



29 April 2015

**Jon Altman BA MA (Hons)
(Auckland) PhD (ANU), FASSA,
HFRSNZ**
Emeritus Professor

Lyn Beverley
Committee Secretary
Senate Finance and Public Administration Committee
PO Box 610
Parliament House
Canberra ACT 2600

**Regulatory Institutions Network
(RegNet)**

By email: fpa.sen@aph.gov.au

Building 8
Acton ACT 2601 Australia

Dear Committee Secretary

Inquiry into Commonwealth Indigenous Advancement Strategy tendering processes

Thank you for the invited opportunity to make a submission to this important inquiry.

By way of background, while currently with RegNet at the Australian National University (ANU) a research centre that has a keen interest in the propriety of legal and administrative practices globally, for a long time I was associated with the Centre for Aboriginal Economic Policy Research (also at the ANU) being its foundation director 1990–2010, continuing there until the end of 2014.

To be entirely transparent, I want to make the following disclosures at the outset.

First, I am a trustee of the Jimmy Little Foundation and Karrkad-Kanjdi Trust; and a director of Jimmy Little Thumbs Up and Karrkad-Kanjdi Limited. Both organisations made unsuccessful applications for Indigenous Advancement Strategy grant funding in the 2014 round announced belatedly in March 2015. So I have had opportunity to engage with both the grant-making process, application failure, and its aftermath in terms of feedback. I am keen at the outset to make it clear that my submission will focus on process; I am not petitioning directly for the two organisations in which I have a passionate involvement, nor do I believe that my submission would have been any different if these two organisations had been successful in their applications. However, I acknowledge that being an applicant (twice failed) has provided some valuable insights that inform this submission.

Second, over many years since 1979 I have worked closely with the Bawinanga Aboriginal Corporation (BAC) based in Maningrida. In 2009 when I was appointed a foundation director and secretary of Karrkad-Kanjdi Ltd it was because of my long association with BAC and the Maningrida region. I have advised BAC on many occasions, most recently in 2014 when I

assisted the Babbarra Women's Centre a business arm of BAC that I have worked with over many years with its comprehensive *Business and Marketing Plan 2014–2016*; I also wrote a letter of support in its failed application for IAS funding. I continue to collaborate closely with two other BAC business arms, the Djelk Rangers and Maningrida Arts and Culture.

Third, as an academic employed at three universities but most recently at the Australian National University 1982–2014 I have been involved in making numerous successful and unsuccessful applications for competitive grants. This, alongside working with many Indigenous organisations, has given me some insight into due processes of assessment based on expert review and a high degree of transparency, as well as on many different ways to ensure assessment criteria are clearly specified and rigorously evaluated.

It is important that my views are recognised by the Senate Finance and Public Administration Committee as being mine alone; they are not to be associated in any way with the BAC board of directors, members, management or staff; similarly time constraints have only allowed me to share my views with all fellow directors and trustees at the Jimmy Little Foundation (who fully endorsed them at a Board meeting on 28 April 2015) but not at Karrkad-Kanjdi Limited. I acknowledge the assistance provided by respective CEOs of the two organisations, Graham Bistrup and Stuart Cowell.

I want to make some observations from two perspectives in this submission before providing some summary observations and recommendations for the consideration of the Senate Finance and Public Administration References Committee. The first perspective is macroscopic and engages with the IAS as a policy framework. The second perspective is microscopic and engages with the IAS tendering process from the perspective of an applicant drawing on my first-hand participation in commenting on and endorsing grant applications, receiving rejection letters, and feedback from staff of the Department of Prime Minister and Cabinet. I should say that a number of disaffected Aboriginal organisations have also sought my advice after having their funding applications under the IAS rejected and while I do not seek to advocate on their behalf their concerns about both process and the implications of being defunded have influenced my thinking.

The genesis of the IAS was spelt out in the brief Coalitions' Policy for Indigenous Affairs dated September 2013 where it was foreshadowed that an Abbott Government would transfer responsibility of Indigenous programs to the Department of Prime Minister and Cabinet (DPMC). This proposed centralisation and rationalisation of Indigenous-specific programs was driven by politically motivated, but unproven, assertions that Labor's approach (2007–2013) to Indigenous affairs had not worked and that Labor's failure to properly monitor and evaluate Indigenous programs had led to chronic waste and lost opportunities. Similar contestable observations about performance and a call for program rationalisation had been made by the Labor-instigated 470 page *Strategic Review of Indigenous Expenditure* undertaken by the federal Department of Finance and Deregulation and completed in February 2010.

There have been mixed outcomes in meeting the Closing the Gap goals of divergence between Indigenous and other Australians as regularly documented by the Productivity

Commission among others. But in general there have been some improvement in absolute outcomes for Indigenous Australians that are often overlooked and these improvements, inadequate as they may be, have been largely the result of the existing policy architecture and Indigenous-specific Commonwealth funding commitments. As I have observed in the past in critiquing both the *Strategic Review of Indigenous Expenditure* (in 2011) and the Productivity Commissions *Indigenous Expenditure Review* (in 2012) no Australian governments have ever attempted an objective assessment of Indigenous relative need as Australian citizens (bearing in mind historical legacy, that is, inter-generational need). Hence it is difficult to say if the current and historic expenditures on Indigenous Australians is adequate especially if it is to assist in the attainment of the lofty goal to close statistical gaps given the range of historical, structural and cultural barriers that exist.

These dominant, politicised and populist narratives that all Indigenous affairs expenditures have been a disastrous waste of taxpayer dollars tend to recur from time to time; and also tend to be self-perpetuating because of an absence of rigorous analysis of such hyperbole. And so from September 2013 the new Abbott administration looked to quickly alter the machinery of government in accord with its pre-election commitment (a kept promise), even while a major review of Indigenous employment and training programs headed by Andrew Forrest and a carefully selected National Commission of Audit (NCA) were both under way.

In February and March 2014 the NCA report *Towards Responsible Government* noted there are now 150 programs and activities centralised in the DPMC with total funding of about \$2.4 billion in 2013–14 and that about 1600 staff working on Indigenous affairs have been transferred into DPMC with about half working in State and Territory networks. The NCA noted, and I concur, that robust evidence is still lacking on the performance and effectiveness of many Indigenous programs although I would add that we need to maintain an open mind on such matters till the evidence is available. The NCA presciently warns that while the government's program rationalisation decision allows for a more centralised and coordinated perspective on Indigenous policy, the DPMC has not previously had a significant role in service delivery in what it defines elsewhere by the NCA as a complex policy and program area in Australian public policy. Indeed the NCA recommends that a new separate agency for Indigenous affairs is established within two to three years, hardly a ringing endorsement of the current arrangements or of the capacity of DPMC to rapidly shift its expertise and culture to lead the administration of Indigenous affairs.

The NCA's recommendation for the existing 150 or so Commonwealth Indigenous-specific programs to be rationalised into no more than six or seven was made as just such a rationalisation was under way. The IAS announced around the time of the 2014–15 Budget in May 2014 saw these 150 programs streamlined into five broad areas that reflect the priorities of the current government: ensuring children go to school, adults work, Indigenous business is fostered, the ordinary law of the land is observed and Indigenous culture is supported. This broad approach looks to naturalise a discourse of Indigenous citizenship equality and sameness while making a polite nod to Indigenous cultural difference.

Three brief observations can be made about the IAS. First, its focus reflects the priorities of the government, not those of the intended Indigenous beneficiaries of programs. Second,

the focus of the IAS is on remote communities that are arguably in greatest absolute and relative need, but are also most culturally different and least politically represented; indeed it is possible that many have been effectively disenfranchised with changes in remote governance arrangements. Third, formal advice on Indigenous affairs implementation has been drawn from an appointed Indigenous Advisory Council whose brief communiques provide little insight into what advice it actually provides to government; or indeed whether it concurs with the consolidation of 150 programs into five areas: Jobs, Land and Economy, Children and Schooling; Safety and Wellbeing; Culture and Capability; and Remote Australia Strategies.

In July 2014, the government released its 27-page Indigenous Advancement Strategy Guidelines. The guidelines note that \$4.8 billion has been committed to the IAS over four years and the rationalisation of 150 individual programs into five broad programs (and then lists six, adding 'increasing year 12 attainment and pathways to further training and education' and also changing the emphasis in one by intentionally or unintentionally deleting the words 'this programme will support Indigenous Australians to maintain their culture'). The open competitive grants round, the subject of this Inquiry, was identified as one of four mechanisms to allocate IAS grant funding, with other mechanisms including targeted or restricted grant rounds, direct grant allocations and a demand-driven process. While it is noted that the bulk of grant funding will be available through open competitive grants rounds it was not stipulated either what proportion represents 'the bulk' or how the \$4.8 billion will be divided between the four financial years. Nor is it stipulated if there was a financial limit on any one application.

There are aspects of the guidelines that at face value are a little troubling in their capacity for discretion and excessive opacity. For example, the Minister makes the final decision on grant funding, which suggests he needs to have some familiarity with all applications and that he has the power to override bureaucratic advice or input from Indigenous people and experts. There is discretion in the provision of funding 'the DPMC may fund activities consistent with the following programs and outcomes' and in relation to feedback the DPMC 'reserves the right to not offer individualised feedback for each [presumably failed] application' which is a statement hardly consistent with procedural fairness. It is proposed that grants be assessed according to five (not six) broad Indigenous Advancement program areas, but it is not stipulated how applications will be allocated to program areas or what selection criteria will be used, especially when grant applications are inclusive of more than one area. The two complaint avenues available to disaffected applicants are via DPMC or the Commonwealth Ombudsman. It is unclear in the guidelines how assessments will be undertaken and whether independent experts will be asked to review applications or whether this will be limited to the internal capacity of DPMC that the NCA had identified as being deficient.

The government opened up its initial funding round in September 2014 with a closing date of October 2014.

Given that many Indigenous organisations and programs had existing funding agreements that ran to 31 December 2014, it was anticipated that government decision-making would

reflect the efficiency and effectiveness required of grant recipients. In fact it took the government over four months to complete its decision making. This is probably because it did not anticipate the number of applications it would receive, reputed to originate from 2,400 organisations for 5,000 projects with a total value of \$14 billion dollars, nearly three times the amount available over the forward estimates. On 4 March 2015 Minister Scullion announced that \$860 million was to be invested by the Australian government in 1,297 projects to be administered by 964 organisations.

The only information available to date on the DPMC website is the name of each funded organisation with a commitment that more precise information will be posted within 14 days of a completed funding agreement with none posted to date. This makes any analysis of the nature or relative merits of grants impossible, especially as a list of unfunded organisations and/or projects is not provided; nor is it clear what mix of one year versus multi-year funding is included in the \$860 million or what proportion of project funding has been provided in grants made, reports from a number of successful organisations suggests that only a small proportion of funds sought have been provided in some instances. Nor is it specified how many grants have been made to non-Indigenous organisations: a quick perusal of the funding list released by DPMC suggests that a high proportion, possibly over half, might be non-Indigenous organisations and NGOs, hardly a means to either lift capacity or to ensure that as much of the government's 'investment' goes to Indigenous people.

At the aggregate level, and accepting the scant information available as accurate, one can make two instructive observations by using straightforward arithmetic.

First, only 6 per cent of the \$14 billion sought have been potentially granted to 40 per cent of organisational applicants for 26 per cent of projects. Second, the average size of grant sought was \$2.8 million per project; the average size of grant approved was \$663,000 suggesting that either those successful were only partially funded or that small rather than large grant applications had a greater probability of success.

With time and assuming more comprehensive information is made available more thorough analysis should be possible, although it is noteworthy that information already on the DPMC website is difficult to access and provides limited information, for example, on amounts sought versus amounts allocated, or applications for new funding versus ongoing support, or the geographic distribution of successful versus unsuccessful applications given the inherent bias in the IAS towards remote communities where only a small proportion of Australia's Indigenous peoples reside.

One issue that needs to be re-emphasised though is that in the absence of any needs-based analysis of support required to address Indigenous disadvantage, there is no basis for knowing whether the \$14 billion in project grants sought was excessive, adequate or inadequate. The last possibility is not intended as flippant; given the complexity of the grant application process it is likely that some Indigenous organisations (as distinct from non-Indigenous organisations) may have found the process overwhelming. Interestingly, while the guidelines at p22 make reference to Indigenous interpreters and the need for grant applicants to take into account the cultural and linguistic needs of Indigenous people whose

first language is not English, it is far from clear what consideration was given to such factors in grant assessment or in the provision of briefing about the grant application process?

One gets the distinct impression that DPMC was poorly prepared for the number of grant applications the 2014 round attracted even though the number of applications kits and forms provided or downloaded should have been a harbinger of the number of applications that were submitted by the October 2014 deadline. Given the extent of the financial over-subscription, decision making was always going to be tough and prospects for winning grant funds hyper-competitive.

Let me now turn to the more microscopic from the perspective of the applicant, using some information on hand, as noted above, from the failed applications with which I was involved especially by Uncle Jimmy Little Thumbs Up Ltd because my fellow directors have indicated at a Board meeting on 28 April 2015 that they are happy for me to use our case for illustrative purposes.

Information sessions were held for potential applicants in the regions. The CEO of the Jimmy Little Foundation and Uncle Jimmy Thumbs Up Ltd (UJTU Ltd) participated in one at the remote township of Milingimbi where he happened to be engaged in service delivery. Information sessions were provided in English (see my earlier comment) and it is likely that many of those participating did not grasp the intricacies of the grant application process. Our CEO was encouraged by departmental staff delivering the information session to apply across as many IAS program streams as fitted the Jimmy Little Thumbs Up program and he was assured that if the application was regarded as over ambitious, the application was for nearly \$10 million over 3 years, staff of DPMC in Canberra would advise about the need to scale it back. No such advice was provided.

The completed UJTH Ltd application was 33 pages long with 76 pages of additional documentation including 10 letters of support; the effort that goes into preparing such a thorough application and its imputed and opportunity costs to the applicant organisation should not be underestimated.

On 4 March 2015 like many others we were informed that our application was unsuccessful. It was not initially suggested that there was any deficiency in the application, just that the funding round was heavily oversubscribed and, as a result, the Government was unable to fund every project. Optimistically, the letter noted that there were other avenues through the IAS to seek grant funding, indeed it was stated that applications that address the Government's priorities of getting children to school, adults to work and making communities safer, may be received at any time. It also noted that the Department would be pleased to provide feedback regarding our application, an opportunity our CEO took immediately.

On 5 March 2015 we received an auto-reply noting that a response to our query was forthcoming as soon as possible. On 11 March 2015 we received an unsigned email stating that a department officer would be in touch to discuss our request for feedback within 10 working days; this did not happen. On 23 March 2015 another unsigned email referring to the query of 5 March and now promising that we could expect a departmental officer to call shortly; this did not happen. And then

on 21 April we finally received an email (not a call) from a named departmental officer, Assistant Secretary Economic and Employment Branch, providing the following written feedback that I quote directly:

I am writing to provide your organisation, Uncle Jimmy Thumbs up LTD, with feedback on your unsuccessful application for funding from the Indigenous Advancement Strategy (IAS), Jobs, Land and Economy Programme (JLEP).

To provide you with some context the Department of the Prime Minister and Cabinet (PM&C) received over 2,400 applications with more than 5,000 projects valued at approximately \$14 billion. Application for funding was extremely competitive, significantly oversubscribed and the Department has made tough decisions.

For projects applying under JLEP we were looking for projects that demonstrated clear links to sustainable employment for jobseekers. Projects were not funded where there was not a clear link to a guaranteed job or funding was requested for administration/operational expenses like CEO salaries, existing employee wages etc.

I just want to make two comments on this feedback.

First, given that our application sought funding to employ Indigenous people to deliver health and education programs in remote communities mainly to deliver health benefits and enhance prospects for school attendance we should have been assessed in the areas of Children and Schooling and Safety and Wellbeing. However because most of our funds were for jobs it appears that we were allocated to the Jobs, Land and Economy Program (JLEP) for assessment. Nowhere in the guidelines did it state that our application need to ensure the delivery of sustainable employment although in our application there was a clear link to guaranteed jobs to be funded by the IAS. And recalling that we (and other) applicants were encouraged to apply in as many IAS areas as possible, it seems procedurally problematic to then assess our application against the criteria set out in assessment in just one area JLEP.

Second, at no time were we informed that our application would be rejected if 'funding was requested for administration/operational expenses like CEO salaries, existing employee wages etc'. This condition has never been attached to an application made by us in the past for any government or non-government support and the application would not have been lodged if this was a condition of assessment.

Almost as an appeasement gesture the feedback letter noted the following:

If you still would like to apply for funding you can apply under the IAS JLEP Demand Driven Stream throughout the year through this link: www.dpmc.gov.au/Indigenous-affairs/grants-and-funding. Demand driven activities are those that:

- deliver direct employment outcomes (jobs) not related to other IAS programmes (Children and Schooling; Safety and Wellbeing; Culture and Capability; Remote Australia Strategies), including training that's directly related to a job, and

- identify the employment opportunity at a point in time.

This somewhat gratuitous suggestion indicates worryingly that the letter writer was not familiar with the objectives clearly specified in our application, any employment outcomes from grants made to JLTU Ltd would be very much related to other IAS programs. And then in a somewhat circuitous manner the letter suggested that if more feedback was required then the departmental email address that we had first contacted on 4 March was available as an avenue. I personally attempted to engage with the Assistant Secretary Economic and Employment Branch seeking further information to prepare this submission, to date (28 April 2015) without a response. Some assistance was provided by the Assistant Secretary, IAG Information and Evaluation Branch.

I have two abiding concerns about the way that feedback was provided. First, the feedback has a very generic feel as does the suggestion for alternate funding under the IAS JLEP Demand Driven Stream. Given that grant applications were supposed to go through a rigorous selection process, one would have thought that reasons for failure would have been prepared prior to notification of application; the sense one gets from this communication is that the brief reasons for failure were hastily prepared ex post facto, that is after request for feedback was lodged. Second, the feedback letter seems to have no contingency options for unsuccessful applicants, except to apply for funding again in a stream where funding failure would be assured.

What remains far from clear is how the assessment of our application was actually undertaken. For example, we provided letters of support, but were any other references or expert opinions or community feedback actually sought on our application? Was there any formal basis for seeking Indigenous advisory input, for example, from Indigenous members of the government-appointed Indigenous Advisory Council? Or was the assessment undertaken by departmental staff only and if so, did they have the capacity to assess 2,400 diverse applications for 5,000 projects? It is interesting that the feedback we received suggested that it was the department that had made tough decisions, whereas the guidelines suggest that it is the Minister who makes the final decision. These are the sorts of questions that I suspect this Senate References Committee will address.

At the same time, it appears that many of the terms of reference for the Senate Finance and Public Administration Reference Committee cannot be addressed because of the paucity of data currently available on the DPMC website. There can be no doubt that the murky nature of the tendering process would have reduced the trust of applicants. This loss of trust cannot of course focus on the IAS in isolation, there have also been unilateral changes in the Remote Jobs and Communities Program and cutbacks of over \$500 million in the 2014 Budget for Indigenous programs; and most recently political contestation over the proposals by the Western Australian State government to defund municipal services to 150 remote Indigenous communities and a willingness by the Prime Minister to condone this decision.

This all creates an environment that is less than conducive to the robust relationship between the Indigenous sector and the state that is needed to facilitate improvements in living standards for Indigenous Australians everywhere. When elected, the Abbott government promised to run Australia in a business-like manner and yet its performance in allocating grants under the IAS appears anything but business-like.

I make the following observations and a few recommendations to conclude.

- 1 At the broadest level, questions have to be asked about the legitimacy of the Abbott government's Indigenous policy framework, clearly evident in the IAS, that has a focus unilaterally devised by government without appropriate consultation with the Indigenous subjects of this project of improvement. It is difficult to see how the Indigenous affairs policy framework will gain legitimacy and moral authority without the re-establishment of a democratically-constituted Indigenous representative organisation to advise government on policy settings. Similarly the observation of the NCA that a stand-alone Indigenous affairs agency is needed requires urgent consideration. The communiqués published by the party-politicised Indigenous Advisory Council do not indicate that it has seriously engaged with shortcomings in the government's overall approach in Indigenous affairs in part because it is government-appointed.
- 2 The processes for assessing grants need to be far more transparent and appraisals need to draw on expert and Indigenous advice. One recalls the time when elected ATSIC regional councils used to be a source of advice to both the Commission and other government agencies in decision-making. It is recommended that the ANAO is approached to undertake an efficiency audit of the IAS grant making processes with the aim of providing advice to DPMC on seriously improving its processes that have proven problematic during the delayed 2014 funding round.
- 3 My experience of the IAS 2014 process indicates that considerable demands were made of applicants for detailed and cogently argued proposals. The departmental response was not only belated and curt, but lacked empathy that even suggested an absence of familiarity with individual applications and their objectives. This is very much a product of power imbalances and lack of true accountability. While appeal mechanisms exists for disaffected applicants, pursuing such avenues will be costly and drain already scarce organisational resources and capacity; and could attract retribution from the ultimate decision-maker, a politician. While arguably decision-making for such a competitive funding round to support a policy framework that is challengeable was always going to be contentious, there is an urgent need for communications of outcomes to be far more transparent and streamlined.
- 4 What has happened in 2014 and 2015 can be interpreted as yet another attempt to disempower many Indigenous applicant organisations, while at the same time a select few are privileged with an Empowered Communities Initiative that seems to require far less rigorous application processes and to operate to very different assessment criteria. It is important that some consideration be given in grant making to the real cost of defunding or underfunding so many community organisations.
- 5 It is ultimately very worrying that reform in a short time since September 2013 has been fast and furious, but with little hard data on its consequences; my observations admittedly in only a few places is remote Australia but over many years now, suggest that there has been an increase in poverty and a decline in wellbeing under the IAS with no evidence that its focus on jobs, school attendance, community safety, strengthening culture and delivering flexible solutions to address social and economic disadvantage highlighted in remote Australia is actually delivering any positive outcomes.

I wish the Senate Finance and Public Administration Reference Committee the best in its Inquiry that will need access to far more data than I was able to garner if it is to make any headway.

As a final observation I consider it essential that government is held accountable for the overall costs and benefits associated with this IAS funding round. In other words, how do the costs associated with what has been defunded or not funded compare to the benefits and outcomes of what has been funded?

I end with reference to very successful, dynamic and long-established enterprises, like the women screen printers at the Babbarra Women's Centre in Maningrida, who have operated with a funded coordinator and access to CDEP wages for over a decade now. In that time they have established an excellent reputation in the market-place for their finely printed cotton and silk textiles using original art designs; they have generated jobs for themselves and extra income for their families; and their arts practice has given them a sense of pride and dignity while also allowing wider travel, providing extra training and affording them an important role as cultural ambassadors for themselves and their immediate and wider community—the Women's Centre constituted a vital hub of productive activity for the women of Maningrida and by extension for their families. All this will be lost without IAS support. Undermining success by defunding does not seem to be a very productive way to either close gaps or improve livelihood options and individual and community wellbeing in remote Indigenous Australia.

Yours sincerely

Jon Altman
Emeritus Professor