account the potential risks and specific circumstances. In doing this, officials should consider:

- the capability and experience of applicants and grantees

- the intended policy outcomes

- the purpose, value and duration of a grant

- the nature and type of deliverables

- governance and accountability requirements

- the nature and level of the risks involved

- the effect of any application or process requirements for grantees on the accessibility of the grant.

Officials should determine the volume, detail and frequency of reporting requirements proportional to the risks involved and the intended policy outcomes.

Officials should also consider opportunities to reduce the burden of reporting requirements while managing risk, including by having regard to information that is otherwise available (for example, information that is otherwise collected by government and available to the relevant officials or publicly available) and by aligning grant reporting requirements with a grantee's internal reporting requirements (such as the annual reporting cycle), where appropriate.

Officials should balance the rigour of acquittal procedures against the level of risk involved with the grant activity, the grantee and the costs of compliance. For example, officials should consider that independently audited financial statements may be expensive and difficult to obtain for certain grantees, or the cost may represent a large proportion of a low-value grant.

Any considerations of proportionality made by officials in the planning and design of grant opportunities should be documented, particularly to explain the approach taken towards identified risks. Officials should review these decisions prior to opening further grant rounds.

5.4 Outcomes orientation

Grants administration should be designed and implemented with a focus on achieving outcomes and benefits consistent with government objectives. To ensure an outcomes orientation, officials should comply with *TPP 18-06 NSW Government Business Case Guidelines,* which outline requirements for grants over a certain value and provide helpful guidance for officials administering grants of any value.

TPP 18-06 recommends:

- developing **objectives that are outcomes and benefits-focused** and that are:

  – linked to NSW Government, cluster and agency priorities or State Outcomes

  – measurable and clear about how and when objectives are expected to be achieved

  – clearly communicated to key stakeholders, including grantees

  – reviewed regularly to ensure they remain relevant and appropriate

- documenting how the grant's **inputs and activities are expected to lead to the desired outcomes and benefits** (see 6.1 *Planning and designing the grant opportunity* for further information)

- planning for **monitoring and evaluation**, which includes establishing **appropriate performance measures** for evaluation to assess whether intended outcomes and benefits are being realised. Officials should ensure these measures are specified in grant guidelines and agreements.

Following the implementation of a grant opportunity, officials should implement an outcomes evaluation to assess if and how it led to intended changes and met objectives (see 6.7 *Grants evaluation*). The outcome evaluation can also inform an economic evaluation, which assesses value for money.

Officials should work collaboratively with grantees to ensure a shared understanding of the objectives and intended outcomes and benefits of grants, and the approach to monitoring these. Officials should consider what support or resources might assist grantees to identify and monitor grant outcomes and benefits.

Grants administration should also be designed and implemented to enable grantees to focus on achieving outputs, outcomes and benefits for the beneficiaries of grants, namely the individuals, organisations or community that benefit (directly or indirectly) from the grant.

5.5 Achieving value for money

Determining value for money in grants administration requires an assessment of the lifetime benefits of a grant opportunity against its lifetime costs. These costs and benefits will be affected by a range of factors including how they are distributed among different groups across the community, the efficiency with which outputs are produced, and the appropriateness and effectiveness of the grant in achieving outcomes and objectives.

Achieving value for money is important to ensure the benefits of grants are maximised for the people of NSW. Value for money should be a key consideration across the grant life cycle, from its initial design through to implementation and evaluation.

Some ways officials may deliver value for money in grants administration include:

- efficient and effective grants design and delivery

- working with stakeholders to develop or modify grant opportunities

- using processes and procedures proportional to the grant's value and risk

- promoting the ethical use of public resources

- managing risk to minimise unintended consequences, such as wasteful or fraudulent use of resources

- maintaining flexibility to respond to changing circumstances

- supporting grantees to achieve value for money in their grant activities

- monitoring whether funds are being used for the intended purposes, and programs or projects remain on track.

Ways in which grantees may contribute to delivering value for money include:

- considering the most efficient and innovative means of carrying out grant activities

- considering how government objectives and their identified needs can be mutually achieved

- adopting an effective approach to identifying and managing risks

- collaborating with officials in monitoring and evaluation processes.

To inform decisions about whether a grant opportunity should proceed, officials **must** demonstrate at the planning and design stage how it will deliver value for money by identifying expected lifetime benefits and costs. This should include

consideration of all benefits and costs – economic, social, cultural and environmental – both monetary and non-monetary. The approach taken to assess value for money should be proportionate to the value and risk of the grant. A grant's lifetime begins at implementation and ends when significant benefits and costs are no longer realised.

TPP 18-06 NSW Government Business Case Guidelines requires a business case to be completed for any new grant program or individual grant over a certain value. A business case involves the comparison of feasible options for achieving the policy objectives, including consideration of the costs, benefits and risks of each option. Business cases may also be appropriate for proposals that may not involve significant expenditure but have a significant impact on the community, economy or environment.

Similarly, *TPP 17-03 NSW Government Guide to Cost-Benefit Analysis* requires a cost–benefit analysis (**CBA**) for new grant programs or individual grants over a certain value. A CBA should consider a range of realistic options to achieve the stated objective. A CBA offers the most comprehensive means of assessing value for money; it incorporates the complete range of expected benefits and costs across the grant life cycle. It can consider economic, social, cultural and environmental benefits and costs, as well as their distribution across the community. Benefits and costs that cannot be quantified can be accounted for qualitatively. A CBA should also account for risk and uncertainty in expected benefits and costs through sensitivity analysis.

While these NSW Government policies are not mandatory for smaller grant opportunities, they provide helpful guidance for officials.

The benefit–cost ratio (**BCR**) and the net present value (**NPV**) are key metrics produced in a CBA. A BCR greater than one and a positive NPV indicate that quantified benefits outweigh the quantified costs. These metrics are not the sole means of demonstrating value for money but, where CBAs are required, decision-makers should be provided with these metrics in the formal advice from the assessment team. Decision-makers should also consider non-monetary benefits and costs, distributional analysis (i.e. how costs and benefits are distributed across different groups or parts of the community), and the appropriateness of the proposed grant activity in meeting government objectives. A CBA includes information on these qualitative components, and gathering community perspectives through research and consultation is critical to these considerations.

For smaller or time-critical grant opportunities, value for money may be assessed with more streamlined approaches, such as rapid CBAs, which are based on the same principles but requires less precision. Agencies should first liaise with NSW Treasury to check whether a rapid CBA is appropriate. Where it is not practicable to quantify or monetise benefits, other appraisal methods may also be considered, such as a cost-effectiveness analysis.

Officials should also consider value for money at the individual grant level. This may not be practicable for high-volume grants such as those for emergency relief. The approach taken to assess value for money in grant applications should be proportionate to the value and risk of the grant, and the capability of the applicant. Officials should consider what support and resources might assist applicants to make assessments in a cost-effective manner. This may include providing guidance on how to capture data and identify key benefits and costs, or providing CBA templates and logic models, where appropriate.

5.6 Governance and accountability

Good grants administration is underpinned by solid governance structures and clear accountabilities. Ministers, officials, agencies and grantees should all be accountable for their roles in grants administration. Accountability in grants administration is relevant both to the process of grants administration, and the achievement of government outcomes.

Officials should develop policies, procedures and documentation necessary for the effective and efficient governance and accountability of grants administration. This should include the development of grant guidelines and associated operational guidance for administering grant activities. It is particularly important that such guidance clearly sets out who is responsible for different aspects of the grants process, including those responsible for making recommendations and the designated decision-maker.

It is important to ensure that those with responsibilities in relation to a grant have the right experience and skills. For example, officials involved in developing and/or managing grants should have the necessary grants management, stakeholder liaison and financial management skills, while officials involved in assessing applications should be appropriately skilled and have access to procedural instructions and/or training before processing grant applications. Additionally, external subject matter experts may be able to provide valuable expertise, including as part of the assessment team.

Record keeping is a key component of good governance and accountability. Good record keeping supports better decision-making. For example:

- officials are better able to assess risks where they have records about previous and current grantees and their performance

- documented reasons for decisions in awarding or not awarding grants supports equitable grants assessment, particularly when selection processes are conducted over an extended period of time.

Ministers, Ministerial staff and officials must comply with their record keeping obligations under the SR Act.

Officials should ensure that grant agreements are well drafted, easy to understand and fit for purpose, as this will contribute to good governance and accountability. Officials should also ensure that grant agreements are supported by ongoing communication, active grants management and performance monitoring requirements, which are proportional to the risks involved.

5.7 Probity and transparency

Probity relates to ethical behaviour. Grants administration must be conducted honestly, impartially and with integrity and accountability.

Transparency refers to those involved in grants administration, including Ministers, officials and grantees, being open to scrutiny about grants administration processes. This involves providing reasons for decisions and the exchange of information between agencies, the Parliament, grantees and the community. Transparency provides assurance that grants administration is being carried out appropriately and in accordance with any applicable requirements. It also supports oversight of the expenditure of public money through grants.

It is noted that accountability and transparency are related concepts. Accountability involves grantees, officials and decision makers being able to demonstrate and justify the use of public resources. This necessarily involves all parties keeping appropriate and accessible records.

Probity and transparency in grants administration are achieved by ensuring that:

- decisions relating to grants are impartial, appropriately documented and published, publicly defensible and lawful

- grants administration incorporates appropriate safeguards against fraud, unlawful activities and other inappropriate conduct.

This includes establishing appropriate internal controls for grants administration. For example, making different officers responsible for assessing grant applications, giving financial approval for the expenditure and making the grant decision ensures that there are checks and balances at various stages of the grants administration process.

Additionally, it is important to establish and adhere to transparent and systematic application and selection processes, which are competitive and merit-based where appropriate and are used to allocate grants based on clearly defined criteria.[13]

These processes must guard against actual or perceived conflicts of interest. A conflict of interest arises when a reasonable person might perceive that a Minister's or an official's private interests could be favoured over their public duties. Officials involved in grants administration should not have a direct or indirect interest that may influence the administration of a particular grant activity.

When designing the assessment process, officials **must** consider and develop a plan for managing any conflicts of interest that might arise. Mechanisms should be in place to manage potential conflicts of interest, such as a register of interests and procedures for declaring interests. For Ministers and officials, these mechanisms are already in place under the *Code of Ethics and Conduct for NSW Government Sector Employees* (in the case of officials) and the Ministerial Code of Conduct (in the case of Ministers), and the procedures used in grants administration should reflect these.

Additionally, officials **must** develop and implement fraud controls for grants administration that are proportionate to the value and risk of the grant and consistent with NSW public sector risk management requirements (see 6.1 *Planning and designing the grant opportunity*). This should include providing a risk appetite statement for all medium-risk to high-risk grants.

Reported information should be assessed as part of the acquittal process for grantees to ensure appropriate use of grant money. Officials should be aware of the procedures to follow when fraud or misappropriation is suspected.

Appropriate probity and transparency measures help to ensure that the public interest is prioritised in grants processes. The public interest, sometimes referred to as the 'common good', concerns what is in the best interests of the community, rather than

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13 Note that the Guide contemplates circumstances where a method other than a competitive merit-based selection process may be used, subject to approval.
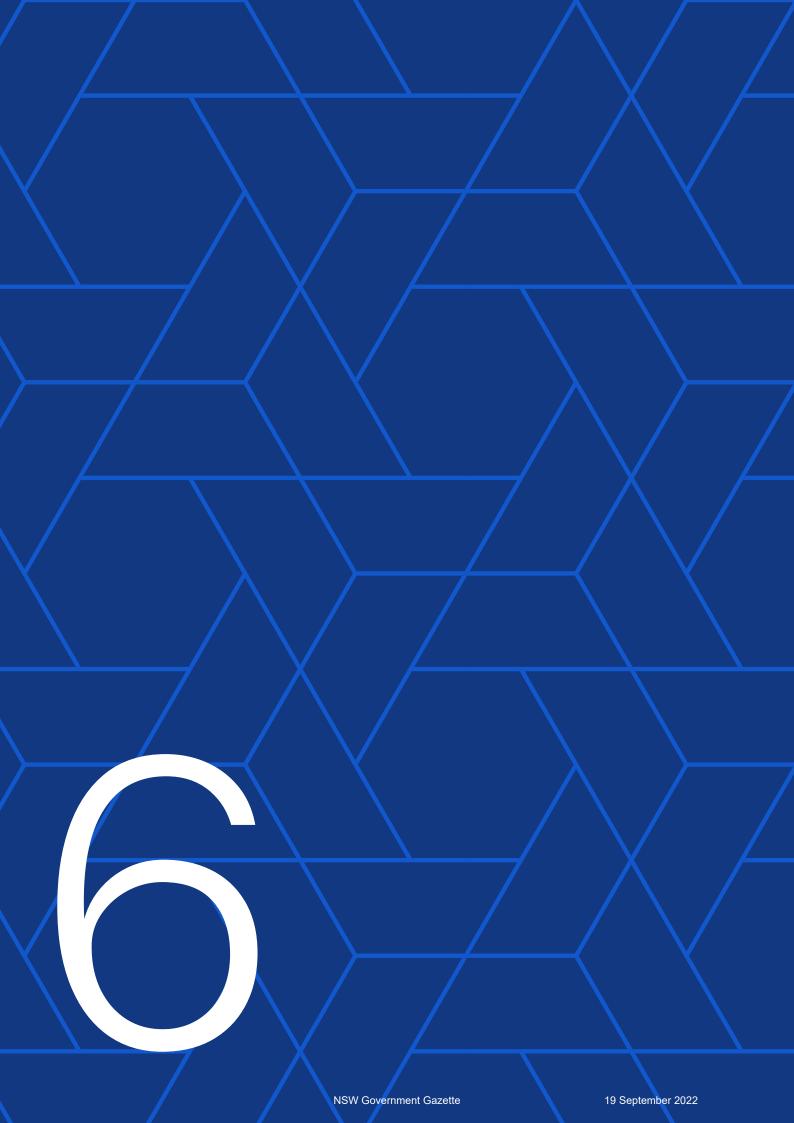
the private interest of individuals. Acting in the public interest is essential for government decisions about the use and expenditure of public money.

While the use of government funds, including the allocation of grants, may give rise to a political benefit (sometimes referred to as pork-barrelling), it must still serve a public purpose. Grants that benefit private interests at the expense of, or without due consideration of, the public interest are improper and may amount to a breach of public trust.

Conduct arising from pork-barrelling may be unlawful depending on the circumstances. The conduct may be unlawful where it amounts to, for

example, corruption, bribery, maladministration or records mismanagement/destruction. Criminal sanctions following prosecution may also arise.

The current integrity-based legislation in NSW (described in section 1.4 above) provides legally enforceable sanctions for unlawful or improper conduct in the context of grants administration (which involves decisions by Ministers and officials about the allocation and spending of public money). In addition to this existing legal framework, this Guide is directed to ensuring that the public interest remains paramount in the administration of NSW Government grants.

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6. Process of grants administration

The key principles outlined in Section 5 underpin the grants administration process in NSW. This part of the Guide provides a high-level overview of that process, outlines best-practice considerations and specifies key requirements, including mandatory requirements where specified.

The key principles and mandatory requirements set out in the Guide must be met for all grants. Where relevant, the Guide provides appropriate exceptions, such as exceptions that apply for non-competitive grants.[14]

6.1 Planning and designing the grant opportunity

Careful planning is required to ensure that grants achieve government objectives and are administered effectively. The importance of planning and design in developing grants is highlighted at Section 5.1 above.

6.1.1 Considering objectives and initial planning

The following NSW government policy guidelines set out mandatory requirements, recommendations and general guidance for officials designing grants:

- *TPP 18-06 NSW Government Business Case Guidelines,* which require a business case for grants over a certain value and to a level of detail proportionate to the size and risk of the grant

- *TPP 17-03 NSW Government Guide to Cost-Benefit Analysis,* which requires CBA be undertaken for larger grants over a certain value.

These guidelines should be consulted for current value thresholds that trigger the requirement to comply. However, the guidelines listed above provide useful guidance for officials planning grants of any value.

A business case demonstrates how a proposed grant has been designed to meet government objectives, and includes 3 stages:

1. problem definition

2. strategic business case

3. detailed business case.

Key elements within these stages include: a case for change, options development, CBA, financial impact analysis, commercial analysis and management analysis. A business case also outlines how monitoring and evaluation will be carried out.

Importantly, a business case helps to ensure that the design of any new grant opportunity is based on sound evidence of the nature and extent of the identified problem, and evidence of policy responses proven to be effective in addressing the issue.

As part of the business case officials should:

- develop a **logic model**[15] that maps the relationships between the rationale for the grant and a grant's expected inputs, activities, outputs, outcomes and benefits

- develop a **theory of change,** which describes the causal links between the inputs, outputs, outcomes and benefits, as well as the assumptions regarding these links.

For smaller grant opportunities, a formal business case may not be required, but these components should still be considered in grant planning.

Often, grants are necessary to:

- provide immediate, targeted relief to businesses and communities affected by a natural disaster

- provide immediate relief, support and assistance in other emergency situations

- support medium to long-term recovery and resilience.

The timeframe for planning these types of grants may be compressed to meet urgent community needs. While full business cases and CBA may not be possible for these types of grants, officials should still consider the key elements outlined above, including how the grant opportunity will meet government objectives, to the fullest extent practicable within the time constraints they face.

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14 See table 1, at 6.1 *Planning and designing the grant opportunity*.
15 It may also be described as a Program Logic or Investment Logic map.

6.1.2 Assessing and managing risk

A key element of planning and designing a grant opportunity is to assess and manage risk. Officials **must** ensure that grants administration processes identify and manage risks for all grants, in accordance with agencies' responsibilities under the GSF Act.

Grants administration risks can be categorised into 3 broad categories:

- **program risks** relating to the planning, design and implementation of the grant by the agency, such as:
  - the scale of the grant
  - the complexity of the grant
  - whether it is a novel or new approach
  - the agency's capacity to administer the grant

- **grantee risk** relating to the grant recipient, such as:
  - the grantee's industry or sector
  - the grantee's experience and capacity to deliver the grant activities
  - the history of the grantee

- **governance risks** relating to the governance of the grant, such as:
  - the relationship between the grantor and grantee
  - the relationship between the parties to the grant agreement
  - the grantee's accountability procedures.

Risk management should be proportional to the program risk level (low, medium or high), which depends on the likelihood and consequence of the risks occurring. Grants that can typically carry higher risks are grants that have a high dollar value, are complex or are awarded via a non-competitive process.

Officials **must** seek probity advice (whether external or internal) for all grant opportunities that are complex, high-risk or of high value, to support the design, application, assessment and decision-making phases. Thresholds should be applied for complexity, risk and value consistent with the agency's expenditure and risk management frameworks.

These resources provide further guidance on identifying and managing risk:

- **NSW Treasury Risk Management Toolkit** provides principles-based guidance on how agencies can develop and maintain risk management frameworks and processes.

- *Internal Audit and Risk Management Policy for the General Government Sector* (TPP20-08) helps agencies to meet obligations under the GSF Act.

- *Supplier due diligence: a guide for NSW public sector agencies* is an ICAC publication that helps agencies in conducting due diligence checks on potential suppliers.

6.1.3 Developing key elements of a grant opportunity

There are a number of ways in which grants can be offered, which can be broadly categorised as follows:

	Type of grant process	Description
Competitive	Open, competitive	Applications must be submitted by a specified date. Eligible applications are then assessed on their comparative merits against nominated criteria.
	Targeted, competitive	Open to a smaller number of potential grantees based on the specialised requirements of the grant activity.
Non-competitive	Closed, non-competitive	Applicants are invited to submit applications that are assessed individually, without reference to the comparative merits of other applications.
	Open, non-competitive	Applications are assessed individually against the selection criteria, without reference to the comparative merits of other applications.
	Demand-driven or 'first-in, first-served'	Applications that satisfy stated eligibility criteria are approved, up to the limit of available funding.
One-off or ad hoc grants	One-off or ad hoc grants	Grants determined on an ad hoc or targeted basis, usually by Ministerial decision.

Table 1. Types of grant process

The following sections of the Guide set out the process for all grants. Where relevant, the Guide provides appropriate exceptions, such as exceptions that apply for non-competitive, demand-driven grants.

Following the planning and design phase, officials should develop the following key elements of the grant and assessment process:

- selection criteria, comprising eligibility criteria and (where relevant) assessment criteria

- assessment process – including an assessment stage and a decision-making stage. For competitive grants, this will involve an assessment team making a recommendation to the decision-maker, who then makes a final decision. In the case of large-scale non-competitive grants (such as demand-driven or 'first in, first, served' grants), the assessment process may be modified and may not involve the typical two stages in the same way.

Each of these key elements is considered further below.

6.1.4 Determining selection criteria (eligibility and assessment criteria)

All grants should have clear eligibility criteria which outline the minimum requirements an applicant must meet to be eligible for funding. The criteria should enable applicants to consider whether they are eligible before applying for a grant. This should include specifying the evidence the applicant will need to submit to satisfy the eligibility criteria, where relevant.

Eligibility criteria may include specifications such as eligible entities or applicant types, eligible project activities or funding uses, eligible locations, or required co-contribution amounts. To support applicants' understanding of what may or may not be eligible, the guidelines should include examples – such as eligible and ineligible entities, applicant types, activities, funding uses, locations or co-contribution amounts – where this may assist applicants.

For non-competitive grants, applications should be assessed against the eligibility criteria and, where relevant, the assessment criteria, including checking the evidence submitted with the application. For competitive grants, applicants who meet the eligibility criteria should then be assessed against the assessment criteria by comparison with other applicants.

Assessment criteria should be designed to permit an objective assessment of relevant factors. The criteria should enable assessment of the relative extent to which applications meet the criteria, rather than binary factors. Criteria should encompass considerations such as:

- consistency of the proposal with the objectives of the grant opportunity

- capability, experience and skills of the applicants

- deliverability of the project, including demonstrating that the applicant has the capacity and expertise to deliver the project within budget and timeframes

- technical aspects of the proposal – the infrastructure and technical capacity to fulfil the project requirements, including by reference to evidence such as a business case

- financial arrangements

- economic benefit

- ability to demonstrate community support.

Where factors such as the geographical distribution of grantees or the spread of project/activity types are to be taken into account, this should be specified in the assessment criteria. Consideration should be given to whether the criteria are to be given equal weighting.

6.1.5 Selecting an appropriate assessment process

The assessment process should be determined at the outset of the grants administration process. Information about the assessment process should be included in the grant guidelines.

In the case of competitive grants, a two-stage assessment process that includes an assessment stage and a decision-making stage should be used to determine successful grants recipients. An assessment team should make a recommendation in writing to the designated decision-maker who then makes a final decision.

The composition of the assessment team depends on the scale and nature of the relevant grant, having regard to the proportionality principle. Assessment teams can benefit from external subject matter experts, including non-officials, and from involving officials who have not been involved in the design of the grant opportunity. Having two separate teams of officials involved in the design of and the assessment process for a grant opportunity respectively also enables officials involved in the design stage to communicate with potential applicants, for example, to test the key elements of the proposed grant opportunity, without compromising the impartiality of the assessment process. Depending on the composition of the assessment team and the complexity of the grant opportunity, the assessment process may be structured so that one group of officials carries out the initial consideration of the eligibility and assessment criteria, to inform the final funding recommendations made by a separate group of officials. Members of the assessment team may also consult with relevant subject matter experts to inform the assessment. As noted above, these details should be documented and captured in the grant guidelines.

Key factors to be considered by officials when deciding the most appropriate assessment process include:

- the likely number and type of applications

- the nature of the grant activity, such as the complexity of the projects and any technical or other expertise required

- the value of the grant

- the need for timeliness and cost-effectiveness in the decision-making process while maintaining rigour, equity and accountability

- the risk profile of the grant opportunity.

The assessment process may include weighting against criteria, or other process, and this information should be included in the grant guidelines for transparency.

When developing an assessment process, officials **must** consider and develop a plan for the management of any conflicts of interest that might arise (see above at 6.5 regarding principles relating to conflicts of interest). This should adhere to existing conflict of interest requirements and procedures, including those that apply in the relevant agency and under the Ministerial Code of Conduct where relevant.

One-off or ad hoc grants generally do not involve planned selection criteria and assessment processes, but are instead designed to meet a specific need, often due to urgency or other circumstances. One-off grants are determined on an ad hoc basis, usually by Ministerial decision. These grants are generally not available to a range of grantees or on an ongoing basis.

Grants offered through a non-competitive process may involve applicants being assessed individually against criteria rather than by comparison with other applicants' submissions. In the case of non-competitive grants, the assessment process may be modified and may not involve a two-stage assessment and decision-making process (involving an assessment team making a recommendation to a decision-maker) (see 6.3 *Receiving and assessing grant applications*).

Where a method other than a competitive, merit-based selection process is to be used (including one-off or ad hoc grants), officials **must** document why that method will be used and outline the risk mitigation strategies. This **must** be approved by the responsible Minister (or head of agency or delegate).

6.1.6 Identifying the designated decision-maker

A key consideration in establishing a grant opportunity is determining who will be the decision-maker. A Minister or an official (or board, committee or other body) may play this role and either may be an appropriate decision-maker depending on the circumstances.

Practical considerations such as timing constraints, the extent of administrative work involved and potential conflicts of interest will be relevant in selecting the decision-maker For example, where there is likely to be a large number of applicants, it may not be practical for Ministers and other heads of agencies to carry out the necessary conflict of interest checks for each applicant or proposed grantee (noting that the Ministerial Code of Conduct deals extensively with the obligations of Ministers in relation to conflicts of interest).

There is no legal or policy requirement that grant payments must be approved by Cabinet or a Committee of Cabinet. The convention of Cabinet confidentiality may impede transparency in the grants administration process. Seeking Cabinet approval for specific grant payments is also inconsistent with the doctrine of individual Ministerial responsibility (i.e. the principle that Ministers are accountable to the Parliament for the day-to-day administration of matters arising within their portfolios) and can create uncertainty about who is ultimately accountable for those decisions (i.e. the agency that administers the grant opportunity and makes the recommendation, the responsible Minister, or the Cabinet as whole). Cabinet and Cabinet Committees can still play a role in approving the allocation of funding for grant opportunities, approving grant guidelines, and receiving reports on outcomes and benefits.

6.1.7 Developing grant guidelines and associated materials

Potential grantees need reasonable access to adequate information to enable them to decide whether or not to apply for a grant and then, if they do, to complete the grant application. Grant guidelines are an important component of grants administration documentation and should be given careful consideration and approved at the appropriate level.

Officials should ensure that grant guidelines clearly inform potential grantees of their eligibility and of the terms and conditions they will need to meet during the grant life cycle, such as financial and performance reporting. Where possible, the proposed grant agreement should be included with the grant guidelines so that this can be taken into account by potential grantees.

Officials **must** prepare clear and consistent grant guidelines that contain the following minimum information:

- the purpose and objectives of the grant

- selection criteria (comprising eligibility and assessment criteria) and assessment process

- grant value

- opening and closing dates

- application outcome date

- source agency or agencies

- the decision-maker.

Operational guidance must clearly specify who is responsible for different aspects of the grants process, including identifying those responsible for making recommendations and the designated decision-maker. It is appropriate to identify those persons by reference to their role or grade, rather than by name.

Where relevant, grant guidelines should also include:

- requirements for evidence and documentation in support of an application

- indicative reporting and acquittal requirements

- a description of complaint handling, review and/or access to information mechanisms.

Grant guidelines are required for all grants, including one-off or ad hoc grants. The format and complexity of guidelines may vary depending on the grant. In the case of one-off or ad hoc grants, guidelines should include, at minimum:

- the purpose and objectives of the grant

- any eligibility and evidence requirements

- grant value

- source agency or agencies

- the decision-maker.

Officials should consider testing the proposed settings of a grant opportunity with stakeholders. See 5.5 *Achieving value for money* for further information.

Where possible, changes to the grant guidelines should be minimised once a grant opportunity has opened. However, where significant changes have been made in relation to a grant opportunity, such as changes affecting the assessment of applications, officials **must** revise grant guidelines accordingly and publish the revised guidelines. It may be appropriate to advise applicants whose applications

have already been received of the changes and provide them with an opportunity to modify their applications. All application documentation should clearly emphasise the eligibility and assessment criteria so that applications can be assessed in a consistent, transparent and accountable way. The design of the application form should assist potential grantees to provide information in respect of all selection criteria.

Application forms and associated information should be easy to understand and provide all necessary information. Guidance should include contact points and details for further information.

Online grants management platforms may be the most effective way to administer grants, with significant potential benefits for agencies, applicants and grantees. Online platforms can streamline application processes and all subsequent interactions between the applicant and the agency.

6.2 Promoting the grant opportunity

Details of the grant opportunity should be promoted and made publicly available. Officials should choose methods that will promote open, transparent and equitable access to grants, ensuring that publicly available grants are notified in ways that provide all potential grantees with a reasonable opportunity to apply. Increasing awareness of the grant opportunity can also lead to an improvement in the quantity and quality of applicants, which can in turn lead to improved outcomes and benefits.

Careful consideration should be given to the importance of increasing awareness of grants in key target groups. Appropriate and effective promotion of grants can include print and broadcast media, news features and editorials, newsletters and direct mail, workshops or other special events, public launches or announcements, the internet, social media and the use of local officers.

Officials **must** ensure that key information about open grant opportunities is published on the NSW Government Grants and Funding Finder via nsw.gov.au/grants-and-funding.[16] The minimum requirements are detailed grant guidelines that include the information outlined at 6.1 *Planning and designing the grant opportunity* (also set out in **Appendix A**).

Where grants are provided on a one-off or ad hoc basis, grant guidelines must be drafted and approved but are not required to be published. However, officials **must** ensure that information about the grant is made available on the NSW Government Grants and Funding Finder (see Section 6.5 *Publishing grant information* below).

6.3 Receiving and assessing grant applications

Officials and Ministers who are involved in the grants administration process **must** administer the grant in accordance with the grant guidelines.

The process for the receipt and assessment of grant applications should follow these general steps:

- **Eligibility cull** – Grant applications should be considered and culled against the eligibility criteria (see below for approval required for the waiver of eligibility criteria). Ineligible applications should not proceed in the assessment process. Only the eligibility criteria are relevant at this stage, not the assessment criteria. The outcomes of the eligibility cull should be documented and, where relevant, referred to the assessment team and/or decision-maker.

- **Assessment against assessment criteria** – A committee or panel (assessment team) should assess the applications against the assessment criteria. The assessment team will assess the grant applications against the assessment criteria and document its decisions, including reasons for decisions.

- **Recommendation** – The assessment team makes recommendations in writing to the designated decision-maker. In doing so, the assessment team will detail the procedures followed and the performance of the applications against the assessment criteria.

- **Decision-making** – The decision-maker considers the recommendations of the assessment team (and, where relevant, the outcomes of the eligibility cull). Decisions must be recorded and any departure from the assessment team's recommendation must be documented with written reasons and published.

- **Announcement** – Public announcement of the decision may be made and information about grants awarded must be published (see 6.5 *Publishing grant information*, including for exceptions). Announcements should not be made regarding grants awarded before the grantee has been informed. Written advice to unsuccessful applicants (where practicable, with reasons for the application being unsuccessful) should be provided on or before the announcement.

In undertaking the assessment process, officials **must** ensure that all decisions in the selection process are documented, including (where relevant):

- the outcomes of a cull of applications against eligibility criteria (including where an ineligible

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16   Until agencies can publish all information on this site, officials should publish the information on the agency website.

application has proceeded to assessment and the reasons for waiving the eligibility criteria. See below for approval required for the waiver of eligibility criteria)

- the recommendations made by the assessment team, including reasons for those recommendations

- the decisions made by the designated decision-maker, including any departure from the assessment team's recommendation and reasons for that.

Where a Minister is the decision-maker, Ministerial staff **must** ensure that the decision is recorded in writing and the records are managed in accordance with the requirements of the SR Act.

6.3.1 Briefing the decision-maker

Where the decision-maker is a Minister, officials **must** provide written advice which, at a minimum:

- outlines the application and selection process, including the eligibility and assessment criteria used to select the recommended grantees

- includes the merits of the proposed grant or grants having regard to the grant guidelines and the key principle of achieving value for money

- identifies the recommended grantees

- identifies proposed funding amounts for each recommended grantee

- includes relevant input from key stakeholders (such as MPs, the responsible Minister, Ministerial staff and other Ministers) and the consideration given to that input in the assessment process.

(See exceptions below for non-competitive grants.)

While officials do not have to rank all applications when briefing the designated decision-maker on the merits of a specific grant or group of grants, officials should, at a minimum, indicate:

- which grant applications fully meet the assessment criteria

- which applications partially meet the assessment criteria

- which applications do not meet any of the assessment criteria.

Where a probity advisor has been engaged to provide independent assurance to the decision-maker, this assessment is to be provided to the decision-maker.

Where there is an assessment team making recommendations to a decision-maker, those recommendations should be made in writing.

6.3.2 Requirements for decision-makers

A Minister **must not** approve or decline a grant without first receiving written advice from officials on the merits of the proposed grant or group of grants (see exceptions below for non-competitive grants).

A Minister or an official who approves or declines a grant **must** record the decision in writing, including the reasons for the decision (and any departure from the recommendation of officials), having regard to the grant guidelines and the key principle of achieving value for money, and manage these records in accordance with the requirements of the SR Act (see exceptions below for non-competitive grants).

Decision-makers may approve or decline grants in variance from the recommendation of officials. If a decision-maker has decided to approve or decline a particular grant where this would depart from the recommendation of the assessment team, the decision maker **must** declare this in the relevant documentation, including the reasons for the departure.

Decision-makers should not approve a grant that has been assessed as ineligible. In limited circumstances, a decision may be made to waive eligibility criteria, for example, where not doing so would:

- lead to perverse or unfair outcomes

- be contrary to the policy intent, or

- damage the reputation and integrity of the grant program.

If so, the reasons for waiving the eligibility criteria must be documented and the waiver must be approved by the decision-maker (whether as part of the final approval or otherwise).

6.3.3 Input from Ministers, MPs and others

Where it is anticipated that a grant opportunity will involve input from MPs or other stakeholders (such as other levels of government or industry representatives), officials **must** ensure that the grant guidelines clearly outline the role of stakeholders; there are processes in place to manage this interaction (including equitable opportunity for MPs); and all stakeholder input is documented as part of the assessment process, where relevant. Where such input is received outside of the process set out in the grant guidelines, this must be documented.

6.3.4 Assessment processes for non-competitive grants

For non-competitive grants, particularly high-volume grants, the assessment process may differ from the above in some respects. For example, high-volume, non-competitive grants (including demand-driven or 'first-in, first-served' grants), may not involve a two-stage assessment and decision-making

process (involving an assessment team making a recommendation to a decision-maker) in the same way as occurs for competitive grants. This process may instead occur on a program-wide level and the recommendation to and/or consideration by the decision-maker may be adapted appropriately. There must nonetheless be processes in place (whether automated or otherwise) for the consideration of whether the eligibility criteria are met.

In these cases, the agency needs to clearly identify the:

- designated decision-maker, who must be satisfied that the funds are being assessed and administered in accordance with the approved criteria and policy intent. This may entail approving program-wide policies and processes for assessment, risk management, quality assurance and auditing, and escalation of any compliance issues

- assessor(s), responsible for ensuring grants are administered in accordance with approved criteria.

Where automated systems are used, such as for high-volume grants, records from the relevant system should be retained as part of the documentation of the grant administration process (and be made available for internal auditing and fraud control in appropriate cases).

These exceptions do not apply to one-off, ad hoc grants.

6.3.5 One-off and ad hoc grants

In the case of one-off, ad hoc grants, the Minister is generally the decision-maker. The principles of this Guide relevant to decision-makers apply equally for these types of grants (and the exceptions for non-competitive grants are not applicable), including:

- A Minister **must not** approve or decline a grant without first receiving written advice from officials on the merits of the proposed grant or group of grants.

- A Minister who approves or declines a grant **must** record the decision in writing, including the basis for the approval having regard to the grant guidelines and the key principle of achieving value for money.

6.4 Providing grants

Once a grant is offered to the successful applicants and the unsuccessful applicants have been advised, the terms and conditions of the grant are to be formalised in writing. Officials **must** ensure that grantees are subject to clear and specific terms and conditions for a grant.

This should be by way of a grant agreement (also referred to as a funding agreement), unless not practicable. While there is no required format for a grant agreement, officials should ensure that the chosen form is fit for purpose having regard to the nature of the grant and grantee, the risks associated with the grant and the principle of proportionality. Officials should ensure that the chosen form of grant agreement supports proper use and management of grant money.

Officials should ensure that grant agreements are legally enforceable, well-drafted and provide:

- agreed terms and conditions with regard to the use of the grant

- a clear understanding between the parties on required outcomes

- appropriate accountability for grant money, including monitoring and acquittal requirements

- the performance information and other data that the grantee may be required to collect as well as the criteria that will be used to evaluate the grant, the grantee's compliance and the grantee's performance.

There may be some circumstances in which administering grant agreements for each grantee may not be practicable, such as for emergency relief and high-volume grants required to be delivered in a timely manner to a large number of recipients. In such instances, grantees must, at a minimum, agree to be bound by clear and specific terms and conditions as a condition of receiving the grant.

All offer letters and written agreements must require grantees to acknowledge the financial support by the NSW Government.

6.5 Publishing grant information

Effective disclosure and publishing of grants information are essential for transparency and public accountability. Reliable and timely information on grant decisions supports public confidence in the quality and integrity of grants administration.

Officials **must** publish the following information about grants to best-practice customer experience standards on the NSW Government Grants and Funding Finder at nsw.gov.au/grants-and-funding[17]:

- upcoming grant opportunities

- open grant opportunity guidelines

- all grants awarded

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17   Until agencies can publish all information on this site, officials should publish the information on the agency website.

- the exercise of Ministerial discretion in making grant decisions that vary from the recommendation of officials, including the reasons for any such decision

- program evaluations.

For each category of information listed above, officials **must** meet the specific information and data publishing requirements set out in **Appendix A**.

Officials **must** ensure that information on the decisions made in relation to grants awarded is published no later than 45 calendar days after the grant agreement takes effect (subject to the exceptions below). If there is no grant agreement, then the period of 45 calendar days commences when the first payment is paid to the grantee. This timeframe aligns with the timeframe for registering government contracts under the GIPA Act.

There may be circumstances where officials determine that publishing a grant decision would be contrary to one of more of the following:

- legal requirements under the *Privacy and Personal Information Protection Act 1998* (NSW) (**PPIP Act**) and/or the *Health Records and Information Privacy Act 2002* (NSW) (**HRIP Act**)

- other statutory requirements

- the terms of a grant agreement.

In those circumstances, there is a **legal obligation** to maintain confidentiality over certain grant information. The approval of the Minister to maintain confidentiality in this circumstance is not required; however, the relevant officials **must** publish as much information as is permitted. For example, it may be possible to omit the name of the grantee and other personal information but to publish other grant details. The reasons for not publishing the information fully **must** be documented by officials.

In some circumstances, there may be a **policy exception** to the requirement to publish information on grants awarded, for example, where officials consider that publishing a grant decision would:

- not be practical or feasible in the circumstances, or

- adversely affect the achievement of government policy outcomes.

In those circumstances, the approval of the Minister not to publish the information **must** be obtained and relevant officials **must** publish as much information as is reasonably practicable. The reasons for not publishing the information fully **must** be documented by officials and published.

Notwithstanding the above exceptions, officials **must** publish the following overarching information about grants awarded: the name of the grant or a description of the grant, the number of grants recipients, the total value of the grant opportunity and the decision-maker.

Where grants are provided on a one-off or ad hoc basis, grant guidelines must be approved but are not required to be published. However, officials **must** ensure that information about the grant(s) awarded is made available on the NSW Government Grants and Funding Finder no later than 45 calendar days after the grant agreement takes effect, including the name of the recipient, the amount paid and the grant activity (subject to the legal or policy exceptions outlined above). As above, if there is no grant agreement, then the period of 45 calendar days commences when the first payment is paid to the grantee.

6.6 Monitoring and acquitting grants

Grants administration does not end with the signing of a grant agreement and payment of grant money. Grant agreements should be supported by ongoing communication, active grants management and performance monitoring, which are proportional to the risks involved.

Providing clear guidance and support to grantees for the acquittal process is generally more cost effective for agencies than identifying and remedying issues at a later stage. Accordingly, agencies should provide grantees with appropriate guidance and templates, as well as avenues for obtaining further guidance from the agency.

Reliable, timely and adequate evidence is required to demonstrate that the grant has been expended in accordance with the terms and conditions of the grant agreement. Monitoring of payments and progress towards outcomes, benefits and government objectives is integral to good governance and risk management.

Agencies should ensure that they are adequately resourced to carry out ongoing grants monitoring and management to respond to changing circumstances and ensure continued compliance with the requirements of the Guide. This includes, for example, identifying new or changing risks. This may involve consideration at both the individual project level, which may require amendments to the funding agreement, and consideration of the grant opportunity overall.

6.6.1 Monitoring

Monitoring is an ongoing and systematic process of collecting and analysing information about a grant opportunity, for the purpose of:

- tracking progress of grant activities

- establishing whether funds were dispersed correctly and used for intended purposes

- assessing outcomes, benefits and value for money (see *6.7 Grants evaluation*).

Officials should monitor individual grants as well as the overall grant opportunity.

Developing a monitoring and evaluation framework is required in the business case for new grant opportunities. Officials should adhere to *TPP 18-06 NSW Government Business Case Guidelines*.

The need for data collection from grant recipients should be weighed against the associated costs of collecting such information. When determining what information should be collected, it is important to consider the purpose of the information, how it relates to the grant acquittal or evaluation, and how practicable it is to collect the data. The information collected should be:

- well-defined

- only what is necessary

- presented in a form that is clear and easy to understand

- coordinated between agencies to reduce duplication (subject to any restrictions on sharing information, such as under the PPIP Act).

A grantee's responsibilities to collect and share data should be clearly defined. Officials should establish performance measures for acquittal and evaluation and specify them in grant guidelines and agreements. Progress reports against agreed performance measures or milestones, or site visits by officials, may help to track progress, outcomes and benefits.

6.6.2 Acquittal

An acquittals process is a key part of continuous financial monitoring that accounts for how funds have been spent. Officials should conduct an acquittal for individual grants, assessing grantees' compliance with the terms and conditions set out in the funding agreement, or other relevant documentation. Funding agreements should include adequate safeguards to prevent misuse of grant funds and stipulate what should happen to funds that are not fully expended.

Where conducting an acquittal for each grant is not practicable, such as in high-volume grant opportunities for emergency relief, appropriate alternative methods for verifying how grant money has been spent should be applied. The approach taken to acquit grants should be proportionate to the size and risk of the grant. When assessing small grants, a financial assessment that includes a grantee's declaration on how grant funds have been spent may be sufficient. For larger or more complex grants, a more rigorous acquittal process is required that may include the provision of invoices for all activities undertaken and other evidence of how funds have been spent.

6.7 Grants evaluation

An evaluation is a systematic and transparent process of collecting and analysing information that can be used to assess the appropriateness, efficiency, effectiveness and/or net social benefits of a grant opportunity. Evaluating grants is important for:

- determining whether a grant is on track to meet objectives and government priorities, and any performance improvement needed

- identifying outcomes and benefits, including assessing how the grant has improved the welfare of the NSW community

- contributing to a broader knowledge base to help inform the design and appraisal of future grant opportunities.

There are 3 main types of evaluation:

- **process evaluation,** to consider how an initiative is delivered, whether it has been implemented as intended, and any issues arising in its implementation

- **outcome evaluation,** to examine if and how an initiative is leading to intended changes

- **economic evaluation,** to identify and measure the impacts of an initiative relative to its costs, for providing an assessment of value for money or net social benefit.

The NSW Government publication *Treasury Policy and Guidelines: Evaluation* sets out mandatory requirements, recommendations and guidance for agencies to plan for and conduct evaluation.[18] The guidelines state that, regardless of the size of an initiative, it is good practice to plan for monitoring and evaluation. They provide recommendations for tailoring evaluation to the size, strategic significance and risk of an initiative. The guidelines require that, for government investments of significant size, including grants, evidence of costs, outcomes, benefits and value for money are to be reported.

Consistent with the guidelines, agencies should:

- prioritise grant evaluations according to their value, risk and significance in contributing to government objectives (e.g. State Outcomes or cluster objectives)

- schedule evaluations at intervals appropriate to the grant's implementation timeframe, particularly where grants are ongoing or long term

- scale evaluation activities so they are proportional to the size and risk of the grant

- allocate sufficient resources for evaluation

- evaluate grant programs and activities before extending or expanding them, or initiating new, similar grant opportunities.

Evaluations should be transparent. Agencies should proactively and publicly release the findings of program evaluations, unless there is an overriding public interest against disclosure of the information, in line with the GIPA Act.[19]

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18 Until the release of *Treasury Policy and Guidelines: Evaluation* in 2022 officials should refer to *TC18-03 Program Evaluation* and the *Program Evaluation Guidelines 2016*.
19 Agencies may also choose to release a plain English executive summary and statement of findings on their website. Grant administrators may choose to collate evaluations for publication, to limit requirements on smaller organisations to undertake publishing.

7

7. Review of the Guide

This Guide will be reviewed on an ongoing basis to ensure it achieves its purpose and to assist in identifying appropriate modifications that may be required.

Review record

Date	Action	Version
April 2022	Publication	1.0

Version 1.0

APPENDIX

A

Appendix A: Publication of grants information and data

The information and data publication requirements for NSW Government grants, which are subject to the exceptions outlined in 6.5 *Publishing grant information*, are:

Category	Data item

Open grant opportunities	• Grant guidelines, including:
	   – Purpose and objectives
	   – Selection criteria and assessment process
	   – Grant value
	   – Opening and closing dates
	   – Application outcome date
	   – Source agencies
	   – Decision-maker

Upcoming grant opportunities	• High-level program parameters and purpose • Estimated grant value • Expected opening and closing dates • Source agencies
Grants awarded	• Program name and function • Recipient name • Recipient location • Program delivery location • Funding amount • Program term • Program benefit–cost ratio (where cost–benefit analysis (CBA) is required) • Number of applicants • Number of recipients • Source agencies • Decision-maker
Ministerial discretion	• Occasions in which a Minister awards or declines a grant in variance from the recommendation of officials, and the reasons for doing so
Program evaluation	• Program name • Grantee name and funding value • Program evaluation, including findings, analysis and methodology • Name of parties that undertook the evaluation (e.g. NSW agency or external consultant)

Additional data publishing requirements:

- 'Grant value' for upcoming and open opportunities should be a specific amount, or if this is not possible, a range with specific minimum and maximum amounts provided.

- 'Funding amount' for grants awarded should include the overall value of a grant, as well as the dollar value awarded to any 'downstream' recipients, subject to the exceptions referred to above. For example, a grant awarded to an organisation to cover the transport costs of its delegation to a conference should report both the total value of the grant to the organisation and the value to each delegate.

- All grant dates, including indicative dates, should be specified as a day, month and year. It is not sufficient to provide an entire month or quarter for opening, closing or decision dates.

- 'Source agency' should include the primary agency responsible for administering the grant, as well as any partner agencies or organisations. Contributions to funding the grant should be reported for each agency in addition to the total grant value.

- Grants data must be made available in a machine-readable format (e.g. CSV) with quantitative data items formatted to allow for computation. For example, a grant value of one thousand dollars must be presented as '1,000' and not as 'one thousand' or '1 thousand'.

- Data must be retained on a publicly available platform, such as the NSW Government Grants and Funding Finder[20], for at least 7 years.

- Future updates to data items should not diminish the capacity of users to make comparisons of grant spending over time or across agencies.

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20 Until agencies can publish all information on this site, officials should publish the information on the agency website.

Premier and Cabinet

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