



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

EFFECTIVE DATE: 9 MARCH 2018

BACKGROUND

1. 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.
2. 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.

PURPOSE

3. 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.
4. 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 of 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 person appointed under this Act to manage the property; and,
 - g. For any other purpose in aid of law enforcement.
5. Monies will **not be provided** for the following purposes:
- an organisation’s recurrent running costs;
 - retrospective or deficit funding (i.e. payment of expenses incurred by an organisation prior to grant funds being approved, 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;
 - motor vehicles;
 - any development costs associated with an application e.g. the cost of a survey to establish the need for a project;
 - travel to conferences, fund raising or sponsorship;
 - individual scholarships;
 - projects that provide personal protection for specific individuals; and
 - projects that duplicate existing programs in the same community which are accessible to and adequate for the target group.

THE CONFISCATION PROCEEDS ACCOUNT

6. 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”.

PAYMENT OUT OF THE CONFISCATION PROCEEDS ACCOUNT

7. Section 131(2) of the Act provides that payments out of the Confiscation Proceeds Account may be made at the direction of the Attorney General. The Act states: *“Money may be paid out of the Confiscation Proceeds Account at the direction of the Attorney General, as reimbursement or otherwise...”*

PROGRAM OBJECTIVES AND KEY PRINCIPLES

8. 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 Program’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 results* – performance measures will need to set clear targets for improvement; and
- *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.

The CPCGP provides non-recurrent funding for one-off, time limited projects targeted at the prevention or reduction of drug related criminal activity and the abuse of prohibited drugs, aiding law enforcement, and the provision of support services or other assistance to victims of crime.

FUNDING PERIOD AND GRANTS

9. Grant funding is non-recurrent and is available for projects to run for a maximum of two years duration. A grant up to a maximum of \$200,000 per project is available.

ELIGIBILITY

10. To be eligible for funding, applicant organisations will need to contribute at least 50% 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% of the contribution. Cash contributions can include grant funding from other sources.

11. This policy provides for the following organisations to be considered eligible to apply for funding under the CPCGP:
 - a. Incorporated not-for-profit organisations;
 - b. Local governments.

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

12. This policy provides for the following organisations to be considered **ineligible** to apply for funding under the *Confiscation of Criminal Property Act 2000* Grants Program:
 - a. State or Federal Government agencies (other than WAPOL and DPP as described in section 132 of the Act);
 - b. Non-incorporated bodies;
 - c. Individuals;
 - d. Commercial for profit organisations; and
 - e. Organisations which have not fulfilled previous grant requirements including acquittal reports and evaluations, or organisations or projects previously defunded by State/Territory or Australian Government agencies for performance and/or integrity reasons.

PROJECTS NOT ELIGIBLE FOR FUNDING

13. Projects that are **not** eligible for funding include those that:
 - do not demonstrate they are consistent with the Program's principles and objectives;
 - do not meet the selection criteria;
 - do not reflect evidence-based practice; or
 - do not comply with current Government policy.

DETERMINATION OF APPLICATIONS FOR FUNDING

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

SELECTION CRITERIA TO BE APPLIED TO THE ASSESSMENT AND RECOMMENDATION OF GRANT APPLICATIONS

15. In deciding whether to direct a grant be made from the Account, the Attorney General will have regard to the following criteria:
 - a. a clearly demonstrated need for the proposed project;
 - b. a detailed description on how the project will deliver tangible, measurable benefits;
 - c. a project plan detailing key activities and milestones;
 - d. projects with the greatest potential for positive, long-term outcomes;
 - e. the organisational and financial capacity of the applicant organisation to manage and carry out projects with a minimum funding level of \$150,000;

- f. demonstrate community/key stakeholder agreement, support and appropriate involvement in the project;
- g. identified means by which the proposed project can be sustained after the funding period ceases; and
- h. the proposed project does not provide a service currently available through a Government agency.

PRIORITIES FOR FUNDING

- 16. 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.

CONFISCATION PROCEEDS ACCOUNT COMMITTEE

- 17. An interdepartmental committee will be established and known as the “*Confiscation Proceeds Account Committee*”.
- 18. Membership of the Committee will include representatives from:
 - a. Department of Justice (Chair) – appointed by the Director General;
 - b. Western Australia Police Force;
 - c. Office of the Director of Public Prosecutions;
 - d. Drug, Alcohol and Prevention Services Division (Mental Health Commission); and
 - e. Victim Support Service (Department of Justice).
- 19. The Committee will advise the Director General of the Department of Justice of the eligibility and merits of applications lodged in compliance with the Act and this policy.

CONFLICTS OF INTEREST

- 20. Any conflict of interest arising from the applicant’s proposal must be indicated. A real or perceived conflict of interest can arise if an individual (or their family members) associated with the application receives a direct benefit from the project.
- 21. 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.
- 22. Any person assessing applications will be required to declare a conflict of interest in accordance with grant procedures if one exists so that it can be appropriately managed.
- 23. A conflict of interest is a situation arising between the performance of an individual’s public duty or role on the assessment committee and any private or personal interests that may conflict with the work on the committee.

APPLICATIONS FOR FUNDING

24. The Department will place an advertisement in the State's daily newspaper, and the Department's website inviting applications for funding of projects from the Confiscation Proceeds Account. The closing date for applications will be eight weeks from the date of the advertisement.
25. To be eligible for consideration for funding, applications must conform to the requirements outlined in the application form and guidelines. Applications and relevant accompanying documents will need to be lodged prior to the advertised closing time and date.
26. Monies will be released for community grants purposes at the discretion of the Attorney General on the recommendation of the Director General, Department of Justice.

TERMS AND CONDITIONS OF FUNDING

27. The following provisions apply where the Attorney General has directed that a grant of funding be made from the Confiscation Proceeds Account for the purposes outlined in the Act.
28. **Offer of a Grant** – An offer of a grant shall be valid for 12 months from the date of offer to enable the project principal to meet any conditions attached to the offer. This offer will be rescinded after 12 months from the date of offer if the project principal is not able to fulfil the conditions by this time.
29. **Payment of Grants** - Grant payments shall be made in accordance with a payment schedule agreed between the project principal and a Grants Administrator (within the Department of Justice) at the commencement of the project.
30. **Salaries and Administration** - Budgets for salaries and administration items shall be determined on the basis of current costs and in accordance with relevant industrial awards or agreements, where they exist. Budgets for administrative expenditure must be itemised.
31. **Reports** –
 - a. Financial and status reports on project progress will be required to be submitted to the Grants Administrator every six months or at more frequent intervals if specified in the terms and conditions of the grant.
 - b. A final report will be required to be submitted to the Grants Administrator within three months of the completion of the project. This report shall include:
 - a report, against the indicators of success, of the extent to which the outcomes of the project have been achieved;
 - a final audited financial report;
 - an evaluation report on the project; and
 - such other matters as may be specified in the conditions of the grant.
32. **Revenue** - All income arising from the conduct of the grant-funded project must be identified and applied to the project unless otherwise agreed between the project principal and the *Confiscation Proceeds Account Committee* at the time of the initial approval of the grant.

33. **Assets** - Any proposal to purchase capital items such as computers, photocopiers etc **over the value of \$5,000** must be stated in the grant application and will be subject to the approval of the *Confiscation Proceeds Account Committee* at the time of the approval of the project. A minimum of two quotes must be obtained and submitted by the applicant. No approval of such equipment will be given after the commencement of the project. The Committee will determine disposal action for capital items at the time of the approval of the project.

If the agency receiving the grant winds up or no longer requires the capital items, all equipment purchased through the grant shall be disposed of at the discretion of the Grants Administrator.

34. Funding of approved grant applications will be subject to acceptance of conditions specified in a Grant Agreement. The Agreement will be used to assess the extent to which stated outcomes are achieved.

TERMINATION OF THE GRANT

35. A grant may be terminated by the Attorney General if in the opinion of the Confiscation Proceeds Account Committee:
- a. The project is not being carried out with competence or proper diligence; or
 - b. The project is not being carried out in accordance with the contract; or
 - c. The grantee fails to provide information concerning administrative or financial aspects of the project in response to a reasonable request or fails to submit timely progress/status reports (as required in 31 above).

SALE OF MATERIALS AND INTELLECTUAL PROPERTY

36. Any materials produced with funds provided under these grant arrangements, shall remain the property of the Director General, Department of Justice, or nominated delegate and shall not be offered for sale without the written approval of the Director General's nominated delegate. All arrangements relating to these matters will be determined at the time of the approval of the grant application.

ACKNOWLEDGEMENT

37. The grantee shall ensure that all materials produced which involved the use of grant funds, display due acknowledgement of the Western Australian Government and the Criminal Property Confiscation Grants Program. The grantee shall acknowledge the funding source in any formal public statement or printed material.

KEY PERFORMANCE MEASURES

38. The following performance indicators will be applied to measure the effectiveness of the Criminal Property Confiscation Grants Program:
- a. Percentage of completed projects (by the end of the funding agreement) meeting agreed outcomes; and
 - b. Percentage of projects completed no later than three (3) months of agreed time frame.

The monitoring of these measures will be considered by the Confiscation Proceeds Accounts Committee and reported to the Attorney General via the Director General on an annual basis.

REVIEW AND APPROVAL OF POLICY AND RELATED DOCUMENTS

- a. A review of the policy framework concerning payments from the Confiscation Proceeds Account under the *Criminal Property Confiscation Act 2000* Grants Program and related documents will be conducted every two (2) years.
- b. The outcomes and recommendations of the review will be submitted to the Director General for consideration and recommendation to the Attorney General for approval. Once approved, these documents will be recorded in the Department's corporate policy register.