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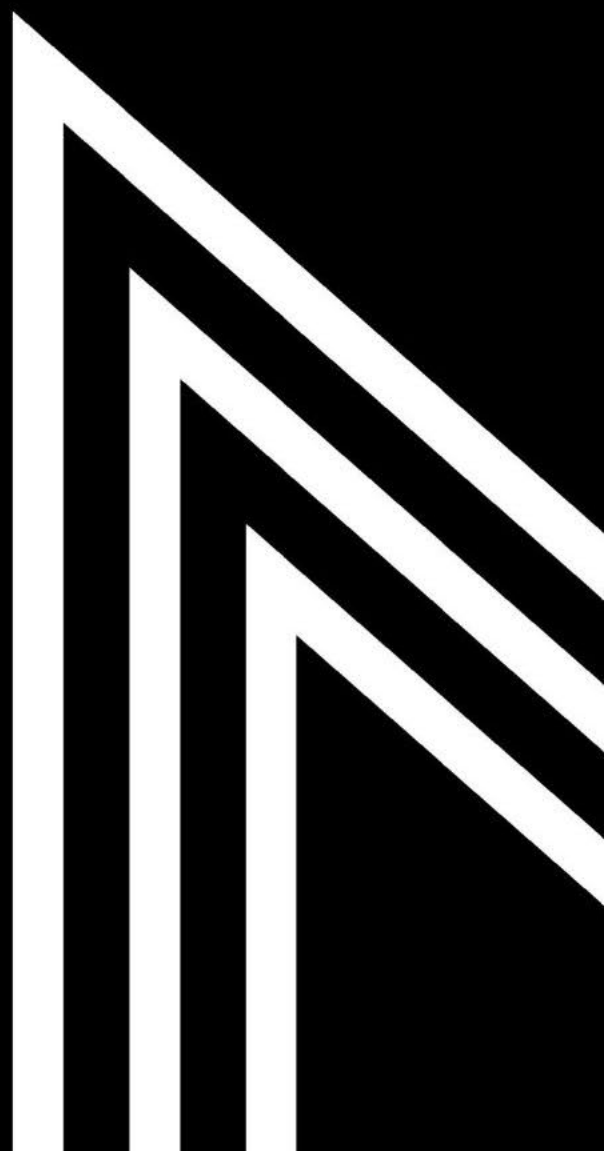
# Department of Education and Training – Review of claims made by Brindabella Christian College into ACT Block Grant Authority decisions

30 October 2018

**FINAL**



McGrathNicol



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## 1 Glossary

Glossary	
Name	Description
AIS	The Association of Independent Schools of the ACT
ACT	Australian Capital Territory
ACT BGA	ACT Block Grant Authority
BCC	Brindabella Christian College
BGA	Block Grant Authority
CGP	Capital Grants Program for Non-government Schools
Department	Department of Education and Training
Objectives	The objectives of the CGP
CGP Guidelines	Capital Grants Program Guidelines 2016
Requirements	Requirements under the CGP Operating Manual 2016, Australian Education Act 2013 and Australian Education Regulation 2013

## 2 Disclaimer

### Restrictions on use

This report has been prepared for the Department of Education and Training (“the Department”) under the instruction of the Capital Funding Team of the Schools Assurance Branch for the provision of ACT Block Grant Authority.

This report should not be disclosed, be reproduced in whole or in part or supplied to any other party, without our consent in writing. It may not otherwise be reproduced in whole or in part supplied, without our consent in writing.

We have carried out a review of issues raised by Brindabella Christian College in accordance with the Official Order. McGrathNicol has not carried out an audit, nor have we verified any of the information given to us by the Department and the identified service provider, except where expressly stated. We have relied upon assurances from the identified service provider as to the accuracy of the information provided.

The scope of our work is different to that of an audit and it cannot be relied upon to provide the same level of assurance.

We highlight that our work, by necessity, has involved obtaining selected documentation, witness statements and selected reports rather than looking at all information that may exist. The report is limited to processes relating to the applications by Brindabella Christian College for grants under the 2018 and 2019 Capital Grants Program funding rounds, and does not re-examine the assessment or outcomes of those rounds. Accordingly, our findings and conclusions are based on the information reviewed.

### Limitations

In accordance with our firm’s policy, we advise that neither the firm nor any member or employee of the firm undertakes responsibility arising in any way whatsoever to any person or organisation, other than the Department in respect of the information set out in this report, including any errors, omissions or negligence however caused.

## 3 Executive summary

### 3.1 Introduction

The Capital Grants Program (“CGP”) for non-government schools is an Australian Government program, administered by the Department of Education and Training. In the ACT, the CGP program is administered by the ACT Block Grant Authority (“ACT BGA”). In relation to the 2018 and 2019 CGP funding rounds, a representative of Brindabella Christian College (“BCC”), made a series of claims in respect of the ACT BGA’s administration of the CGP (“the claims”). The Department of Education and Training, on behalf of the Minister for Education, engaged McGrathNicol to conduct a review of BCC’s claims, including an examination of processes, decision-making and correspondence relating to the claims.

### 3.2 BCC’s claims

The BCC has made a number of claims regarding the ACT BGA’s processes, and those claims were confirmed in interviews with BCC (s 22 and s 22 and s 22 and the BGA s 22), and s 22. Those claims may be categorised as:

- the ACT BGA’s structural arrangements/constitution is corrupt;
- there is a lack of good governance in the structure of the BGA and its committees; and
- the ACT BGA’s published processes have not been followed.

We have found no evidence that BCC was unfairly or inequitably treated during the two funding rounds (2018 and 2019) that were within the scope of the review. However, we did not undertake a review of the outcomes of these funding rounds, but rather reviewed the processes conducted by the ACT BGA and its committees, in assessing and determining the outcomes. As such, whilst we have made recommendations for improvements to the BGA’s governance and policies, we did not give consideration as to whether these would have impacted on the outcomes of the 2018 or 2019 Rounds.

BCC’s claims have been categorised, and the following table provides a summary of those categories, BCC’s claims, our findings and recommendations:

<i>Category</i>		<i>Claim</i>	<i>Findings and recommendations</i>
<b>Corruption</b>	<b>1</b>	<b><i>ACT BGA arrangements are corrupt.</i></b>	We have found no evidence that the ACT BGA constitution, policies or procedures are corrupt. Recommendations 1-5 inclusive, address a risk, or perceived risk, regarding management of conflicts of interest.
<b>Corruption</b>	<b>2</b>	<b><i>The ACT BGA joint Catholic/AIS arrangement is corrupt.</i></b>	The ACT BGA is an organisation formed by the CECG (Catholic) and AIS (independent) schools systems, and has an established constitution under which the organisation is governed. Whether there is any corruption in the arrangements is outside the scope of this review. No recommendation.
<b>Corruption</b>	<b>3</b>	<b><i>Previous corruption allegations were not sufficiently investigated, back to 2008.</i></b>	This matter was outside the scope of this review, with the scope limited to the 2018 and 2019 Rounds. No recommendation.
<b>Governance</b>	<b>4</b>	<b><i>ACT BGA is comprised of dominant sector players who use the CGP to obtain information on lesser schools’ plans and finances. The appointments are tactical and unfair.</i></b>	We have found no evidence that BCC was unfairly or inequitably treated during the 2018 Round assessment processes (noting that we did not review the assessment itself). However, we have found that there is potential for improvement to the structure of the Priorities Committee. Recommendations 1-5 inclusive address this finding.

<b>Category</b>		<b>Claim</b>	<b>Findings and recommendations</b>
Governance	5	<b><i>Priorities Committee is a closed 'Club' which BCC can't get access to.</i></b>	The Priorities Committee is formed through the nomination by the CECG and the AIS ACT, of four nominees each; in addition to the Chair of the ACT BGA. As such, the relevant body for BCC to apply to is the AIS ACT, of which it is a member. Accordingly, this matter was outside the scope of the review. No recommendations.
Governance	6	<b><i>The dominant players install their school staff members in years they are going for funds themselves.</i></b>	There were apparent conflicts of interest in the 2018 Round. However, such conflicts were not required to be disclosed under the BGA's Conflict of Interest Policy, as: " <i>Such obvious conflicts of interest do not need to be regularly declared</i> ". We have found that this does not appear to meet good probity and transparency practice. Recommendation 2 addresses this finding.
Governance	7	<b><i>BCC wants the Minister to review the processes, structure and appointments to the BGA and committees.</i></b>	BCC agreed that this review met its request. Recommendations 2 and 3 address this issue.
Governance	8	<b><i>A Priorities/Finance Committee member was a financial controller for one of the successful schools in the 2018 Round (Burgmann).</i></b>	This was confirmed, as noted above under Claim 5. However, we note that there was no evidence of any impropriety by the committee member. Recommendations 1-5 inclusive address a risk, or perceived risk, that conflicts of interest are not managed appropriately by the ACT BGA.
Process	9	<b><i>Priorities Committee did not conduct a sufficient site visit for the 2018 Round assessments.</i></b>	There is no evidence to conclude that the Priorities Committee did not conduct a sufficient site visit. No recommendation.
Process	10	<b><i>A school received a funding offer in 2018 and declined it. Funds were not redistributed fairly.</i></b>	Based on evidence reviewed, this is incorrect, as the school in question was not offered a grant. No recommendation.
Process	11	<b><i>ACT BGA's electronic submission process has security flaws. BCC's application was changed from 'Submitted' to 'Draft' due to BGA concerns with wording used in the application. BCC questions the integrity of the system if the BGA is able to tamper with applications.</i></b>	We are satisfied that the process used by the BGA provides reasonable audit trails, and that the BGA rightly has the capability to adjust application status.  We have found no evidence that the BGA changed any details in the BCC applications, except for the status, prior to the application closing date. No recommendation.
Process	12	<b><i>Changing the 2019 application back to 'Draft' was: "to mask BCC's concerns..."</i></b>	There is no evidence to support this claim. No recommendation.
Process	13	<b><i>BCC did not engage with the appeals process because it is futile, so elected to make complaints not in the form of an appeal against a decision, they were complaints about the process, made to the Minister.</i></b>	This is accepted by BCC, and this review is part of the Department's response to BCC's complaints. (We note that BCC has lodged a formal appeal against the outcome of the 2019 Round). No recommendation.
Process	14	<b><i>BCC requested a pre-allocation of \$1 million in funds from the 2019 Round, or at least, an understanding of how forward funding allocations were made.</i></b>	This request was declined by the BGA. Whilst it is not clear from the CGP Guidelines, the BGA appears to be within its rights to adopt this approach. We note Section 7.4 of our report, in which this issue is discussed in detail. No recommendation.

<i>Category</i>		<i>Claim</i>	<i>Findings and recommendations</i>
Process	15	<b><i>Applicants have no visibility over the assessment process. We have been asked for detailed financial information and we don't believe all applicants are asked for the same level of detail.</i></b>	It is not clear if the same level of information is asked of, or provided to, all applicants. The Finance Sub-committee process in particular is not clearly defined, and minutes are not retained from its deliberations or meetings. Recommendations 6 and 7 address this issue.
Process	16	<b><i>The BGA directly contacted BCC's bank during the assessments.</i></b>	Whilst there was a substantial amount of correspondence from BCC which raised its suspicions about direct contact between the BGA and the National Australia Bank, there was no evidence found to support the allegation. No recommendation.

### 3.3 Key findings

In respect of the ACT BGA's administrative procedures, whilst we have found no evidence of unfair treatment of BCC, during the review, we did identify aspects of the ACT BGA's administration of the Capital Grants Program that could be improved. The key findings by McGrathNicol regarding the ACT BGA's policies and procedures (administration) are:

- the existing structure of the Priorities Committee and Finance Sub-committee (in particular) lends itself to a risk that conflicts of interest are not managed appropriately, or the perception that they are not managed appropriately;
- there is potential for improvement to the structure of the Priorities Committee;
- the assessment process has the potential to be compromised through having applicant schools represented on the Priorities Committee and/or Finance Sub-committee;
- the BGA's Conflict of Interest Policy, in stating that where a Priorities Committee nominee is directly associated with a school making an application for funding, the nominee does not need to make a conflict of interest declaration, does not appear to meet good probity and transparency practice;
- the ability of BGA's to make forward funding commitments is not clear; and
- the financial assessment aspect of the CGP assessment process is not clearly defined, and minutes are not retained from the Finance Sub-committee's deliberations or meetings.

### 3.4 Recommendations

As set out at section 3.2, above, during our review of a number of claims raised by BCC, we identified weaknesses in the ACT BGA's procedures. The recommendations below are identified to address the issues identified during the review:

1. ***The ACT BGA should maintain a register of relationships with applicant schools (or any other bodies) with which a potential conflict of interest exists. This document should be made available on the ACT BGA website.*** This would provide greater transparency to the ACT BGA's stakeholders.
2. ***The ACT BGA should revise its Conflict of Interest Policy, particularly in terms of how conflicts of interest are raised and managed. We recommend that the ACT BGA aligns its policy with the ACT BGA Board Charter (particularly Section 7.7), and adopts a best practice approach.*** The Conflict of Interest policy was found to be at odds with the Board Charter in terms of how conflicts of interest would be managed. Adopting a best practice approach (that is, implementing a policy which is in line with, for example, the probity sections of the Commonwealth Grants Rules and Guidelines) would enhance the ACT BGA's probity and transparency.
3. ***The ACT BGA could consider changing its constitution, to allow for independent members of the Board and/or Priorities Committee and Sub-committees. In particular, it could consider reducing the number of appointees by the AIS and CECG, and appointing independent committee members with each of: probity; financial; and legal backgrounds.*** The introduction of independent members would bring professional skills to



the relevant committees and provide assurance that decisions are made independently of sector interests. This would help ensure that the ACT BGA is seen to be above reproach in its decision making.

4. ***The ACT BGA should provide each applicant school with a formal opportunity to present its case to a meeting of the full Priorities Committee, during the assessment period.*** This would help overcome any perception that any applicant schools which have related parties on the Priorities Committee, have a better opportunity to provide input, than schools which are not represented. The ability to present to the full Priorities Committee may be considered a more equitable and open process than is currently the case.
5. ***The ACT BGA should consider having the Finance Sub-committee function performed by an organisation which is independent of the school system.*** The existing process, whereby two Priorities Committee members undertake the financial assessments of all schools, raises potential conflicts of interest, particularly as the Finance committee members are on the Priorities Committee, and in some cases, are also representatives of applicant schools. We consider that an independent financial assessment would be best practice, and would help ensure that ACT BGA funding decisions are seen to be above reproach.
6. ***The ACT BGA should document the procedure used to assess the financial need of each applicant school, specifically including how the proposed grant amount was determined, and the procedure should be published on the ACT BGA website.*** This would provide greater transparency to the ACT BGA's stakeholders.
7. ***The ACT BGA should provide comprehensive written feedback to each applicant school on the assessment of the application, including the financial assessment for that school, and consider advising the school's position in the rankings.*** The ACT BGA currently provides comprehensive feedback to applicants by telephone. Whilst this is considered positive, we consider that comprehensive written feedback would alleviate some of the issues raised (in relation to this review) by the ACT BGA and Brindabella College.

We recognise that the recommendations may result in increased administrative costs for the ACT BGA, and accordingly, the BGA (or the Department) will need to assess whether there are sufficient funds available.

## 4 Scope of the review

### 4.1 Introduction

The Capital Grants Program ("CGP") for non-government schools is an Australian Government program, administered by the Department of Education and Training. The CGP provides funding for non-government school communities to assist primary and secondary schools to improve capital infrastructure where they otherwise may not have access to sufficient capital resources. In the ACT, the CGP program is administered by the ACT Block Grant Authority ("ACT BGA" or "BGA").

In relation to the 2018 and 2019 CGP funding rounds (referred to hereunder as "2018 Round" and "2019 Round"), representative of Brindabella Christian College ("BCC" - an applicant in both Rounds), made a series of claims in respect of the ACT BGA's administration of the CGP ("the claims"). The claims were made in correspondence to the ACT BGA and the Minister for Education and Training. The Department of Education and Training, on behalf of the Minister, engaged McGrathNicol to conduct a review of BCC's claims, including an examination of processes, decision-making and correspondence relating to the claims.

### 4.2 Scope

A variation to Work Order Number AD16/000312 (" required McGrathNicol to undertake, on behalf of the Department: *" a review of issues raised by BCC (BCC Review) in respect of the ACT BGA's administration of the CGP...The Department requires a report that clarifies, categorises, analyses and investigates claims made by Brindabella Christian College (BCC) and provides evidence and an opinion on...questions on the claims made by BCC in respect of the ACT Block Grant Authority's (the ACT BGA) administration of the CGP"* (Attachment B of the Work Order Variation, signed 14 June 2018).

McGrathNicol has undertaken a review of the claims, including a review of relevant administrative procedures, documentation, assessment procedures and correspondence maintained by the ACT BGA. The review examined the BGA's compliance with key areas of its requirements under the CGP Guidelines, in relation to BCC's applications for the 2018 and 2019 Rounds, and the BGA's procedures for conducting fair and equitable assessments of applications.

In reviewing the administration of the 2018 and 2019 Funding Rounds, we have focused on:

- Procedural, policy and operational documentation held and used by the ACT BGA;
- Governance arrangements (in particular, management of conflicts of interest);
- Procedures undertaken during the 2018 Round, and the application procedure for the 2019 Round; and
- Communication with BCC during the 2018 and 2019 Funding Rounds.

It is acknowledged that BCC has made other claims with respect to ACT BGA processes, which date back to at least 2011. However, these items were not within the scope of this review. During our interview with BCC, representatives indicated that they were satisfied their concerns from prior years are similar to the concerns within the scope of this review.

### 4.3 Information relied on and consultations undertaken

The information contained in the report has been prepared on the basis of:

- the *Australian Education Act 2013*;
- the *Australian Education Regulation 2013*;
- the CGP Guidelines 2018;
- information provided by the Department, including electronic information;
- information provided by the ACT BGA, including electronic and physical documentation;
- information available on the website of the ACT BGA;
- meeting and discussion with representatives of BCC;
- meetings and discussions with representatives of the ACT BGA; and
- meetings and discussions with representatives of the Department.



As discussed with the Department, the review was contained to the processes, issues, claims and complaints in relation to the 2018 and 2019 CGP funding rounds only.

McGrathNicol conducted face-to-face interviews with:

- s 22 and s 22 on 22 August 2018 at the offices of the ACT BGA; and
- s 22 and s 22 on 30 August 2018 at the BCC Campus, Lyneham.

## 5 Background

### 5.1 Role of the ACT Block Grant Authority

The CGP provides funding for non-government school communities to assist primary and secondary schools to improve capital infrastructure where they otherwise may not have access to sufficient capital resources. The CGP grants to non-government schools are administered by BGAs that assess applications from schools and make recommendations for funding to the Minister. Schools apply on a competitive need basis to the BGA for initial assessment of proposed projects.

The ACT BGA is a non-profit association established by non-government school organisations in the ACT. The BGA administers the Australian Government's Capital Grants program and other major Government grants programs for non-government schools in the ACT, and is an authority approved by the Minister for Education and Training under the Australian Education Act, 2013.

The [s 22](#) [\(2\)](#) is responsible for administrative and support duties for the ACTBGA (and is the sole permanent employee). The ACTBGA administers the CGP and other Government grants programs for non-government schools in the ACT. The ACT BGA utilises a number of documents and reference materials to administer the CGP. Below is a summary of the key internal and external documents that shape the delivery of the CGP:

**Table 1: Documented policies, procedures and guidance materials**

Documented policies, procedures and guidance materials	
Category of documents	Title of document
Legislation and regulations	<ul style="list-style-type: none"><li>Australian Education Act 2013</li><li>Australian Education Regulation 2013</li></ul>
Regulatory guidance material	<ul style="list-style-type: none"><li>CGP Guidelines</li></ul>
ACT BGA policy documents	<ul style="list-style-type: none"><li>ACT BGA Inc. participant agreement</li><li>ACT BGA Conflict of Interest Policy</li><li>ACT BGA Board Charter</li></ul>
ACT BGA guidance materials	<ul style="list-style-type: none"><li>Independent Consultant Guidelines</li><li>Project Implementation and Tendering Guidelines</li><li>Guidelines for Construction Management</li><li>Capital Grant Progressive Expenditure Statement Guidelines</li><li>Information to Assist Applicants</li></ul>

### 5.2 Capital Grants Program funding in the ACT

By way of background information, we have listed overleaf in Table 2, the funding made available to the ACT BGA; and the grants offered, in the 2016-2019 funding rounds:

**Table 2: Funding provided by Department to the ACT BGA for the 2016-2019 years**

Capital Grants Program funding provided to the ACT BGA		
Year	Commonwealth funding allocation	ACT BGA allocation to projects
2016	\$3,046,824	\$3,208,000 <sup>1</sup>
2017	\$3,058,509	\$3,300,000 <sup>2</sup>
2018	\$3,232,098	\$3,000,000 <sup>3</sup>
2019	\$3,268,935	\$3,519,000
2020	\$not yet advised	\$1,130,443*

\*This amount has been forward-committed by the BGA in its recommendations for the 2019 Round<sup>4</sup>. We note that the BGA also forward-committed funding from the 2018 (\$920,000) and 2019 (\$987,000) Rounds, in their 2017 and 2018 recommendations. The Department advised that: *"BGAs are able to commit up to 50% of their current allocation to projects (forward commit)...this provision is not intended to allow BGAs to supplement the current year's allocation from future year's allocations"*<sup>5</sup>. Table 2 indicates that the BGA is not using future year funds to 'top-up' current year allocations.

Table 3 below provides a list of funding grants offered in the ACT, starting with the 2016 Round and including the 2019 Round, which was decided during the course of the review:

**Table 3: List of CGP grants offered 2016-2019 Rounds**

Capital Grants Program grants offered by the ACT BGA		
Project ID	School name	Funding (\$)
2016/02910/1	Brindabella Christian College	725,000
2016/04422/1	Holy Family Parish Primary School	525,000
2016/02047/1	Holy Trinity Primary School	725,000
2016/02055/1	Sacred Heart Primary School	558,746
2017/02910/1	Brindabella Christian College	500,000
2017/02062/1	Canberra Christian School	600,000
2017/17130/1	Good Shepherd Primary School	800,000
2017/77575/1	Mother Teresa School	600,000
2017/05623/1	St Francis of Assisi Primary School	800,000
2018/16044/1	Burgmann Anglican School	1,000,000
2018/17130/1	Good Shepherd Primary School	1,000,000
2018/02053/1	St Joseph's Primary School	1,000,000
Not yet contracted	Taqwa School	1,000,000
Not yet contracted	Trinity Christian School	600,000
Not yet contracted	St Vincent's Primary School	693,000
Not yet contracted	St Anthony's Primary School	1,000,000

<sup>1</sup> "Grant recommendations from Finance Sub-committee", Priorities Committee meeting 4/2015 of 13 August (Auditor reference - BF2)

<sup>2</sup> "Grant recommendations from Finance Sub-committee", Priorities Committee meeting 4/2016 of 8 August (Auditor reference - BF3)

<sup>3</sup> "Grant recommendations from Finance Sub-committee", Priorities Committee meeting 4/2017 of 9 August (Auditor reference - BF8)

<sup>4</sup> "Grant recommendations from Finance Sub-committee", Priorities Committee meeting 4/2018 of 15 August (Auditor reference - PF9)

<sup>5</sup> Email from s 22 to Auditor - 7 September 2018 (Auditor reference - DC1)

## 5.3 ACT BGA Governance

The claims investigated in this review relate to the assessment of applications in the ACT for funding under the CGP. The assessments are conducted by the ACT BGA, which is governed by a constitution. and the ACT BGA Board conducts the assessments through a 'Priorities Committee' which is subject to certain policy and procedural requirements. A 'Finance Sub-committee' conducts a financial assessment of applicant schools and reports to the Priorities Committee. The Priorities Committee subsequently makes final recommendations to the Board.

### 5.3.1 Membership of the BGA Board and committees

The ACT BGA Constitution determines membership of the BGA<sup>6</sup>; office bearers of the ACT BGA Committee<sup>7</sup>; and membership of the Priorities Committee<sup>8</sup>. Membership of the BGA consists of two nominees from each of the Association of Independent Schools ACT ("AIS") and the Catholic Education Archdiocese Canberra and Goulburn ("CECG"). Members of the Priorities Sub-committee are the ACT BGA Committee Chair, plus four nominees from each of AIS and CECG (who are not members of the Board). Two members of the Priorities Committee are nominated to form the Finance Sub-committee. Further, the Board Chair and two members of the Priorities Committee ("PC") attend each applicant school for a site visit as part of the assessment process (the two PC members are different for each applicant school).

### 5.3.2 Assessment of applications

The initial assessment of applications is conducted by the Priorities Committee, and applicants with eligible projects are ranked in order of educational need (the highest need being ranked the highest priority), as per the assessment criteria. The assessment of schools' financial needs and capacity is then undertaken by the Finance Sub-committee. The financial assessment procedure is not documented, and each individual financial assessment is only documented at a high-level in the Project Assessment Report.

A school may be ranked highest in terms of educational need by the Priorities Committee report, only to be not recommended for funding by the Finance Sub-committee. This may occur if, for example, the school was considered to have sufficient funds to pay for the project itself (which is uncommon), or if the school was not deemed to be capable of paying its share of the project funding (which is more common). Examples of this occurred in the 2018 and 2019 Rounds.

During the assessment, a site visit is conducted by selected Priorities Committee members, plus the ACT BGA Chair and Executive Officer. A report is subsequently completed by the site visit committee (not including the Chair or Executive Officer). The PC may also request further information from an applicant during the process, separately to the site visit.

The Priorities Committee meets to consider the Finance Sub-committee's report, against the Priorities Committee's original rankings, and subsequently makes a recommendation to the BGA Board on which projects should be funded, and the amounts to be provided to each successful applicant. The report may also comment on projects which have not been recommended. The BGA Board then makes recommendations to the Department.

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<sup>6</sup> Clause 5

<sup>7</sup> Clause 10

<sup>8</sup> Clause 15



## 6 Review of issues raised by Brindabella Christian College

### 6.1 Background

Following the announcement of the 2018 Funding Round results, BCC made a series of claims, complaints and allegations in regard to the processes undertaken by the BGA in making its assessments.

The claims, as listed below, were derived from electronic communications between BCC and: the BGA; the Department; and the Minister.

### 6.2 Findings of the review

BCC has confirmed the issues stated in Table 4 below are representative of its concerns in respect of the 2018 and 2019 Rounds, during our interview conducted on 30 August 2018:

**Table 4: List and categorisation of BCC issues, McGrathNicol findings and recommendations**

<i>Category</i>		<i>Claim</i>	<i>Finding</i>	<i>Recommendation</i>
<b>Corruption</b>	<b>1</b>	<b><i>ACT BGA arrangements are corrupt.</i></b>	<p>We note the Australian Government has defined "corruption" as: "<i>the misuse of entrusted power for private gain</i>"<sup>9</sup>.</p> <p>We have found no evidence that the ACT BGA constitution, policies or procedures are corrupt. The BGA has a process outlined for assessing grant applications, and this process appears to have been followed in respect of the assessment of the 2018 Round applications.</p> <p>However, the existing structure of the Priorities Committee and Finance Sub-committee (in particular), lends itself to a risk that conflicts of interest are not managed appropriately, or the perception that they are not managed appropriately, and we have addressed this in the recommendations.</p>	<p>We have found no evidence of corruption. However, we note that Recommendations 1-5 inclusive, address a risk, or perceived risk, that conflicts of interest are not managed appropriately.</p>
<b>Corruption</b>	<b>2</b>	<b><i>The ACT BGA joint Catholic/AIS arrangement is corrupt.</i></b>	<p>It is not possible within the scope of this review for McGrathNicol to investigate or make a finding in respect of the ACT BGA's membership and/or whether there is any corruption.</p> <p>The ACT BGA is an organisation formed by the CECG (Catholic) and AIS (independent) schools systems, and has an established constitution under which the organisation is governed.</p>	None.
<b>Corruption</b>	<b>3</b>	<b><i>Previous corruption allegations were not sufficiently investigated, back to 2008.</i></b>	<p>This matter was outside the scope of this review, with the scope limited to the 2018 and 2019 Rounds.</p> <p>However, BCC appears satisfied that their concerns from prior years are similar to the concerns in scope that have been addressed in this review.</p>	None.

<sup>9</sup> Attorney-General's Department, *The Commonwealth's approach to Anti-Corruption-Discussion Paper*, 2011, p.7.

<i>Category</i>		<i>Claim</i>	<i>Finding</i>	<i>Recommendation</i>
Governance	4	<b><i>ACT BGA is comprised of dominant sector players who use the CGP to obtain information on lesser schools' plans and finances. The appointments are tactical and unfair.</i></b>	<p>We have found no evidence that BCC was unfairly or inequitably treated during the 2018 Round assessment processes (noting that we did not review the assessment itself).</p> <p>However, we have found that there is potential for improvement to the structure of the Priorities Committee. In view of the membership of the Priorities Committee being nominees of either the CECG or the AIS, members are often directly attached to competing schools.</p> <p>As applicants are required to lodge master planning and financial details, Priorities Committee (and therefore Finance Sub-committee) members are privy to information from applicant schools which are competing for student market share with their own school(s).</p> <p>Whilst we have no evidence of tactical or unfair appointments, we have found that the assessment process is potentially compromised through having applicant schools represented on the Priorities Committee and/or Finance Sub-committee.</p>	Recommendations 1-5 inclusive.
Governance	5	<b><i>Priorities Committee is a closed 'Club' which BCC can't get access to.</i></b>	<p>The Priorities Committee is formed through the nomination by the CECG and the AIS ACT, of four nominees each; in addition to the Chair of the ACT BGA. As such, the relevant body for BCC to apply to is the AIS ACT, of which it is a member.</p> <p>Accordingly, this matter was outside the scope of the review.</p>	None.
Governance	6	<b><i>The dominant players install their school staff members in years they are going for funds themselves.</i></b>	<p>There were apparent conflicts of interest in the 2018 Round, in that the Burgmann and Good Shepherd schools, which had applied for funding, were represented on the Priorities Committee, and the Burgmann nominee was also on the Finance Sub-committee. Both schools were successful applicants in the Round.</p> <p>The minutes of the first Priorities Committee for that year indicate that the conflicts were disclosed by both parties. However, we note that the conflicts were not required to be disclosed under the BGA's Conflict of Interest Policy, as: "<i>Such obvious conflicts of interest do not need to be regularly declared</i>". We have found that this does not appear to meet good probity and transparency practice.</p>	Recommendation 2.



<b>Category</b>		<b>Claim</b>	<b>Finding</b>	<b>Recommendation</b>
<b>Governance</b>	<b>7</b>	<b><i>BCC wants the Minister to review the processes, structure and appointments to the BGA and committees.</i></b>	BCC agreed that this review met its request.	Recommendations 2 and 3.
<b>Governance</b>	<b>8</b>	<b><i>A Priorities/Finance Committee member was a financial controller for one of the successful schools in the 2018 Round (Burgmann).</i></b>	This was confirmed, as noted above under Claim 5. However, we note that there was no evidence of any impropriety by the committee member.	Recommendations 1-5 inclusive address a risk, or perceived risk, that conflicts of interest are not managed appropriately by the ACT BGA.
<b>Process</b>	<b>9</b>	<b><i>Priorities Committee did not conduct a sufficient site visit for the 2018 Round assessments.</i></b>	The Priorities Committee conducted a site visit to BCC (Lyneham) on 8 June 2017, attended by Priorities Committee members <b>s 22</b> and <b>s 22</b> . The site visit appears to have been consistent with the duration and activities for site visits at other schools. Priorities Committee member notes were provided for each of the site visits.  Accordingly, there is no evidence to conclude that the Priorities Committee did not conduct a sufficient site visit.	None.
<b>Process</b>	<b>10</b>	<b><i>A school received a funding offer in 2018 and declined it. Funds were not redistributed fairly.</i></b>	Based on evidence reviewed, this is incorrect. The school in question was ranked second by the Priorities Committee, however the Finance Sub-committee received notice that financial support would not be forthcoming from the school's parent entity. As such, the school was not offered a grant.	None.
<b>Process</b>	<b>11</b>	<b><i>ACT BGA's electronic submission process has security flaws. BCC's application was changed from 'Submitted' to 'Draft' due to BGA concerns with wording used in the application. BCC questions the integrity of the system if the BGA is able to tamper with applications.</i></b>	We are satisfied that the process used by the BGA provides reasonable audit trails, and that the BGA rightly has the capability to adjust application status.  The BGA maintains a register of applications and the relevant status of each application at any date during the application process.  We have found no evidence that the BGA changed any details in the BCC applications, except for the status, prior to the application closing date.	None.
<b>Process</b>	<b>12</b>	<b><i>Changing the 2019 application back to 'Draft' was: "to mask BCC's concerns..."</i></b>	There is no evidence to support this claim. The application's status appears to have been changed to provide BCC with an opportunity to remove some statements made in the 2019 application, which the ACT BGA believed may be potentially defamatory.	None.

<b>Category</b>		<b>Claim</b>	<b>Finding</b>	<b>Recommendation</b>
Process	13	<b><i>BCC did not engage with the appeals process because it is futile, so elected to make complaints not in the form of an appeal against a decision, they were complaints about the process, made to the Minister.</i></b>	This is accepted by BCC, and this review is part of the Department's response to BCC's complaints. (We note that BCC has lodged a formal appeal against the outcome of the 2019 Round).	None.
Process	14	<b><i>BCC requested a pre-allocation of \$1 million in funds from the 2019 Round, or at least, an understanding of how forward funding allocations were made.</i></b>	This request was declined by the BGA. Whilst it is not clear from the CGP Guidelines, the BGA appears to be within its rights to adopt this approach. We note Section 7.4 of our report, in which this issue is discussed in detail.	None.
Process	15	<b><i>Applicants have no visibility over the assessment process. We have been asked for detailed financial information and we don't believe all applicants are asked for the same level of detail.</i></b>	It is not clear if the same level of information is asked of, or provided to, all applicants. The Finance Sub-committee process in particular is not clearly defined, and minutes are not retained from its deliberations or meetings.	Recommendations 6 and 7.
Process	16	<b><i>The BGA directly contacted BCC's bank during the assessments.</i></b>	Whilst there was a substantial amount of correspondence from BCC which raised its suspicions about direct contact between the BGA and the National Australia Bank, there was no evidence found to support the allegation.	None.

## 7 Recommendations

### 7.1 Recommendations 1-4

1. *The ACT BGA should maintain a register of relationships with applicant schools (or any other bodies) with which a potential conflict of interest exists. This document should be made available on the ACT BGA website.*
2. *The ACT BGA should revise its Conflict of Interest Policy, particularly in terms of how conflicts of interest are raised and managed. We recommend that the ACT BGA aligns its policy with the ACT BGA Board Charter (particularly Section 7.7), and adopts a best practice approach.*
3. *In consultation with the CECG and AIS, the ACT BGA could consider changing its constitution, to allow for independent members of the Board and/or Priorities Committee and Sub-committees. In particular, it could consider reducing the number of appointees by the AIS and CECG, and appointing independent committee members with each of: probity; financial; and legal backgrounds. This would ensure that the ACT BGA is seen to be above reproach in its decision-making.*
4. *The ACT BGA should provide each applicant school with a formal opportunity to present its case to a meeting of the full Priorities Committee, during the assessment period.*

#### 7.1.1 Rationale for Recommendations 1-4

The ACT BGA has a conflict of interest risk management process and a conflict of interest (COI) policy, however it does not have a documented conflict of interest register. We have found that the COI policy<sup>10</sup> appears inconsistent with the ACT BGA Board Charter<sup>11</sup>. Within both the Charter and the COI, there is an acknowledgement that there is an inherent danger of conflicts of interest arising within the ACT, due to "...the limited pool of potential Assessment Committee members..." (Charter, section 7.7) and that "It is recognised that Members, Directors and Committee members work for or represent actual or potential grant recipients" (COI, page 1).

However, the management of these conflicts is different, and inconsistent, between the documents. For example, in relation to Committee members with an "actual, potential or perceived conflict", the two documents state the following:

- COI: "Such obvious conflicts of interest (Type 1) do not need to be regularly declared...For Type 1 conflicts, approaches (b) or (c) will be the normal approaches adopted...(b) allow them to take part in discussions but not decision-making...(c) recognise the conflicts of interest and allow those involved to take a full part in the discussion and decision-making"; and
- Charter: "the normal position being that such a member should not participate in decision-making on a project with which they are associated, and should participate in discussion of such a project only when invited by the Chair for clarification, with equivalent clarification opportunities being provided to those associated with other projects who are not Committee members".

We note that the Charter wording is also included in the COI policy, rendering the latter inconsistent within itself, and somewhat confusing to the reader as to which procedure is applied.

We have found that the BGA Board's management of identified conflicts would be improved if alternative options, as were available under the Conflict of Interest policy and as stated in the Board Charter, had been implemented. We have found that there remains a risk that conflicts of interest existed, or may be perceived to have been ineffectively managed during the assessment of the 2018 Round.

We note the *Commonwealth Grants Rules and Guidelines 2017* states, in regard to 'Probity and Transparency', particularly noting the **bolded** areas below:

- "13.2 Transparency refers to...being open to scrutiny about grants administration...
- 13.3 Probity and Transparency in grants administration is achieved by ensuring...that decisions relating to grants opportunities are impartial; appropriately documented and reported...

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<sup>10</sup> ACT BGA Conflict of Interest Policy, page 1 (Auditor reference – EI7)

<sup>11</sup> Extract from ACT BGA Board Charter, section 7.7 (Auditor reference – PF2)

- 13.6 **Actual or perceived conflicts of interest can be damaging to...granting entities and its officials...**  
A conflict of interest arises where a person makes a decision or exercises a power in a way that may be, or may be perceived to be, influenced by...material personal associations. A conflict of interest may arise:
  - **where decision-makers**...involved in grants administration have a direct or indirect interest, which may influence the selection of a particular grant activity;
  - **where a potential grantee** has a direct or indirect interest, which may influence the selection of their proposed grant activity...
- 13.7 Officials should establish transparent processes which help manage misconceptions and the potential for personal or related party gain...
- 13.8 [Authorities] should put in place appropriate mechanisms for identifying and managing potential conflicts of interest for grant opportunities. These mechanisms may include:
  - establishing procedures...to declare their interests;
  - developing procedures to manage potential conflicts of interest in all phases of grants administration (**it is not advisable to include potential grantees for a grant opportunity on bodies which directly input into the grant selection process**);
  - **maintaining a register** of staff and other party interests...
- 13.9 Officials should conduct grants administration in a manner that minimises concerns about equitable treatment..."

We have found that whilst the ACT BGA has established processes for dealing with conflicts of interest, the implementation of the Conflict of Interest policy may not be achieving the requisite outcomes and we consider Recommendation 2 to be an important first step in overcoming this issue. Further, we recognise that the structure of the Priorities Committee membership creates a situation whereby decision-makers are also grantees (as occurred in the 2018 Round with Burgmann and Good Shepherd schools). The principles espoused in section 13.6, above, confirm that this is an issue which is potentially damaging to the ACT BGA. Accordingly, Recommendation 3 is that the ACT BGA should consider changes to its constitution which will help ameliorate the conflict of interest position through increased probity, and if undertaken in conjunction with Recommendations 1 and 2, would improve transparency.

In regard to the 2018 Round, conflicts were declared for four members of the Priorities Committee<sup>12</sup>, including for s 22 of Burgmann College, and s 22 of Good Shepherd Primary School, noting that each of their schools had applied for funding in the 2018 Round<sup>13</sup>. Whilst the Conflict of Interest policy determines that such conflicts "do not need to be regularly declared", we consider that such an approach is not reasonable in terms of providing sufficient transparency to the grants assessment process, and that the parties were right to make the declarations.

In view of the potential representation on the Priorities Committee of some applicant schools, we consider there is an imbalance in the amount of information available to committee members, between those schools with, and those without, representation. For applications from the Catholic Education sector, for example, it was declared (in minutes of the first Priorities Committee meeting for the 2019 Round) by two Priorities Committee members that they had already been "involved with the project planning and submission of applications for the...catholic schools"<sup>14</sup> prior to the CGP applications being lodged. At interview, the BGA indicated that the presence of school representatives on the Priorities Committee meant that if further information was required from those members' schools, it was able to be provided verbally during the meeting. We consider that such opportunities should be afforded to all applicants, as per Recommendation 4.

## 7.2 Recommendation 5

5. ***The ACT BGA should consider having the Finance Sub-committee function performed by an organisation which is independent of the school system.***

<sup>12</sup> Priorities Committee Meeting 1/2018 Final Minutes – Auditor reference PF3

<sup>13</sup> ACT BGA Board Meeting 3/2017 of 21 August, Capital Grants recommendations for 2018 Round – Auditor reference PF31

<sup>14</sup> Priorities Committee Meeting 1/2018 Final Minutes – Auditor reference PF3

### 7.2.1 Rationale for Recommendation 5

In addition to reducing conflict of interest issues (as noted in Recommendations 2 and 3), we consider that the probity of financial assessments would be improved by engaging a third party organisation to perform the task.

Applicant schools are required to submit master plans and detailed financial information as part of the grant funding application. We have found that there is a potential level of unfairness or inequity present, in that schools which do not have representation on the Priorities Committee or Finance Sub-committee may be disadvantaged, in having such information made available to representatives of competing schools who do have committee representation.

In regard to the 2018 Round, BCC raised concerns that its financial information was being assessed by a Finance Sub-committee member - s 22 of Burgmann College - who had prepared his school's competing application for grant funding. Further, it is ACT BGA policy that the two appointed members of the Finance Sub-committee are members of the Priorities Committee. As such, these members are involved in the assessment/ranking of projects, and subsequently make an assessment on the financial capability of the applicants. Whilst the ACT BGA stated: "s 22 commented that he would make no comment or assessment of his school..."<sup>15</sup>, there is no evidence to substantiate this claim, as minutes are not taken for Finance Sub-committee meetings or deliberations. In general, we consider that transparency surrounding the Finance Sub-committee aspect of the assessments is less than ideal.

We consider that probity would be improved if the educational need assessment (Priorities Committee) and financial assessment (Finance Sub-committee) tasks were conducted independently of each other, and that an (external) independent financial assessment would be a more appropriate approach than the existing situation. As such, even if Recommendation 3 were to be implemented, we consider that Recommendation 4 would result in an improved probity approach and reduce the risk that the CGP process (as undertaken by the ACT BGA) could be compromised, or perceived to be compromised.

We recognise that this recommendation would result in increased administrative costs for the ACT BGA, and accordingly, the BGA (or the Department) will need to assess whether there are sufficient funds available.

## 7.3 Recommendations 6 and 7

6. ***The ACT BGA should document the procedure used to assess the financial need of each applicant school, specifically including how the proposed grant amount was determined, and the procedure should be published on the ACT BGA website.***
7. ***The ACT BGA should provide comprehensive written feedback to each applicant school on the assessment of the application, including the financial assessment for that school, and consider advising the school's position in the rankings.***

### 7.3.1 Rationale for Recommendations 6 and 7

Schools are recommended for grants by the BGA Board based on detailed applications, evaluation of the application by the ACT BGA Priorities Committee (including site visits), and financial analysis by the ACT BGA Finance sub-committee. School visits are undertaken for all applications by a group including some of the Priorities Committee members, the ACT BGA Chair and the ACT BGA Executive Officer.

The assessment of schools' financial need is undertaken by one of the two Priorities Committee members possessing financial backgrounds. The financial assessment procedure is not documented, and each individual financial assessment is only documented at a high-level in the Project Assessment Report. Unsuccessful schools are contacted by telephone by the Executive Officer, who provides a summary of the assessment.

Whilst we have made recommendations for future communications between the BGA and applicant schools to improve clarity, we do not consider that communications between BGA and BCC impacted on the 2018 Round assessment process, however, we found that post-assessment communications, in general, from the BGA could be improved through written, formatted feedback on each school's application. This would result in applicants being provided with written detail against the assessment criteria, which we consider may have substantially reduced the amount of follow-up communications between the BGA and BCC following the 2018 Round.

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<sup>15</sup> ACT BGA response to interview questions, 22<sup>nd</sup> August 2018 – Auditor reference PF32

## 7.4 Issue of future year funding

The background to this section is that BCC's application for 'Specialist Classrooms' was not assessed during the 2018 Round, as the school had indicated the project would be commenced on 1 February 2019. The BGA advised BCC of this outcome by letter on 23 August 2017: "...this project was deemed ineligible and was not assessed during this Round...it is a 2019 project and we encourage you to resubmit this application during the 2019 Round"<sup>16</sup>. We sought clarification from the Department, which has advised that "CGP is a calendar year program and projects are required to commence in the year for which they were approved"<sup>17</sup> and accordingly, the BGA was correct in its determination.

Following the decision, BCC requested that future year (2019) funding be appropriated to the project. BGA responded that it was unable to fulfil the request: "You are aware that the BGA does not consider applications for pre-commitment from individual schools, but this is done as part of our annual assessment Round. Therefore, the BGA Board is unable to consider this request from BCC"<sup>18</sup>.

During the review, we questioned whether Item 30 of the CGP Guidelines 2018 did, in fact, allow the BGA to do this: "BGAs may identify funding from subsequent years to be allocated to a project (forward commitment)...This funding will be subject to the availability of funding in future years for a BGA...funding for a future year where the CGP funding will not be required until a future year (the project will commence within 12 months of approval"<sup>19</sup>. We sought clarification from the Department, which advised that: "All projects approved [are] required to commence in the program year for which they were approved – future commitments [simply] allow for funding to be committed to projects over multiple years, to fit with the profile of the project"<sup>20</sup>.

The Department advised: "BGAs are able to commit up to 50% of their current allocation to projects (forward commit)"<sup>21</sup>. In view of the allocated funds and resulting annual grants being for similar amounts in the years 2016-2019 (as detailed in Section 5.3, above), the ACT BGA does not appear to be using future year allocations as a 'top-up' for making grant recommendations in a given year.

Whilst there is no finding or recommendation in relation to this issue, the Department may wish to consider discussing the issue with the ACT BGA to ensure that potential applicants are provided with accurate and straight-forward information on the amount of funding available in any funding year.

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<sup>16</sup> Letter from ACT BGA to BCC of 23 August 2017 - Auditor reference – A

<sup>17</sup> Email from s 22 (Department) to auditor, 7 September 2018 - Auditor reference – DC1

<sup>18</sup> Letter from ACT BGA to BCC of 28<sup>th</sup> November 2017 - Auditor reference – D

<sup>19</sup> Capital Grants Program Guidelines 2018, page 9

<sup>20</sup> Email from s 22 to auditor, 7 September 2018 - Auditor reference – DC1

<sup>21</sup> Email from s 22 (Department) to auditor, 7 September 2018 - Auditor reference – DC1



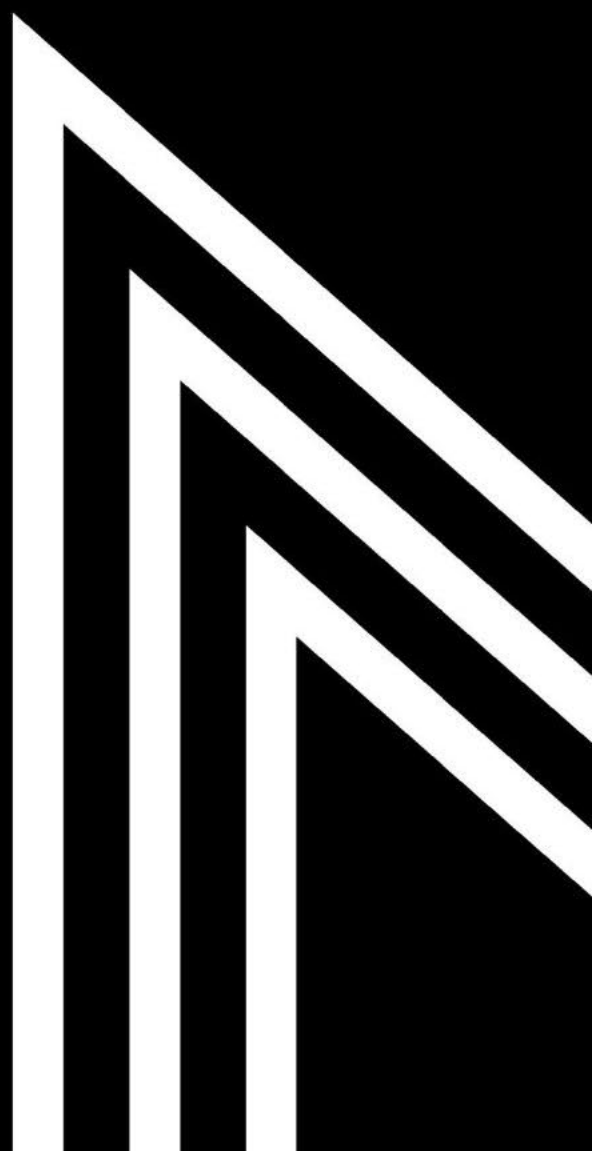


# Department of Education and Training Operational Review of the ACT Block Grant Authority

21 December 2018



McGrathNicol



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## 1 Glossary

Glossary	
Name	Description
ACT	Australian Capital Territory
ACTBGA	The ACT Block Grant Authority Incorporated
AISACT	The Association of Independent Schools of the ACT
BGA	Block Grant Authority
CECG	Catholic Education Office, Archdiocese of Canberra and Goulburn
CGP	Capital Grants Program for Non-government Schools
CGP Guidelines	Capital Grants Program Guidelines 2018
CGPES	Capital Grants Progressive Expenditure Statement
Department	Department of Education and Training
EOI	Expression of interest
MOU	Memorandum of Understanding
Objectives	The objectives of the CGP
Participant Agreement	Agreement between the School and the ACTBGA entered into for the School to become a member of the ACT Block Grant Authority Incorporated.
Requirements	Requirements under the Capital Grants Program Guidelines 2018, Australian Education Act 2013 and Australian Education Regulation 2013
SES	Socio-economic Status

## 2 Disclaimer

### Restrictions on use

This report has been prepared for the Department of Education and Training ("the Department") under the instruction of the Capital Funding Team of the Schools Assurance Branch for the provision of ACT Block Grant Authorities.

This report should not be disclosed, be reproduced in whole or in part or supplied to any other party, without our consent in writing. It may not otherwise be reproduced in whole or in part supplied, without our consent in writing.

We have carried out a review of ACT Block Grant Authority in accordance with the Official Order. McGrathNicol has not carried out an audit, nor have we verified any of the information given to us by the Department and the identified service provider, except where expressly stated. We have relied upon assurances from the identified service provider as to the accuracy of the information provided.

The scope of our work is different to that of an audit and it cannot be relied upon to provide the same level of assurance.

We highlight that our work, by necessity, has involved sampling transactions and selected reports rather than looking at all information that may exist. Accordingly, our findings and conclusions are based on the sample of information reviewed.

### Limitations

In accordance with our firm's policy, we advise that neither the firm nor any member or employee of the firm undertakes responsibility arising in any way whatsoever to any person or organisation, other than the Department in respect of the information set out in this report, including any errors, omissions or negligence however caused.



## 3 Executive summary and recommendations

### 3.1 Introduction

The Capital Grants Program (“CGP”) for non-government schools is an Australian Government program, administered by the Department of Education and Training (“the Department”). The CGP provides funding for non-government school communities to assist primary and secondary schools to improve capital infrastructure where they otherwise may not have access to sufficient capital resources.

The objectives of the CGP are to:

- provide and improve school capital infrastructure, particularly for the most educationally disadvantaged students;
- ensure attention to refurbishment and upgrading of capital infrastructure for existing students, while making provision for needs arising from new demographic and enrolment trends; and
- pursue the Commonwealth's other priorities and objectives for schooling.

Funding can be used for a wide range of infrastructure projects from the planning to the fit out stage. Typically, projects funded include school master-planning, classroom and other facility construction or refurbishment and the upgrading of IT or electrical services.

### 3.2 Scope

We have undertaken an operational review of the administration of the CGP by the ACT Block Grant Authority Incorporated (“ACTBGA”). The review examines the efficiency and effectiveness of the ACTBGA in administering the CGP and evaluates the ACTBGA's compliance with key areas of the Requirements.

The review will be conducted in the context of the Requirements under the Capital Grants Program Guidelines 2018, Australian Education Act 2013 and Australian Education Regulation 2013 (“the Requirements”) which govern the administration of the program.

In reviewing the ACTBGA we have focused on:

- Governance arrangements;
- Methodologies to determine eligibility and ranking of projects;
- Financial systems and practices;
- Project monitoring; and
- Records management.

### 3.3 Information relied on and consultation undertaken

The information contained in the report has been prepared on the basis of:

- the Australian Education Act 2013;
- the Australian Education Regulation 2013;
- the CGP Guidelines;
- meetings and discussions with representatives from the Department;
- information provided by the Department, including electronic information;
- information available on the website of the ACTBGA;
- meetings and discussions with representatives of the ACTBGA, in particular;
  - s 22
- information obtained during our site visits to the offices of the ACTBGA, including:
  - internal policies and procedures documents; and
  - sample case files at the offices of the ACTBGA.



As discussed with the Department we have chosen a sample of 15 files to review from a population of 16 projects in the 2015 to 2018 ACTBGA Commitment Ledgers. Provided below is a listing of the sample case files selected for the review testing:

**Table 1: Listing of sample case files**

Australian Capital Territory BGA sample files		
Project ID	School name	Funding (\$)
<i>Acquitted projects</i>		
2016/84977/1	Communities@Work Galilee School	600,000
2015/02902/1	St Monica's Primary School	600,000
2015/02900/1	St Thomas Aquinas Primary School	700,000
2016/02047/1	Holy Trinity Primary School	725,000
<i>Un-acquitted projects</i>		
2016/02910/1	Brindabella Christian College	725,000
2016/04422/1	Holy Family Parish Primary School	525,000
2016/02055/1	Sacred Heart Primary School	558,746
2017/02910/1	Brindabella Christian College	500,000
2017/02062/1	Canberra Christian School	600,000
2017/17130/1	Good Shepherd Primary School	800,000
2017/77575/1	Mother Teresa School	600,000
2017/05623/1	St Francis of Assisi Primary School	800,000
2018/16044/1	Burgmann Anglican School	1,000,000
2018/17130/1	Good Shepherd Primary School	1,000,000
2018/02053/1	St Joseph's Primary School	1,000,000

## 3.4 Findings

### 3.4.1 Governance arrangements

- The ACTBGA has in place adequate documentation which outlines how its CGP funding process is carried out. The ACTBGA also provides detailed guidelines to schools at each stage of the process.
- The Participation Agreement executed by schools is comprehensive and includes the required provisions specified in the CGP Guidelines.
- The ACTBGA's conflict of interest management process could be strengthened.

### 3.4.2 Selection and ranking of projects

- Assessments of schools are based on detailed applications and school visits. School visits are undertaken for all applications by two or three Priorities Committee members, the ACTBGA Executive Officer and usually the ACTBGA Board Chair.
- The assessment of schools' financial need is undertaken by the two members of the Finance Sub-committee. The Finance Sub-committee procedures do not specify how the proposed grant amount is calculated, and individual financial assessments are only documented at a high-level in the Finance Sub-committee report to the Priorities Committee.
- The CGP funding for ACTBGA member schools is not divided into separate funding pools for Catholic schools and Independent schools, as funding is allocated across all ACTBGA members based on the priority of need each funding round.
- The Priorities Committee makes recommendations to the ACTBGA Board for funding allocations based on priority rankings of applications and the Finance Sub-committee's financial assessments.

### 3.4.3 Financial systems and practices for acquitting project funds

- ACTBGA appears to have adequate controls to prevent misappropriation of grant funds prior to disbursement to schools.
- At the time of the onsite testing, the ACTBGA paid grant funds to schools on a full reimbursement basis from the commencement of the project until all grant funding is disbursed (except for the lesser of the final 10% or \$20,000). Once all grant funding was disbursed, the school was required to fund the remainder of the project from its own contribution. This increases the risk the project may not be completed within agreed timeframes.
- Grant payments are made based on CGPESs and the ACTBGA obtains copies of all underlying invoices to substantiate grant payments. However, the ACTBGA does not require schools to submit CGPESs on a regular basis.
- Schools are required by the ACTBGA to submit Accountant's Certificates within three months of the final grant payment. Accountant's Certificates were not provided in a timely manner by a number of schools selected in our sample.

### 3.4.4 Project monitoring

- The ACTBGA requests formal quarterly project status reports to be provided by funding recipients, however historically these have not always been consistently provided.

### 3.4.5 Records management

- The electronic and physical documents reviewed were in good order and readily accessible.
- The ACTBGA does not maintain on file evidence from schools that all recognition requirements were met.

## 3.5 Recommendations

In light of the above findings, we have made the following recommendations for the ACTBGA and the Department to consider:

- The ACTBGA should strengthen its conflict of interest management process to require that the AISACT and CECG replace all Directors / Committee members who have a direct Type 1 conflict of interest with a project applying for CGP funding in that funding round, and all Directors / Committee members who have an indirect Type 1 conflict of interest with a project applying for CGP funding in that funding round declare and actively manage all matters which lead to their conflict of interest.
- The ACTBGA should ensure all conflicts of interest are identified at each ACTBGA Board meeting, Priorities Committee meeting and Finance Sub-committee meeting to allow the ACTBGA to effectively manage all conflicts of interest in accordance with its Conflict of Interest policy. This may be supported by the introduction of a conflict of interest register which may be reviewed during each meeting.
- Minutes for the Finance Sub-committee meetings should be prepared, and the Finance Sub-committee should prepare and maintain on project file a detailed financial assessment for each application in order to substantiate the recommended grant amounts.
- The ACTBGA should pay grant funds to schools on a pro rata basis throughout the life of the project (e.g. if the grant is for 50% of the total project cost, 50% of the expenditure reported in the CGPES should be disbursed). This reduces the risk the project will not be successfully completed within timeframes. We were advised that the ACTBGA implemented this recommendation in November 2018.
- The ACTBGA should require schools to submit CGPESs on a regular (e.g. quarterly) basis until project completion. This will ensure the ACTBGA consistently obtains formal reporting regarding each project's progressive expenditure.
- The ACTBGA should ensure, in accordance with its Participation Agreement, schools are providing their completion documentation (including Accountant's Certificate) promptly to allow ACTBGA to acquit projects in a timely manner.
- The ACTBGA should ensure that its formal reporting procedures continue to be adhered to and that funding recipients provide sufficient detail to adequately inform the ACTBGA.
- The ACTBGA should maintain photographs of plaques on file to ensure schools comply with all recognition requirements.



## 4 Background

### 4.1 Overview of the Capital Grants Program for non-government schools and role of the ACTBGA

The Australian Government Capital Grants Program ("CGP") provides funding for non-government school communities to assist primary and secondary schools to improve capital infrastructure where they otherwise may not have access to sufficient capital resources. The CGP grants to non-government schools are administered by BGAs who assess applications from schools and make recommendations for funding to the Minister. Schools apply on a competitive need basis to the BGA for initial assessment of proposed projects.

The ACT Block Grant Authority Incorporated ("ACTBGA") is a non-profit association set up by non-government school organisations in the ACT. The two non-government school organisations in the ACT which are represented by the ACTBGA are the Association of Independent Schools of the ACT ("AISACT") and Catholic Education for the Archdiocese of Canberra and Goulburn ("CECG"). In accordance with the ACTBGA constitution, members of the ACTBGA comprise two nominees from AISACT, two nominees from CECG, one person jointly nominated by the AISACT and the CECG as the Board Chair and one person jointly nominated by the AISACT and the CECG as the Parent Representative.

As at the time of this review, the members of the ACTBGA Board were:

- s 22
- s 22
- s 22
- s 22

Sitting under the ACTBGA Board and responsible for assessing and recommending applications for capital grants under the CGP is the ACTBGA Priorities Committee. Members of the Priorities Committee are the ACTBGA Board Chair, and four nominees from each of the AISACT and CECG (who are not members of the ACTBGA Board). As at 23 May 2018, the members of the ACTBGA Priorities Committee were:

- s 22
- s 22

The ACTBGA s 22, is responsible for administrative and support duties for the ACTBGA.

ACTBGA administers the CGP and other major Government grants programs for non-government schools in the ACT. Membership includes schools of many different:

- sizes;
- structures;
- financial positions;
- cultural backgrounds;
- religious affiliations; and
- educational philosophies.

The ACTBGA utilises a number of documents and reference materials to administer the CGP. Provided below is a summary of the key internal and external documents that shape the delivery of the ACTBGA's CGP:

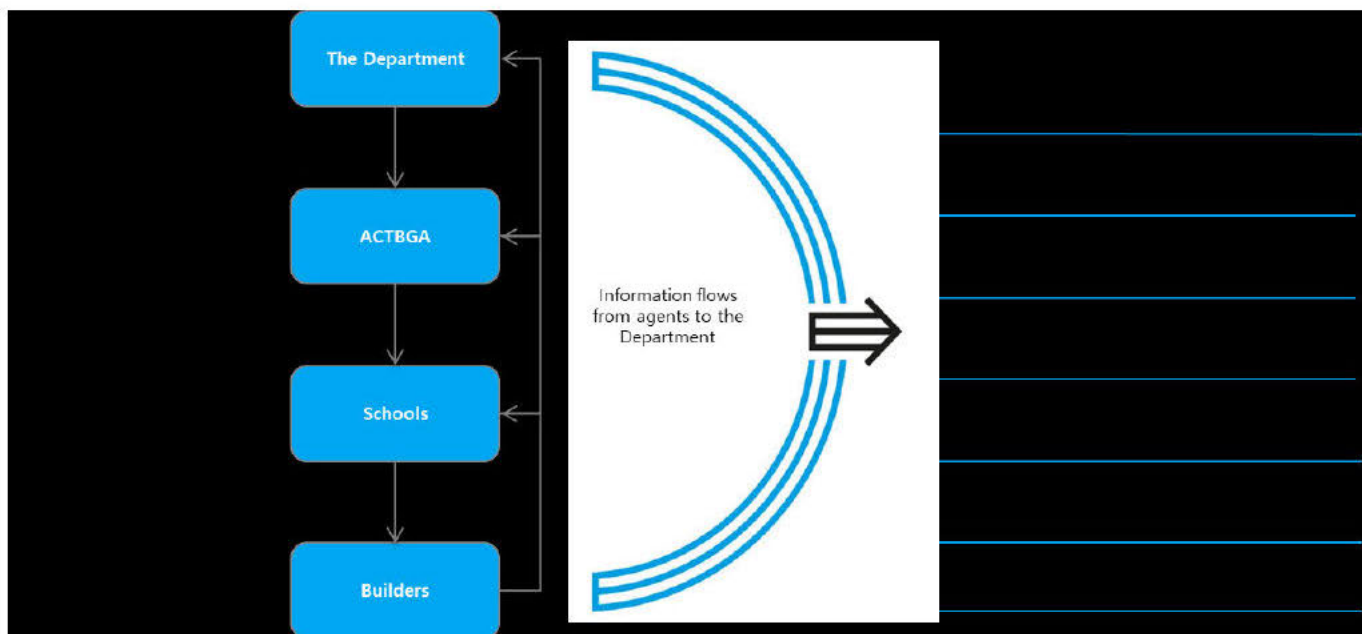
**Table 2: Documented policies, procedures and guidance materials**

Documented policies, procedures and guidance materials	
Category of documents	Title of document
Legislation and regulations	<ul style="list-style-type: none"> <li>▪ Australian Education Act 2013</li> <li>▪ Australian Education Regulation 2013</li> </ul>
Regulatory guidance material	<ul style="list-style-type: none"> <li>▪ CGP Guidelines 2018</li> </ul>
ACTBGA policy documents and agreements	<ul style="list-style-type: none"> <li>▪ ACTBGA Constitution</li> <li>▪ Finance Sub-committee Procedures</li> <li>▪ Priorities Committee Procedures</li> <li>▪ Confidentiality Policy</li> <li>▪ Conflict of Interest Policy</li> <li>▪ Appeal Policy and Procedures</li> </ul>
ACTBGA guidance materials	<ul style="list-style-type: none"> <li>▪ Information to Assist Applicants</li> <li>▪ Application Forms and Procedures</li> <li>▪ Assessment Process guidelines</li> <li>▪ Tender Procedure guide</li> <li>▪ Procedure for claiming payments guide</li> </ul>

## 4.2 Agency risk

In order for the Australian Government to achieve the objectives of the CGP, the Department is reliant on the BGAs recommending funding for capital applications in accordance with the objectives of the program. The Department also requires BGAs, schools, builders and other parties to complete capital works in schools efficiently and effectively. The delegation of responsibility from the Department to the BGAs (and then to other stakeholders) is required to deliver the CGP and achieve the program's objectives. However, this devolved approach creates agency risk for the Department as illustrated in Figure 1 below:

**Figure 1: Agency risk created by the operating framework of the CGP**



### 4.3 Key steps in administering the Capital Grants Program (CGP) for Non-government Schools

The annual CGP is administered on an ongoing basis by the ACTBGA. We have sought to summarise the key steps taken in the table below:

**Table 3: Overview of the Capital Grants Program Administration**

Overview of the CGP Administration		
Step	Stage	Milestone
Step 1	<b>Application Process</b>	Schools are advised when applications open via website and email.
Step 2		Schools are encouraged to discuss their applications with the ACTBGA. ACTBGA offers to provide advice and comments on draft applications prior to the date that applications close.
Step 3		<p>Schools lodge the application form, which includes information regarding the following:</p> <ul style="list-style-type: none"> <li>▪ project details;</li> <li>▪ proposed funding arrangements;</li> <li>▪ eligibility;</li> <li>▪ educational need;</li> <li>▪ enrolments;</li> <li>▪ current facilities;</li> <li>▪ proposed project financing; and</li> <li>▪ the school's financial performance and position.</li> </ul> <p>To support the application form, schools must also provide:</p> <ul style="list-style-type: none"> <li>▪ a certificate confirming floor area information;</li> <li>▪ proposed project plans and drawings;</li> <li>▪ cost estimates;</li> <li>▪ maintenance plan;</li> <li>▪ insurance certificates of currency; and</li> <li>▪ photographs of the current site.</li> </ul>
Step 4	<b>Assessment Process</b>	The Finance Sub-Committee consider the project cost relative to schools' capacity to meet project costs, and prepare a Finance Sub-committee report for the Priorities Committee for its consideration.
Step 5		The Priorities Committee meet to review applications and Finance Sub-Committee Checklists.
Step 6		Two to three members of the Priorities Committee, the ACTBGA Executive Officer and usually the ACTBGA Board Chair visit applicant schools to understand educational and financial needs of the school, and also to clarify aspects of the proposed projects. The visiting Priorities Committee members use the School Visit Assessment forms to take notes on the proposed project and then complete the Project Assessment form.
Step 7		The Priorities Committee meet three additional times to review a consolidated version of the Project Assessment forms prepared by the ACTBGA Executive Officer, finalise project prioritisation and funding recommendations to be submitted to ACTBGA Board.
Step 8		The ACTBGA Board reviews recommendations from the Priorities Committee and finalises project prioritisation and funding recommendations to be submitted to the Australian Government.

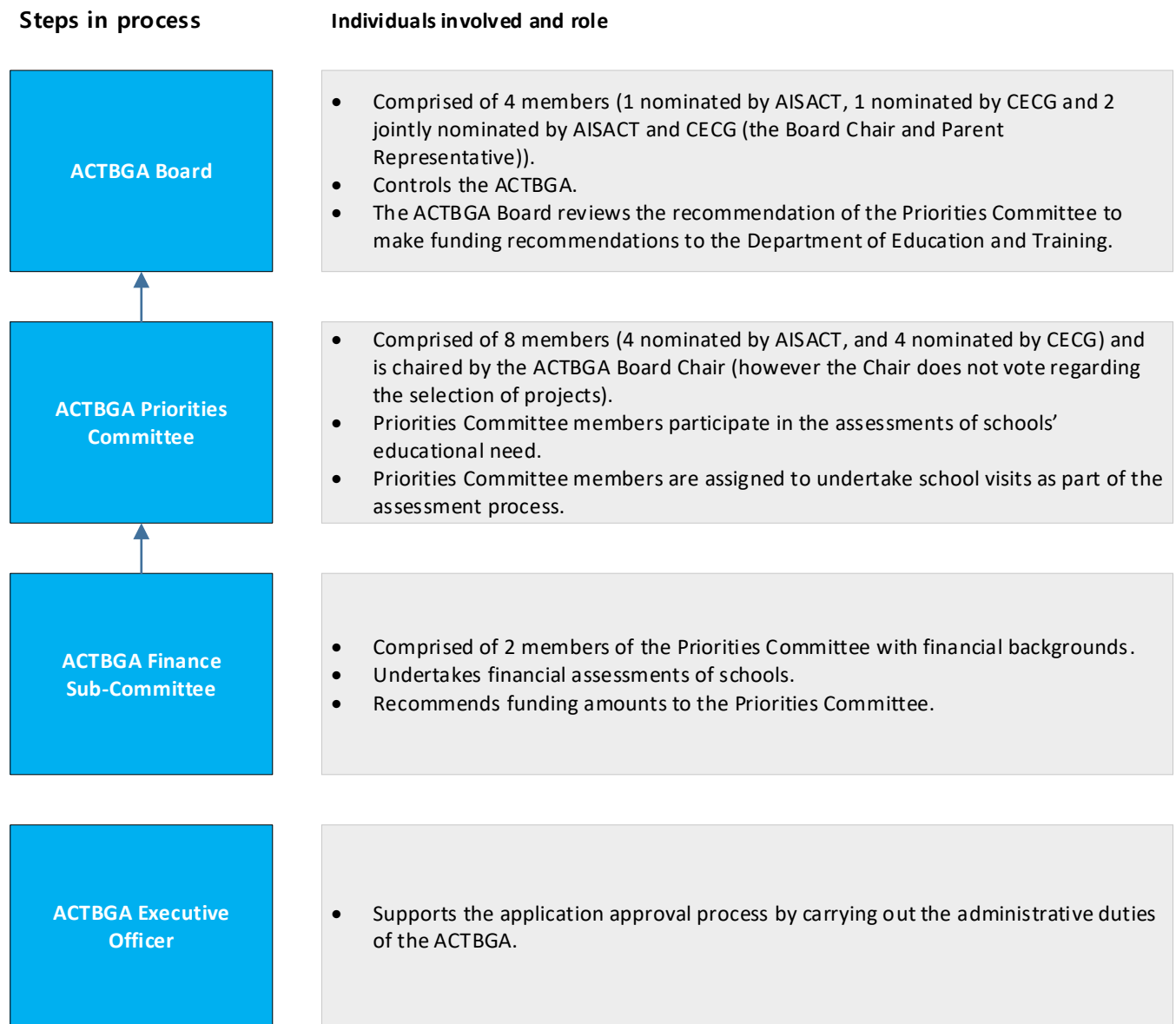


## Overview of the CGP Administration

Step 9		The ACTBGA recommends grants to the Minister for approval. A letter is provided by the ACTBGA to applicant schools to advise if their application is not being recommended.
Step 10	<b>Monitoring Stage</b>	If the Minister approves the recommended project, the Department will send an approval letter to the successful school. The ACTBGA will also send a letter of offer to the successful school, accompanied by a Grant Acceptance Form to be signed and returned to the ACTBGA.
Step 11		As required by the School's Participant's Agreement, Grant Acceptance form and ACTBGA's Tender Procedure, the school will engage an architect or project manager. The school will provide documentation in respect of the engagement of an architect or project manager at the time of submitting its Result of Tender form to the ACTBGA.
Step 12		Schools undertake the tender processes and complete and return the Results of Tender / Construction Management form.
Step 13		The ACTBGA sends the Final Tender Approval letter to the school confirming they can proceed with entering into contract(s) for construction.
Step 14		Schools execute a building contract, and return to the ACTBGA: <ul style="list-style-type: none"> <li>▪ the Notification of Contract Signing pro forma letter; and</li> <li>▪ a copy of the builder's insurance.</li> </ul>
Step 15		Schools submit Progressive Expenditure Statements ("PESs") to the ACTBGA. PESs must be supported by paid invoices. The PESs must be certified by a competent, building industry professional, independent of the builder or project manager.
Step 16		The ACTBGA disburses grant funding to schools based on the PESs and supporting invoices on a reimbursement basis. Payments to schools are accompanied by: <ul style="list-style-type: none"> <li>▪ a recipient created tax invoice;</li> <li>▪ a letter stating the name of the approved project, the amount of the payment, and other relevant information; and</li> <li>▪ an acknowledgement receipt to be signed by the school and returned to the ACTBGA within 7 days of receipt of the grant funds.</li> </ul>
Step 17	<b>Finalisation and completion</b>	The ACTBGA retains \$20,000 or 10% of the grant (whichever is less) until schools submit: <ul style="list-style-type: none"> <li>▪ the Certificate of Practical Completion and/or Architect's Certificate;</li> <li>▪ the Final Progressive Expenditure Statement; and</li> <li>▪ supporting invoices for final payment.</li> </ul>
Step 18		The ACTBGA disburses the final payment.
Step 19		Within three months of receipt of the final payment, the school must provide an Accountant's Certificate prepared by an independent accountant to the ACTBGA.
Step 20		Where the CGP grant is equal to or in excess of \$100,000 schools must install a commemorative plaque and hold an official opening ceremony. For projects under \$100,000 a school can choose to recognise the Australian Government's assistance by installing a plaque only. The ACTBGA attends the school opening and will generally retain a copy of the invitation and draft plaque as evidence. The plaque is approved through a separate process conducted by the Department.

In reference to the process outlined above we have set out a summary below of how applications are approved by the ACTBGA:

**Figure 2: Structure of application approval**



## 5 Key findings

### 5.1 Governance arrangements

*The ACTBGA has in place adequate documentation which outlines how its CGP funding process is carried out. The ACTBGA also provides detailed guidelines to schools at each stage of the process.*

The ACTBGA has in place adequate documentation which outlines how its CGP funding process is carried out. This includes the following process documentation and guidance material:

- governance and process documentation:
  - ACTBGA Constitution;
  - Assessment Process guidelines;
  - Confidentiality policy;
  - Conflict of Interest policy;
  - Finance Sub-committee procedures;
  - Priorities Committee procedures; and
  - Appeal policy and procedures;
- applicant guidance documentation:
  - Information to Assist Applicants;
  - Tender Procedure guide;
  - Construction Management form or Results of Tender form; and
  - Procedure for claiming payments guide.

*The Participation Agreement executed by schools is comprehensive and includes the required provisions specified in the CGP Guidelines.*

Under the CGP Guidelines, each school is required to enter into a legally binding written agreement accepting to be bound by all requirements listed in the CGP Guidelines prior to receiving funding. The CGP Guidelines provides detailed guidance on specific conditions required to be contained in each agreement.

The ACTBGA Participation Agreement appears to include all provisions contained in the CGP Guidelines ensuring schools are aware of and agree upon their obligations prior to receiving funding.

*The ACTBGA's conflict of interest management process could be strengthened.*

The ACTBGA has a conflict of interest risk management process and a Conflict of Interest Policy which identifies the following two types of conflict of interest:

- Type 1 – conflicts of interest that arise specifically because of an ACTBGA director's, committee member's or staff member's work for an entity, such as the AISACT, the CECG or a school, that is an actual or potential recipient of a grant through the ACTBGA or that formally represents such recipients; and
- Type 2 – conflicts of interest that arise more generally due to an ACTBGA director's, committee member's or staff member's personal or business interest, including interests in a transaction or decision where an ACTBGA personnel, including their business, non-profit affiliations, family, significant other, employer or close associates will receive a benefit or gain.

According to the Conflict of Interest Policy, the ACTBGA may resolve conflict of interests by:

- 1) excluding the conflicted persons from all discussions and decision-making on matters which lead to their conflict of interest;
- 2) allow conflicted persons to participate in discussions but not decision-making; or



- 3) recognise the conflicts of interest and allow conflicted persons to be fully involved in discussions and decision-making.

The Conflict of Interest policy states that the normal approach to resolving Type 1 conflicts is generally the second or third approaches, while the ACTBGA generally applies the first approach for Type 2 conflicts. However, the policy indicates that any of the three approaches may be used to resolve either type of conflict.

The ACTBGA's Conflict of Interest policy also outlines a specific approach for managing Type 1 conflicts within the Priorities Committee. Under this approach, the AISACT and the CECG are invited to review their nominations for Priorities Committee members on an annual basis and confirm, cancel, or install a temporary replacement of members of the Priorities Committee to minimise the perception of a conflict of interest. The policy states that, where possible, the AISACT and the CECG will not nominate persons to the Priorities Committee who are directly associated with or responsible for a project that is the subject of an application for a capital grant. This requirement is due to the replacement of conflicted Priorities Committee members clearly being the best practice approach for avoiding actual, potential or perceived conflicts of interest within the assessment process. However it is noted that based on our review of the Priorities Committee meeting minutes for the period under review, it appears conflicted Priorities Committee members are typically not replaced, noting that we identified the following conflicts of interest within the Priorities Committee and Finance Sub-committee:

- the Principal of a school which was successful in the 2017 funding round was a member of the Priorities Committee during the assessment of the 2017 funding round applications;
- the Principal of a school which was successful in the 2018 funding round was a member of the Priorities Committee during the assessment of the 2018 funding round applications; and
- the Business Manager of a school which was successful in the 2018 funding round was a member of the Priorities Committee and the Finance Sub-committee during the assessment of the 2018 funding round applications.

The Conflict of Interest policy states that the limited pool of potential Priorities Committee members as a result of the small size of the ACT presents a challenge for managing conflicts of interest.

For the CECG, nominating members for the Priorities Committee who are not conflicted under the ACTBGA's definition of a Type 1 conflict is even more challenging as the CECG staff are responsible for preparing and submitting CGP grant applications on behalf of Catholic school applicants. Accordingly, requiring CECG to replace conflicted members does not appear to be practical.

As such, it appears the ACTBGA should further refine its definition of Type 1 conflicts to delineate between direct Type 1 conflicts (i.e. the Committee member is employed directly by an applicant school) and indirect Type 1 conflicts (i.e. the Committee member is employed by an applicant school's representative body). This would enable the ACTBGA to enhance its Conflict of Interest policy to require:

- Committee members who have a direct Type 1 conflict of interest to be temporarily replaced while the conflict exists; and
- Committee members who have an indirect Type 1 conflict of interest to declare and actively manage all matters which lead to their conflict of interest.

Such enhancements would significantly increase the robustness of the ACTBGA's conflict of interest management processes. Furthermore, it is noted that the Conflict of Interest policy currently states that members, Directors and Committee members do not need to declare their Type 1 conflicts at the start of meetings where an issue relevant to the conflict is due to be discussed. However, to ensure ongoing transparency, it would be better practice for the ACTBGA to ensure all conflicts of interest are identified at each Board meeting, Priorities Committee meeting and Finance Sub-committee meeting throughout the application assessment process to ensure conflicts of interest are appropriately managed. Furthermore, we note that the ACTBGA does not currently have a conflict of interest register and accordingly, its introduction may assist the ACTBGA to effectively manage any actual, potential or perceived conflicts of interest.

***The ACTBGA should strengthen its conflict of interest management process to require that the AISACT and CECG replace all Directors / Committee members who have a direct Type 1 conflict of interest with a project applying for CGP funding in that funding round, and all Directors / Committee members who have an indirect Type 1 conflict of interest with a project applying for CGP funding in that funding round declare and actively manage all matters which lead to their conflict of interest.***

***The ACTBGA should ensure all conflicts of interest are identified at each ACTBGA Board meeting, Priorities Committee meeting and Finance Sub-committee meeting to allow the ACTBGA to effectively manage all conflicts of interest in accordance with its Conflict of Interest policy. This may be supported by the introduction of a conflict of interest register which may be reviewed during each meeting.***

## 5.2 Selection and ranking of projects

*Assessments of schools are based on detailed applications and school visits. School visits are undertaken for all applications by two or three Priorities Committee members, the ACTBGA Executive Officer and usually the ACTBGA Board Chair.*

Schools prepare detailed applications which include:

- a project description;
- proposed funding arrangements;
- a response to the eligibility criteria;
- a response to the priority criteria (including relative educational need and SES score);
- an explanation of how the proposed project addresses the Objectives;
- enrolment details (including actual and projected total and overseas student enrolments);
- ownership or leasing details;
- maintenance policy and details;
- history and strategic planning;
- proposed project details (including drawings, budget and proposed project cost breakdown);
- general financial information (including audited financial statements and current year budget);
- proposed financing arrangements;
- income and expenditure projections (both recurrent and capital);
- loan projections;
- annual tuition fee projections;
- an assessment of the proposed project's impact on the school's financial position;
- contact details and declaration; and
- a submission checklist.

The ACTBGA process for assessing and recommending grants to the Minister commences with an initial review of school applications by members of the Priorities Committee. During the initial review, all members of the Priorities Committee will familiarise themselves with each application and all applications will be discussed at the initial Priorities Committee meeting for each funding round.

Each member of the Priorities Committee is assigned to attend two or three school visits. School visits are also typically attended by the ACTBGA Board Chair and the Executive Officer. The school visits consist of a tour of the existing school and proposed capital project site, and a meeting with key school personnel (e.g. Principal, Business Manager, Architect etc.). Subsequent to the school visit, visiting members will complete a School Visit Assessment form for discussion at the second Priorities Committee meeting for the funding round.

The School Visit Assessment form includes:

- details of the school visit (including the date and visiting ACTBGA representatives);
- financial estimates, including:
  - the total project cost;
  - the grant sought; and

- the local contribution (including a description of how the school intends to fund the local contribution);
- assessment of the school's:
  - eligibility;
  - financial and educational need;
  - enrolment trends;
  - capacity to manage the project;
  - strategic direction and master planning; and
  - maintenance policy;
- assessment of the project's:
  - alignment to CGP objectives;
  - solution relative to alternatives; and
  - consideration of the community, energy consumption, security and disability access.

The ACTBGA Executive Officer prepares the Consolidated Project Assessment form based on the information provided by the visiting Priorities Committee Members in the School Visit Assessment Forms. The Consolidated Project Assessment form comprises the responses of each visiting Priorities Committee member to questions regarding the school's eligibility, ranking, project and grant size, and alternative solutions.

Based on application forms and school visits, the Priorities Committee ranks applicant schools in order of educational disadvantage and the appropriateness of the cost, size and use of the proposed facilities.

*The assessment of schools' financial need is undertaken by the two members of the Finance Sub-committee. The Finance Sub-committee procedures do not specify how the proposed grant amount is calculated, and individual financial assessments are only documented at a high-level in the Finance Sub-committee report to the Priorities Committee.*

The Finance Sub-committee is comprised of two Priorities Committee members with financial backgrounds. The Finance Sub-committee undertakes the financial assessment of each schools' financial viability and capacity to fund the capital project.

As stated in the Finance Sub-committee procedures, the Finance Sub-committee is responsible for:

- assessing the financial capacity of schools to meet its financial obligations and maintain its financial and educational viability into the foreseeable future, including the proposed local contribution to the capital project which is the subject of the application;
- assessing whether the proposed local contribution as determined by the applicant school is the maximum contribution that the school can afford, both in cash and loans;
- providing advice and recommendations to the Priorities Committee on the financial capacity of applicant schools; and
- making recommendations to the Priorities Committee on the level of grant to be recommended to the Department for eligible projects in the funding round.

Furthermore, the Finance Sub-committee procedures outline the specific factors considered as part of the financial assessment. These factors include, but are not limited to, whether:

- the school's assets are greater than its liabilities and the school is in a position to pay its debts;
- the school is viable and is likely to remain financially solvent;
- the school will be able to, and will be able to, continue to receive Australian Government recurrent funding at the site of the proposed facilities for the foreseeable future;
- the school can maintain and support the proposed facilities after they have been completed; and
- the school has a financial need for the proposed grant, including whether the school has capacity to fund the capital project through other sources of funding (e.g. borrowings, cash reserves or supporting communities).

However no detail is provided in the Finance Sub-committee procedures in regards to how the grant amount is calculated. Individual financial assessments are only recorded at a high-level in the report which recommends grant amounts to the Priorities Committee Furthermore, no minutes are recorded for the Finance Sub-committee meetings.

***Minutes for the Finance Sub-committee meetings should be prepared, and the Finance Sub-committee should prepare and maintain on project file a detailed financial assessment for each application in order to substantiate the recommended grant amounts.***

*The CGP funding for ACTBGA member schools is not divided into separate funding pools for Catholic schools and Independent schools, as funding is allocated across all ACTBGA members based on the priority of need each funding round.*

For each funding round, the Priorities Committee ranks Catholic schools and Independent schools together in regards to educational disadvantage and the appropriateness of the cost, size and use of the proposed facilities. The ACTBGA does not pre-allocate certain amounts of CGP funding into separate funding pools for Catholic schools and Independent schools. As such, for each funding round, the amount of funding received by either CECG member schools or AISACT member schools varies.

*The Priorities Committee makes recommendations to the ACTBGA Board for funding allocations based on priority rankings of applications and the Finance Sub-committee's financial assessments.*

Based on the ACTBGA's Assessment Process guidance, the Priorities Committee ranks projects in order of priority of need. The basis for this priority ranking is based on:

- primarily, the relative educational disadvantage of the student population of the school; and
- secondarily, the appropriateness of the cost, size and use of the facilities to be funded, in relation to:
  - sound education planning;
  - the relative contributions of the projects to the Program's objectives;
  - the condition and suitability of existing facilities in relation to the level of facilities needed;
  - where relevant, the extent to which the projects effect economies through the shared provision of services; and
  - the extent to which schools are making adequate and regular provision for the upkeep of their facilities.

After applications are ranked, the grant amounts recommended by the Finance Sub-committee to the Priorities Committee will be allocated to the applications in order of priority. It is noted that if the Finance Sub-committee does not recommend any grant funding for an application, the Priorities Committee will not allocate any funding to the application. For example, in the 2018 funding round, the school which was ranked as the highest priority by the Priorities Committee did not receive any funding as the Finance Sub-committee determined the school was not able to meet its own contribution and accordingly recommended it should not receive funding.. Accordingly, the Finance Sub-committee has significant influence regarding whether an application receives CGP funding or not. As such, as recommended above, in order to maintain transparent records of decision-making, it is critical that the Finance Sub-committee's meetings are minuted and detailed financial assessments for each application are prepared.

### 5.3 Financial systems and practices for acquitting project funds

*ACTBGA appears to have adequate controls to prevent misappropriation of grant funds prior to disbursement to schools.*

The following process appears to be in place to release grant funds to schools:

- a school submits a Capital Grants Progressive Expenditure Statement ("CGPES");
- the ACTBGA Executive Officer confirms the CGPES complies with requirements and is supported by appropriate underlying invoices;
- the ACTBGA Executive Officer prepares a recipient created tax invoice for school payments;
- the ACTBGA Bookkeeper records the payments in the accounting system (which is reviewed and audited by Nexia Australia);

- the ACTBGA Executive Officer prepares school payments from the ACTBGA bank accounts. These payments are reviewed by the ACTBGA Bookkeeper who provides the second approval for the payments;
- the ACTBGA Board Chair approves all payments retrospectively on a quarterly basis.

Segregation of duties reduces the risk of fund misappropriation and multiple stages of review reduces the risk of input errors in payment information not being detected.

*At the time of the onsite testing, the ACTBGA paid grant funds to schools on a full reimbursement basis from the commencement of the project until all grant funding is disbursed (except for the lesser of the final 10% or \$20,000). Once all grant funding was disbursed, the school was required to fund the remainder of the project from its own contribution. This increases the risk the project may not be completed within agreed timeframes.*

Upon schools submitting a CGPES to the ACTBGA, the ACTBGA will fully reimburse schools for project expenditure i.e. schools are not required to expend any of their own contribution until after all grant funding (except for the lesser of the final 10% or \$20,000) is expended. The ACTBGA will retain the final grant payment until all completion documentation is provided by schools.

Assessment of schools' financial capacity to meet their own contributions to projects is conducted during the assessment process. The amount of time between that financial assessment and all grant funding being disbursed (except for the final payment) is significant (approximately 18 to 24 months). Accordingly, the school's financial position may change during that period and the school may no longer have sufficient funds to meet its contribution. As such, project timeframes may have to be extended in order for the school to accumulate sufficient funds to meet its contribution.

***The ACTBGA should pay grant funds to schools on a pro rata basis throughout the life of the project (e.g. if the grant is for 50% of the total project cost, 50% of the expenditure reported in the CGPES should be disbursed). This reduces the risk the project will not be successfully completed within timeframes. We were advised that the ACTBGA implemented this recommendation in November 2018.***

*Grant payments are made based on CGPESs and the ACTBGA obtains copies of all underlying invoices to substantiate grant payments. However, the ACTBGA does not require schools to submit CGPESs on a regular basis.*

CGPES outline the following:

- approved budgeted expenditure;
- total expenditure to the last PES; and
- expenditure since the last CGPES.

Expenditure is typically broken down into the following categories:

- construction costs;
- preliminaries and profit;
- design and management fees;
- contingency;
- statutory costs;
- furniture & equipment;
- landscaping;
- demolition;
- audit fees, plaque; and
- other costs.

The CGPESs also require the school to state the expected completion date, the anticipated opening date and the invitation to Minister date.

Schools are not required to submit CGPESs on a regular basis. Schools submit CGPESs at their convenience when they require funding. For example, for Project Number 2017/05623/1: St. Francis of Assisi Primary School, the project



commenced on 3 July 2017 and the school submitted its first PES in December 2017 for \$613,525. We were advised that, in order for the ACTBGA to remain informed regarding project expenditure, the ACTBGA maintains regular informal contact with schools receiving funding under the CGP. However, no formal reports are consistently provided by schools to the ACTBGA in regards to progressive project costs.

Furthermore, as schools are not required to provide CGPESs on a regular basis, once all CGP funding for a project is disbursed (except for the lesser of the final 10% or \$20,000), the ACTBGA does not receive any formal reporting in regards to project expenditure for a significant portion of the project (based on sampled projects, approximately 30% to 90% of expenses) until the submission of the final CGPES.

***The ACTBGA should require schools to submit CGPESs on a regular (e.g. quarterly) basis until project completion. This will ensure the ACTBGA consistently obtains formal reporting regarding each project's progressive expenditure.***

*Schools are required by the ACTBGA to submit Accountant's Certificates within three months of the final grant payment. Accountant's Certificates were not provided in a timely manner by a number of schools selected in our sample.*

The ACTBGA withholds a final payment of 10% of the grant amount or \$20,000 as an incentive to ensure that funding recipients submit the required closeout documentation (e.g. Final CGPES and Architect's Certificate), demonstrating that the funding recipient has completed the project and fully complied with the ACTBGA's CGP administration process.

As required by the ACTBGA's Participation Agreement, schools must provide an Accountant's Certificate within three months of project completion. For the following projects, this requirement has not been met as follows:

- Project Number 2015/77575/1: the project was completed in January 2016, however as at November 2018 the Accountant's Certificate for this project had not been provided, and \$73,399 remained unclaimed by the school (i.e. over twelve months after project completion); and
- Project Number 2016/02055/1: the project was completed in September 2016, however as at November 2018 the Accountant's Certificate for this project had not been provided, and \$20,000 remained unclaimed by the school (i.e. over twelve months after project completion).

The ACTBGA advised that turnover within the CECG organisation (responsible for the administration of Catholic projects) was the primary driver of the above delays and that it was working with the CECG to remedy this issue. Regardless of the cause, the Accountant's Certificate is required by the ACTBGA to fully acquit the above projects and accordingly, the above sampled projects remain active.

***The ACTBGA should ensure, in accordance with its Participation Agreement, schools are providing their completion documentation (including Accountant's Certificate) promptly to allow ACTBGA to acquit projects in a timely manner.***

## 5.4 Project monitoring

*The ACTBGA requests formal quarterly project status reports to be provided by funding recipients, however historically these have not always been consistently provided.*

The ACTBGA requests funding recipients to provide project status reports on a quarterly basis from the time of funding approval by the Minister to full acquittal of the project. The quarterly reports should be completed by the relevant funding recipient (e.g. the CECG prepares the quarterly status reports on behalf of all Catholic schools). The ACTBGA advised that the reporting requirements for Independent and Catholic recipient schools are the same.

Further to formal reporting, based on the sampled project files, schools will sometimes provide ad-hoc advice to the ACTBGA regarding project status. Furthermore, we were advised that the ACTBGA Executive Officer regularly engages with schools in regards to project status via telephone.

Based on review of the documentation on file for the sampled projects, during the period under review, there were instances where the CECG provided a batch status update for all Catholic school projects by email in the place of the pro forma quarterly reports. These batch status updates were found to be only a sentence or two in length. The ACTBGA advised that due to the CECG's recent staff turnover these batch quarterly updates had been accepted for a period. However it is noted that the most recent quarterly reports provided by the CECG (August and November 2018) were completed in the ACTBGA's quarterly progress status report template. Accordingly, it appears the formal quarterly project status reporting requirements have been clarified with the CECG.

***The ACTBGA should ensure that its formal reporting procedures continue to be adhered to and that funding recipients provide sufficient detail to adequately inform the ACTBGA.***

## 5.5 Records management

*The electronic and physical documents reviewed were in good order and readily accessible.*

The ACTBGA maintains detailed records, with documentation for each project kept on its individual file and in good order. The bulk of the records on file relate to the application, project commencement, payment and completion. Documents for each project are largely stored as hard copy files, with emails from schools being stored on the ACTBGA network server.

Documentation relating to the assessment and ranking of each project was located in the meeting minutes and not kept on the individual project file.

Whilst the majority of documentation reviewed was in good order, a number of documents were not in hard copy on project file, however were stored on the ACTBGA network server and were provided after the site visit.

*The ACTBGA does not maintain on file evidence from schools that all recognition requirements were met.*

The ACTBGA notifies the school of the recognition requirements as the project nears completion. However, the ACTBGA does not currently actively obtain photographs of plaques. We were advised that the ACTBGA Executive Officer attends all opening ceremonies and sights all plaques. It would be better practice for the ACTBGA to obtain and maintain on project file evidence of all recognition requirements being met.

***The ACTBGA should maintain photographs of plaques on file to ensure schools comply with all recognition requirements.***

## 6 Conclusion

In light of the above findings, we have made the following recommendations for the ACTBGA and the Department to consider:

- The ACTBGA should strengthen its conflict of interest management process to require that the AISACT and CECG replace all Directors / Committee members who have a direct Type 1 conflict of interest with a project applying for CGP funding in that funding round, and all Directors / Committee members who have an indirect Type 1 conflict of interest with a project applying for CGP funding in that funding round declare and actively manage all matters which lead to their conflict of interest.
- The ACTBGA should ensure all conflicts of interest are identified at each ACTBGA Board meeting, Priorities Committee meeting and Finance Sub-committee meeting to allow the ACTBGA to effectively manage all conflicts of interest in accordance with its Conflict of Interest policy. This may be supported by the introduction of a conflict of interest register which may be reviewed during each meeting.
- Minutes for the Finance Sub-committee meetings should be prepared, and the Finance Sub-committee should prepare and maintain on project file a detailed financial assessment for each application in order to substantiate the recommended grant amounts.
- The ACTBGA should pay grant funds to schools on a pro rata basis throughout the life of the project (e.g. if the grant is for 50% of the total project cost, 50% of the expenditure reported in the CGPES should be disbursed). This reduces the risk the project will not be successfully completed within timeframes. We were advised that the ACTBGA implemented this recommendation in November 2018.
- The ACTBGA should require schools to submit CGPESs on a regular (e.g. quarterly) basis until project completion. This will ensure the ACTBGA consistently obtains formal reporting regarding each project's progressive expenditure.
- The ACTBGA should ensure, in accordance with its Participation Agreement, schools are providing their completion documentation (including Accountant's Certificate) promptly to allow ACTBGA to acquit projects in a timely manner.
- The ACTBGA should ensure that its formal reporting procedures continue to be adhered to and that funding recipients provide sufficient detail to adequately inform the ACTBGA.
- The ACTBGA should maintain photographs of plaques on file to ensure schools comply with all recognition requirements.