

Joint Committee on Public Accounts and Audit

Administration of Government Grants: Inquiry into Auditor-General's Reports 5 and 12 (2019-20)

ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 1

The Department states that two ineligible applicants, including Nolan Meats, took up this opportunity. Who was the other applicant?

- a) Was it also a business?
- b) Was it also a RTO?
- c) Did the Minister or Ministerial Panel express any interest in this applicant? Or just in Nolan Meats?

Answer:

The application was from a tertiary education provider and RTO.

The Department has no information that would indicate that the Minister or the Ministerial Panel gave additional consideration to the other ineligible application.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 7

When was the list of Wide Bay Burnett applicants first provided to Minister McVeigh or his office by the Department?

- a. Was it provided to all panel members at this time? Or just to Minister McVeigh?
 - i. If not, when did other panel members receive it? Was it from the Minister or the Department?

Answer:

The Department's records show that the first time the Department provided Minister McVeigh and the Ministerial Panel with a list of applicants was on 5 February 2018 as part of the Recommendation brief for the Wide Bay Burnett region.

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Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 8

Please confirm if the list of applicants went to Minister McVeigh before or after the Industry Hub received the second round of advice from Nolan Meats and assessed this as ineligible.

Answer:

Nolan Meats submitted a case in writing to the AusIndustry Business Grants Hub on 20 October 2017.

The Department's records show that the first time the Department provided Minister McVeigh and other members of the Ministerial Panel with a list of applicants was on 5 February 2018 as part of the Recommendation brief for the Wide Bay Burnett region.

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Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 9

On what date did Minister McVeigh or his office advise the Department that the Ministerial Panel had a strong preference to fund Nolan Meats? Was this in writing? Can you provide a copy?

- a) How did the Department respond?

Answer:

Minister Nash's office first raised questions of the Registered Training Authority (RTO) status of an applicant in 2017, noting that the RTO element of the business was a small aspect of their business.

From discussions with Minister Nash's Office, the Department formed the view that the Minister's office showed a strong preference that the RTO status was incidental to the application.

The Department took the initiative to request the merit assessment from the AusIndustry Business Grants Hub to better understand the project in order to appropriately advise the Minister.

Minister McVeigh became the chair of the Ministerial Panel in December 2017, following his appointment as Minister for Regional Development, Territories and Local Government.

The Department's records show that the first time the Department provided Minister McVeigh and other members of the Ministerial Panel with a list of applicants was on 5 February 2018 as part of the Recommendation brief for the Wide Bay Burnett region.

Minister McVeigh's office advised that the Ministerial Panel had a strong preference to fund this project as the RTO element of Nolan Meats' business was considered incidental to the project for which they were seeking funding under RJIP.

The Department provided initial advice on Nolan Meats to Minister McVeigh's office in an email on 6 February 2018 and then details of the four applications that were considered ineligible due to their Registered Training Organisation (RTO) status in an email on 7 February 2018.

On 8 February 2018, Minister McVeigh's office provided the Department with the list of projects approved by the Ministerial Panel (that included Nolan Meats) for inclusion into a submission for consideration by Cabinet.

These emails were part of an exchange that informed preparation of a submission to Cabinet.

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It is a longstanding practice not to disclose information about the operation and business of the Cabinet, as to do so could potentially reveal the deliberations of the Cabinet, which are confidential.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 10

Can the Department confirm that the other members of the Wide Bay Burnett Ministerial Panel were Senator McKenzie, Senator McGrath, both of whom are now on the backbench and the now Deputy Prime Minister, the Member for Riverina?

Answer:

As stated in the Auditor-General's Report on page 20, members of the Ministerial Panel for the Wide Bay Burnett Region were:

- The Hon Dr John McVeigh MP (Chair)
- The Hon Michael McCormack MP
- Senator The Hon Bridget McKenzie
- Senator the Hon James McGrath

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 11

Can the Department confirm that it was in fact the whole Panel, including the now Deputy Prime Minister, that had the strong preference for the ineligible business, Nolan Meats, to be funded?

Answer:

See answer to Question 9.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 12

Is there any correspondence between the Department and Minister McVeigh indicating that he or a member of the Ministerial Panel expressed strong interest about any of the other 11 ineligible applicants? If so, please provide.

Answer:

The Department provided advice to Minister McVeigh's office on the details of the four applications that were considered ineligible due to their Registered Training Organisation (RTO) status in an email on 7 February 2018.

The Department has no information that would indicate that the Minister or the Ministerial Panel gave additional consideration to the other ineligible applications.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 13

Can the Department confirm that the funding recommendations brief was provided to the Ministerial panel on 5 February 2018?

Answer:

Yes.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 14

Can the Department confirm that it wasn't until 7 February 2018 that the Department provided advice on the detail of the four applications that were ineligible due to their RTO status? What is the reason for this delay?

Answer:

The Department provided initial advice on Nolan Meats to Minister McVeigh's office in an email on 6 February 2018 and then details of the four applications that were considered ineligible due to their Registered Training Organisation (RTO) status in an email on 7 February 2018.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 15

Can the Deputy Prime Minister confirm that same day the Ministerial Panel, without the then Cabinet Minister McVeigh, met and decided to recommend to Cabinet that Nolan Meats be awarded funding?

Answer:

This is a matter for the Deputy Prime Minister. The Department did not attend Ministerial Panel meetings.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 16

Can the Department confirm that the next day Minister McVeigh's office advised the Department that Nolan Meats should be included in the list of recommended applicants for funding?

Answer:

On 8 February 2018, Minister McVeigh's office provided the Department with the list of projects approved by the Ministerial Panel (that included Nolan Meats) for inclusion into a submission for consideration by Cabinet.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 17

Can the Deputy Prime Minister confirm if Minister McVeigh participated in any of the Ministerial Panel's discussions about the Wide Bay Burnett applications?

Answer:

This is a matter for the Deputy Prime Minister. The Department did not attend Ministerial Panel meetings.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 18

Why did the Department provide advice on the four applications ineligible due to their RTO status? Were they all in Wide Bay Burnett?

Answer:

Information was provided about each of the four applications to give context to the ineligibility status of RTOs. The applicants were not all in the Wide Bay Burnett region:

- 1 project was in the RJIP region of Wide Bay Burnett
- 1 project was in the RJIP region of Bowen Basin.
- 1 project was in the RJIP region of Regional Tasmania.
- 1 project was in the RJIP region of Upper Spencer Gulf.

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Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 19

What other information was in that briefing on the four RTOs? Can you provide a copy, even without the names of the other three RTOs?

Answer:

These emails were part of an exchange that informed preparation of a submission to Cabinet.

As stated by Dr Bacon at the hearing it is a longstanding practice not to disclose information about the operation and business of the Cabinet, as to do so could potentially reveal the deliberations of the Cabinet, which are confidential.

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Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 20

Did the Department undertake any analysis of businesses that were disadvantaged by the unambiguous language in the RJIP Guidelines that RTOs were ineligible to apply?

- a) If so, was that provided to the Ministerial Panel?

Answer:

No.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 21

Can the Deputy Prime Minister confirm when Minister McVeigh disclosed his conflict of interest to the Ministerial Panel? Was it before or after his office told the Department that the Ministerial Panel had a strong interest in funding the project?

Answer:

This is a matter for the Deputy Prime Minister. The Department did not attend Ministerial Panel meetings.

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ANSWERS TO QUESTIONS ON NOTICE

Infrastructure, Transport, Regional Development and Communications

Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 22

Please provide a copy of the guidance to Ministers regarding conflict of interest.

Answer:

Ministers are responsible for managing their conflicts of interest. Their obligations are contained in the Statement of Ministerial Standards.

The Department advises Ministers of their responsibilities under the Commonwealth Grants Rules and Guidelines (CGRGs).

A copy of the advice provided to the Ministerial Panel is at Attachment A. This advice highlights key points from both the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the CGRGs which set out detailed guidance on managing conflicts of interest. This advice did not replicate sections 13.6 to 13.8 of CGRGs which outlines officials' obligations relating to conflicts of interest.

To address this and other findings of the ANAO around handling of conflicts of interest. The Department has since improved its guidance. An example of the improved guidance for the Building Better Regions Fund was provided to the JCPAA in response to Question on Notice 6 on Friday, 6 March 2020.

Attachment A: RJIP PGPA Act and CGRGs Obligations on Ministers

PGPA Act and CGRGs Obligations on Ministers

Requirements under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act):

Under Section 71 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) a Minister must not approve a proposed expenditure of relevant money unless the Minister is satisfied, after making reasonable inquiries that the expenditure would be a proper use of relevant money.

If a Minister approves a proposed expenditure of relevant money, the Minister must:

- a. record the terms of the approval in writing as soon as practicable after giving the approval; and
- b. comply with any other requirements prescribed by the rules in relation to approvals of proposed expenditure.

As Chair of the Ministerial Panel, the Hon Dr John McVeigh MP, Minister for Regional Development, Territories and Local Government, is the Approver of expenditure under RJIP for the purposes of Section 71 of the PGPA Act.

By following the recommendations of the Ministerial Briefing Package, the Approver will be declaring that they have made reasonable inquiries and are satisfied that approving the proposed expenditure represents a proper use of relevant money, in accordance with section 71 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). For the purposes of the PGPA Act, *proper* is defined as efficient, effective, economical and ethical.

Requirements under the *Commonwealth Grants Rules and Guidelines* (CGRGs):

The *Commonwealth Grants Rules and Guidelines* (CGRGs) apply to all grants. As RJIP is a grant funding program there are additional obligations on Ministers who exercise the role of approver.

Receiving Written Advice from Officials:

The CGRGs at section 4.10 require that where a Minister approves proposed expenditure under section 71 of the PGPA Act, in relation to a grant or group of grants, the Minister *must* not approve the grant without first receiving written advice from officials on the merits of the proposed grant or group of grants.

Officials *must* provide written advice to Ministers, where Ministers exercise the role of an approver. This advice *must*, at a minimum:

- a. explicitly state that the spending proposal being considered for approval is a 'grant';
- b. provide information on the applicable requirements of the PGPA Act and rules and the CGRGs (particularly any ministerial reporting obligations), including the legal authority for the grant;
- c. outline the application and selection process, including the selection criteria, that were used to select potential grant recipients; and
- d. include the merits of the proposed grant or grants relative to the grant guidelines and the key consideration of achieving value with relevant money.

The Ministerial Briefing Pack provided to the Ministerial Panel constitutes written advice on eligible applications and includes information sufficient to meet the requirements of Section 4.10 of the CGRGs.

Briefing on the merits of a specific grant or group of grants:

The CGRGs at section 4.7 state that while officials do not have to rank all grants when briefing ministers on the merits of a specific grant or group of grants, officials should, at a minimum, indicate: which grant applications fully meet the selection criteria; which applications partially meet the criteria; and which applications do not meet any of the criteria. Any specific recommendations regarding grant applications for approval can be in addition to this information.

For RJIP, the information provided in the summary ranking report and the individual assessment snapshots will address this requirement.

Recording the basis for the decision:

The CGRGs require at section 4.11 that where the proposed expenditure of relevant money relates to a grant, the Minister who approves it *must* also record, in writing, the basis for the approval relative to the grant guidelines and key considerations of value with relevant money.

For the purposes of RJIP, where the Ministerial Panel selects projects recommended for funding by the Department in the order of ranking provided by the Department, the documentation provided in the summary ranking report and the individual assessment snapshots will be sufficient to satisfy this requirement.

However, should the Ministerial Panel select a project for funding outside the listed ranking regardless of whether or not it is recommended for funding, the Approver will need to record the basis for the decision.

When recording the basis for the decision to fund projects in a competitive merit-based selection process the rationale should be relative to the grant guidelines and key considerations of value with relevant money against the published selection criteria both in its own right and relative to that of competing applications.

This would include recording the reasons why higher ranked projects were not funded as well as the reasons for funding the lower ranked project.

Approving grants in a Minister's own electorate:

The CGRGs at section 4.12(a) require that where a Minister (including a Parliamentary Secretary) approves a proposed grant in his/her own electorate, the Minister *must* write to the Finance Minister advising of the details.

As stated in the RJIP Guidelines, funding decisions will be made by the Ministerial Panel in consultation with the [REDACTED] Cabinet. For the purposes of the PGPA Act the Chair of the Ministerial Panel will be the Approver of the proposed expenditure. Where a project selected for funding sits within the electorate of any Ministerial Panel member, the Approver must write to the Finance Minister advising of the details of the projects approved.

The Department will provide correspondence from the Chair of the Ministerial Panel to the Finance Minister providing details of those projects approved in any of the Ministerial Panel members' electorates to satisfy this requirement.

Approving grants not recommended by the Department:

The CGRGs require at section 4.12 that

- a. Ministers (including Senators) *must* report annually to the Finance Minister on all instances where they have decided to approve a particular grant which the relevant official has recommended be rejected. The report *must* include a brief statement of reasons (i.e. the basis of the approval for each grant). The report *must* be provided to the Finance Minister by 31 March each year for the preceding calendar year, and
- b. If a decision relates to a Minister's own electorate (House of Representatives members only), the Minister *must* also include this information when writing to the Finance Minister in the context of the process outlined in paragraph 4.12.

In the annual report to the Finance Minister, the Department will include details of any projects which were not recommended but were approved for funding under RJIP. Where the project sits within any of the Ministerial Panel members' electorates, the correspondence required to satisfy 4.12(a) will be amended to reflect the requirements of 4.13(b).

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Questions submitted by Mr Julian Hill MP (Deputy Chair)

Question Number: 29

Given the assertion by the department that all matters relating to the Panel were cabinet-in-confidence, why do the RJIP Guidelines not mention the Cabinet and clearly state “ The Ministerial Panel decides which applications are successful”?

Answer:

There is no requirement to document Cabinet processes in program guidelines.

The program design from the outset planned for Cabinet considerations of the Ministerial Panel recommendations.