



GOVERNMENT OF
WESTERN AUSTRALIA

Department of
Justice

Policy Concerning Payments Out of the Confiscation Proceeds Account under the *Criminal Property Confiscation Act 2000* Grants Program

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1 Background

The *Criminal Property Confiscation Act 2000* (the Act) provides for the confiscation in certain circumstances of property acquired as a result of criminal activity and property used for criminal activity. The primary intention of the Act is to deprive people of wealth that has been unlawfully acquired.

Under the Act proceeds from confiscated property are paid into the Confiscation Proceeds Account. The Act provides the Attorney General with discretion to direct that money be paid out of this account as reimbursements or otherwise for a number of purposes including law enforcement and the provision of services that address the impact and damage done by the illegal activities from which the monies have been confiscated.

1.1 The Confiscation Proceeds Account

Section 130 of the Act establishes a Trust Fund known as the Confiscation Proceeds Account. The section provides that:

- “(1) An agency special purpose account called the Confiscation Proceeds Account is established under section 16 of the Financial Management Act 2006.
- (2) The provisions of the Financial Management Act 2006 and the Auditor General Act 2006 regulating the financial administration, audit and reporting of departments apply to the Confiscation proceeds Account.
- (3) For the purposes of section 52 of the Financial Management Act 2006, the administration of the Confiscation Proceeds Account is to be regarded as a service of the department principally assisting the Minister in the administration of this Act”.

1.2 Payment Out of the Confiscation Proceeds Account

The purposes for which monies may be paid out of the Confiscation Proceeds Account are set out in section 131 (2) of the Act as below:

“Money may be paid out of the Confiscation Proceeds Account at the direction of the Attorney General, as reimbursement or otherwise...

- (a) for a purpose associated with the administration of this Act;
- (b) for the development and administration of programs or activities designed to prevent or reduce drug-related criminal activity and the abuse of prohibited drugs;
- (c) to provide support services and other assistance to victims of crime;
- (d) to carry out operations authorised by the Commissioner of Police for the purpose of identifying or locating persons involved in the commission of a confiscation offence;
- (e) to carry out operations authorised by the Commissioner of Police for the purpose of identifying or locating confiscable property;
- (f) to cover any costs of storing, seizing or managing frozen or confiscated property that are incurred by the Police Force, the DPP or a person appointed under this Act to manage the property; and
- (g) for any other purposes in aid of law enforcement.

1.3 Payment Out of the Confiscation Proceeds Account

The Criminal Property Confiscation Grants Program (CPCGP) has been established to direct funds obtained by illegal means to assist with the State-wide development of programs and strategies to aid law enforcement and the provision of services that address the impact and damage done by the illegal activities from which the monies have been confiscated.

Under section 131 (2) of the Act, money may be paid out of the Confiscation Proceeds Account for the purpose of the CPCGP specifically for:

- the development and administration of programs and activities designed to prevent or reduce drug-related criminal activity and the abuse of prohibited drugs;
- to provide support services and other assistance to victims of crime; and
- for any other purpose in aid of law enforcement.

2 Scope of Policy

The Policy Concerning Payments Out of the Confiscation Proceeds Account Under the Criminal Property Confiscation Act 2000 Grants Program (the Policy) covers matters relating to payments from the Confiscation Proceeds Account under the *Criminal Property Confiscation Act 2000* Grants Program and provides guidance for the effective management of the application of these funds and overall governance of the program.

3 Definitions

For the purposes of the Policy, the following definitions apply:

Term	Definition
Collaboration	Two or more parties working together to create or achieve the same or similar outcomes
<i>Criminal Property Confiscation Act 2000</i>	This Act gives the police and the Director of Public Prosecutions power to seek orders freezing or confiscating property if there are reasonable grounds for suspecting the property is related to a crime or owned or controlled by a declared drug trafficker.
Department	Department of Justice
Grant Recipient	The organisation that is awarded a grant and is the signatory on the Grant Agreement
Incorporated not-for-profit organisation	An organisation which is not operated for profit or for the individual gain of its members or promoters, and is incorporated, or taken to be, under the relevant state or territory legislation for incorporated associations; or otherwise registered with the Office of the Registrar of Indigenous Corporations pursuant to the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cth); or otherwise registered as a charity under the <i>Australian Charities and Not-for-profits Commission Act 2012</i> (Cth).
Local Government	One of Australia's three spheres of government (Commonwealth, State, Local). Also referred to as elected Councils, Shires, Local Councils or Local Government Authorities (LGAs)

4 Program Objectives and Key Principles

The objectives of the CPCGP is to allocate funding to support projects and new initiatives that:

- Implement services and strategies that aim to achieve widespread benefits in the areas of crime prevention, victim support and reducing the abuse of prohibited drugs
- Increase public awareness and the capacity for communities to address issues related to law enforcement, victim support and the abuse of prohibited drugs.

The following principles underpin the CPCGP's decision making, management and policy requirements:

- **Targeting** – developing responses based on data about the volume, impact, extent and location of crime in the community
- **Evidence based response** – research about what works, what doesn't work and what shows promise will guide decisions on how to allocate resources for the prevention or reduction of drug related criminal activity, aiding law enforcement, and the provision of support services or other assistance to victims of crime
- **A focus on outcomes** – performance measures will need to set clear targets for achievable outcomes
- **Proportionality and achieving value with relevant funds** – effective, efficient, economical and ethical use of funds proportional to the project and appropriate risk management strategies
- **Governance and accountability** – adequate and well-documented ability to meet contractual obligations
- **Probity and transparency** – application of ethical behaviour including conflicts of interest (actual, perceived or potential) and being open to scrutiny in the life cycle of the grant
- **Shared responsibility and collaborative approaches** – community safety, preventing the use of prohibited drugs, law enforcement, and victim support are the responsibility of all sectors of the community.

5 Criminal Property Confiscation Grants Program

The CPCGP is an application based and competitive funding program providing funds to eligible organisations for projects that align with CPCGP objectives and which successfully meet a range of assessment criteria. Grant funding is non-recurrent and is available for projects to run for a minimum of 12 months to a maximum of two years duration. A grant up to a maximum of \$200,000 per project is available.

Funding from the Confiscation Proceeds Account under the CPCGP will only be made where the application for funding complies with the provisions of section 131 (2) of the Act and current Government policy.

5.1 Eligibility

The following organisations are eligible to apply for funding under the CPCGP:

- Incorporated not-for-profit organisations
- Local Governments Authorities

For the purposes of the CPCGP, a not-for-profit organisation is an organisation which is not operated for profit or for the individual gain of its members or promoters.

To be eligible for funding, applicant organisations will need to contribute at least 50 per cent of the effort of the project. The contribution can consist of both cash and in-kind services, however, in-kind services are not to exceed 50 per cent of the contribution. Cash contributions can include grant funding from other sources.

Proposed projects must be delivered in Western Australia, be of benefit to the Western Australian community or address an issue in Western Australia.

5.2 What CPCGP Funding may be used for

Funds must only be used to cover costs directly related to the proposed project which may include:

- Personnel (eg employment of staff)
- Administration
- Venue and equipment hire (not owned or occupied by applicant)
- Operational (eg telephone, postage)
- Transport/travel (eg participant bus transport, fuel)
- Marketing/communication (eg advertising, printing)
- Consumables (eg food and drink)
- Evaluation.

Any proposal to purchase items deemed relevant and essential in the delivery of the project with the sum total of \$5,000 or over, must be detailed in the grant application and will be subject to the approval of the Confiscation Proceeds Accounts Committee (the Committee).

No approval will be given after the commencement of the project. The proposed purchase should be discussed with the Grants Team at the application stage to determine if quotes are required.

The Committee will determine disposal action for these items at the time of the approval of the project. If the Grant Recipient winds up or no longer requires the items purchased through this grant, these items shall be disposed of at the discretion of the Department.

5.3 Ineligible Organisation

The following organisations are ineligible to apply for funding under the CPCGP:

- State or Federal Government agencies (other than the Western Australia Police Force and the Office of the Director of Public Prosecutions as described in section 131 (2) of the Act);
- Non-incorporated bodies;
- Individuals;
- Commercial for profit organisations;
- Organisations which have not fulfilled or satisfactorily fulfilled previous grant requirements (such as acquittal and evaluation reports); and

- Organisations or projects which have been defunded by State/Territory or Australian Government agencies for performance and/or integrity reasons.

5.4 Ineligible Projects

Projects that are not eligible for funding include those that:

- do not demonstrate they are consistent with CPCGP principles and objectives
- do not meet the assessment criteria
- do not reflect evidence-based practice
- are not undertaken in Western Australia
- duplicate a current State or Australian Government funded program
- are in-prison programs or programs where the target group is under the supervision of the Department
- are primarily focussed on research, forums, seminars or information expo events
- do not benefit the Western Australian community or address an issue in Western Australia; or
- do not comply with current Government policy.

5.5 Items Ineligible for Funding Consideration

CPCGP funds will not be provided for the following purposes:

- an organisation's recurrent operating costs
- retrospective or deficit funding (ie payment of expenses incurred by an organisation prior to the execution of the Grant Agreement, or meeting existing debts)
- projects that have already commenced under other funding arrangements or programs. However, funding will be considered for a new direction or enhancement of an existing project, or to ensure a project's continued viability where it can be demonstrated that recurrent funding will be available in the longer term
- large scale capital equipment and capital works
- Closed Circuit Television (CCTV), fencing or lighting
- motor vehicles
- furniture, mobile telephones, audio-visual, office and IT equipment (including laptops)
- any development costs associated with an application (eg the cost of a survey, consultations, workshops or forums to establish the need for a project)
- research or research projects, forums, seminars or consultation
- travel to conferences, fund raising or sponsorship
- individual scholarships
- projects that provide personal protection for specific individuals
- projects that duplicate existing programs in the same community which are accessible to and adequate for the target group.

5.6 Priorities for Funding

When inviting applications for funding from the Confiscation Proceeds Account, the Attorney General may decide to give priority to certain areas of need. In such circumstances, the priority area will be advised publicly when applications open.

Notwithstanding this discretion, priority needs must fall within the purposes stated in section 131(2) of the Act.

5.7 Assessment of Applications for Funding

Each eligible application will be assessed against the following criteria:

- alignment with CPCGP principles and objectives
- project justification (ie a clearly demonstrated need for the proposed project)
- a clearly identified target group or groups (ie who in the community will benefit from the proposed project)
- a detailed description on how the project will deliver tangible and measurable outcomes
- clear and achievable intended outcomes (ie what change is expected as a result of the grant)
- a well-designed planned approach (ie a project plan detailing key activities, milestones, identification of risks and strategies to address these risks)
- evidence of prior consultation and on-going collaboration / partnerships with relevant stakeholders including service providers
- demonstrated community / key stakeholder agreement, support, appropriate and ongoing involvement in the proposed project
- demonstrated evidence of due diligence and duty of care for the target group and staff in the proposed project (ie Working with Children and criminal checks, appropriate and relevant training of proposed staff or volunteers, current insurances)
- the proposed project does not provide a service currently available to the target group(s)
- value for money (ie best outcome for every dollar spent and extent of benefit to the community)
- defensible budget for the proposed project (ie salaries and administrative items shall be determined on the basis of current costs and in accordance with relevant industrial awards or agreements)
- projects with the greatest potential for positive, long-term outcomes (ie flow-on benefits)
- sustainability (ie identified means by which the proposed project can be sustained after the funding period ceases).

Additionally, all applicant organisations will be required to demonstrate:

- capacity to manage and carry out the proposed project
- financial viability (ie the funding amount requested will be considered against the applicant's financial capacity and annual income). The grant must not constitute the bulk or entire financial base of the applicant organisation.

6 Confiscation Proceeds Accounts Committee

For transparency, accountability and probity reasons, the Policy requires an interdepartmental committee to assist in the assessment of applications and provide advice to the Attorney General via the Department.

6.1 Committee Membership

Membership of the Committee will include representatives from the following agencies:

- Department of Justice (Chair) – appointed by the Director General
- Western Australia Police Force
- Office of the Director of Public Prosecutions
- Drug, Alcohol and Prevention Services Division (Mental Health Commission)
- Office of the Commissioner for Victims of Crime (Department of Justice)
- Aboriginal Justice Program (Department of Justice).

6.2 Committee's Role and Responsibilities

The role of the Committee is to assess each application against a set of criteria within the framework of the CPCGP principles and objectives and provide a recommendation to the Attorney General regarding each application's suitability for funding under the CPCGP.

All Committee members will be provided access to the full set of applications and accompanying supporting documents submitted for consideration in the advertised funding round.

Committee members will be required to declare a conflict of interest (refer to Item 7) to the Committee Chair in accordance with grant procedures so that it can be appropriately managed. Any Committee member with a declared conflict of interest will be excluded from the assessment process of the application(s) in the declaration.

7 Conflict of Interest

A conflict of interest occurs when an individual or organisation becomes (or can become) unreliable because of a clash between personal (or self-serving) interests and professional duties or responsibilities. Conflicts of interest may be actual, perceived to exist, or potentially exist at some time in the future.

7.1 Duty of Applicant

A real or perceived conflict of interest can arise if an individual (or their family members) associated with the application receives a benefit from the project. Where the Department establishes, from information provided by the organisation or from other information available to it, that a conflict exists, this may be grounds for excluding a project from consideration. Applicants are required to:

- declare any real, perceived or potential conflict of interest at the time of application
- declare any real, perceived or potential conflict of interest that arises at any time during the term of the funding period.

7.2 Duty of Any Person Assessing Applications

A conflict of interest is a situation arising between the performance of an individual's public duty or role on the Committee and any private or personal interests that may conflict with the work on the Committee.

Any person assessing applications will be required to declare any real, perceived or potential conflict of interest if one exists and will be excluded from the assessment process of the application in the declaration.

8 Application and Assessment Process

A funding round can only be opened, subject to the availability of unallocated funds in the Confiscation Proceeds Account, with the approval of the Attorney General. The amount of funds available for allocation in each funding round is also at the Attorney General's discretion.

8.1 Call for Applications

The Department will place four advertisements over two consecutive weeks in *The West Australian* inviting applications for funding of projects under the CPCGP.

The Department will also call for applications on its website. Guidelines to assist applicants in completing their applications and other relevant information will be available on the website.

The call for applications may also be advertised via other communication channels considered appropriate when the funding round is opened.

8.2 Community Information Sessions

Community information sessions to assist potential applicants in the application process will be held when a funding round is opened. These sessions will be advertised as part of the call for applications and will be delivered in person or online in the metropolitan area or online to regional Western Australia.

8.3 Closing Date for Applications

The closing date for applications will be eight weeks from the date of the first advertisement. The closing date and time will be advertised at the same time as the call for applications. Applications and supporting documentation must be received by the Department no later than the advertised closing time and date as requests for extensions will not be granted. Late applications are ineligible for funding consideration.

Grant applicants will receive an electronic acknowledgement of the receipt of their application.

8.4 Assessment of Applications and Independent Review

All grant applications will be subject to two separate assessments against the assessment criteria at Item 5.7. The first assessment, which will be conducted by the Grants Team will also include a comprehensive background screening of each applicant organisation, examining proposed project budgets and conducting checks with other funding bodies, stakeholders and nominated referees where required. The Grants Team will provide a comprehensive report (including recommendations) to the Committee no later than three weeks prior to the Committee meeting.

A separate and final assessment of all grant applications will be conducted independently by the Committee. The Committee's recommendations will be provided to the Attorney General via the Department. Final approval of the Committee's recommendations will be made by the Attorney General.

8.5 Release of Outcomes

Subject to unforeseen events and at the discretion of the Attorney General, the outcomes of a funding round will be announced between 16 to 18 weeks from the closing date of the funding round.

Approved Grant Recipients will receive an offer of a grant (via letter) from the Attorney General including approved funding level, any conditions attached to the offer and contact details of the Department's CPCGP Grants Administrator.

Details of approved projects will be posted on the Department's website.

The Department will write to each applicant who was unsuccessful in securing a grant.

8.6 Feedback on unsuccessful applications

Applicants who were unsuccessful in securing a grant should first contact the CPCGP Grants Administrator on confiscation.grants.program@justice.wa.gov.au to request feedback. This will facilitate the arrangement of a mutually convenient time to provide the feedback and answer any questions that the applicant may wish to raise.

8.7 Offer of a Grant and Grant Agreement

Funding of approved grant applications are subject to acceptance and the fulfilling of conditions attached to the grant offer.

An offer of a grant shall be valid for 12 months from the date of offer to enable the approved Grant Recipient to meet any conditions attached to the offer. This offer will be rescinded after 12 months from the date of offer if the Grant Recipient is not able to fulfil the conditions by this time. The CPCGP Grants Administrator will provide guidance to the approved Grant Recipient on meeting these conditions.

The Department will enter into a Grant Agreement with the approved Grant Recipient once all the conditions attached to the grant offer are met. Grant Recipients will be required to formally acknowledge (through the Grant Agreement) that they understand that the CPCGP does not provide recurrent funding and that they agree not to re-apply or lobby for recurrent funding for the project from the CPCGP.

The Department will use the grant agreement template provided by the Western Australian Government's Department of Finance. The approved Grant Recipient will affix their organisation's common seal to the Grant Agreement unless it is not required in the organisation's Constitution or Rule Book.

9 Mandatory Organisation Requirement

9.1 Working with Children Checks and Pre-employment Clearances

The Grant Recipient must ensure its governance processes result in all employees having appropriate clearances such as criminal screening and working with children checks.

10 Reporting and Contractual Obligations

The purpose for which the grant has been awarded, project outcomes, performance measures, proposed activities, reporting and payment schedules will be clearly articulated in the Schedules attached to the Grant Agreement.

10.1 Progress Reporting

The Grant Recipient will ensure that the funds awarded under this grant will only be used for the purposes detailed in the Grant Agreement. Any proposed changes relating to the delivery of the project or provisions in the Grant Agreement should first be discussed with the CPCGP Grants Administrator who will advise on procedural protocol to determine if a variation is allowed. However, the purpose for which the grant has been awarded is non-negotiable.

The Grant Recipient will provide financial and project progress reports to the CPCGP Grants Administrator at stipulated intervals detailed in the Schedules (usually every six months for a 24 month project, more frequently for a shorter term project) throughout the term of the Grant Agreement. The Grant Recipient will be required to provide qualitative and quantitative data on activities undertaken and progress towards achieving proposed project outcomes.

Financial progress reports should be certified by the applicant's Head of Organisation such as Chairperson, Chief Executive Officer or equivalent.

10.2 Final and Acquittal Reports

The Grant Recipient will provide a final report to the CPCGP Grants Administrator within three months of the completion of the project. The final report will comprise:

- a report on the extent of outcomes achieved against the performance measures stipulated in the Grant Agreement
- a final audited financial report and auditor's certification (where the value of the grant is \$50,000 GST inclusive or more) of CPCGP funds received and expended
- an evaluation report on the project
- any other matters as may be specified in the Grant Agreement.

10.3 Acknowledgement of CPCGP funds

The Grant Recipient will provide formal public acknowledgement of the Western Australian Government and the CPCGP on its website including in instances where there are written or verbal references to the funded project.

Any material produced which involved the use of CPCGP funds must also be acknowledged.

The Grant Administrator will provide the appropriate logo to the Grant Recipient, with its use subject to the prior approval of the Department.

10.4 Sale of Material and Intellectual Property

Any materials produced with CPCGP funds shall remain the property of the Department, or nominated delegate and shall not be offered for sale. Any arrangements relating to these matters or intellectual property will be determined at the time of the approval of the CPCGP application.

11 Financial Provisions

11.1 Progressive Grant Payments

Grant payments will be made in instalments and in accordance with a payment schedule stipulated in the Grant Agreement. However, payment will only be made upon the presentation of an invoice and is subject to the Department receiving timely and satisfactory reports by the due dates as required in the Grant Agreement.

Written approval for payment to proceed must be provided by the delegated authority in the Department in accordance with current Departmental policy and upon confirmation by the Grants Administrator that the Grant Recipient has met all current contractual obligations.

11.2 Penultimate and Final Grant Payments

To facilitate compliance in the acquittal of CPCGP grants, the following will apply:

- Ten per cent of the total CPCGP grant awarded to a **Local Government** will be payable only upon satisfactory acquittal of the grant.
- Ten per cent of the last CPCGP grant instalment of the total grant awarded to an **incorporated not-for-profit organisation** will be payable only upon satisfactory acquittal of the grant. In this instance, the penultimate payment will comprise 90 per cent of that instalment.

To be eligible for the full amount of the final payment, the Grant Recipient will need to demonstrate that the full amount of the awarded CPCGP grant has been expended on the project (ie the balance in the final financial report should show a deficit).

12 Default and Termination of the Grant

12.1 Event of Default by the Grant Recipient

An Event of Default occurs if the:

- Grant Recipient breaches any of its obligations under the Grant Agreement which continues without remedy for the (10) business days after notice in writing has been served on the Grant Recipient by the Department
- Grant Recipient becomes insolvent or is deemed to be insolvent under the *Corporations Act 2001 (Cth)*
- Department is made aware of an existing conflict of interest that was not declared during the application stage; or
- Department has reasonable grounds to believe that the Grant Recipient is unwilling or unable to comply with its obligations under the Grant Agreement.

12.2 Effect of Event of Default

If an Event of Default occurs, the Department may either:

- terminate the Grant Agreement by providing a further ten business days notice in writing to the Grant Recipient of the Event of Default; or
- suspend payment of the Grant amount until the Event of Default is remedied.

12.3 Recommencement of Grant Payment

The Department may, in its absolute discretion, recommence payment of the Grant amount if and when the Grant Recipient has rectified the Event of Default.

12.4 Termination of the Grant

If the Grant Agreement is terminated or otherwise ends, the following will apply:

- the Grant Recipient will submit a final financial report (externally audited and certified if deemed required) to the Department within eight weeks of the Grant Agreement being terminated
- any funds which have not been advanced by the Department to the Grant Recipient will not be payable
- the Grant Recipient must return any unspent funds to the Department within eight weeks of the Grant Agreement being terminated
- the Grant Recipient must immediately reimburse the Department for any funds that were used (or not used) contrary to the Grant Agreement.

If the Grant Recipient resolves not to proceed with the project or the approved purpose of the Grant, or if the Organisation is wound up, cancelled, dissolved or for any reason ceases to exist, the Grant Recipient must:

- return all unspent funds to the Department within two weeks
- provide to the Department, a list of all assets and capital items purchased with funds from the CPCGP. The Department reserves the right to relocate, retain or otherwise dispose of these assets and equipment as it sees fit.

13 Criminal Property Confiscation Grants Program Flowchart

The CPCGP process is illustrated in the attached flowchart on the following page.

Criminal Property Confiscation Grants Program Flowchart

