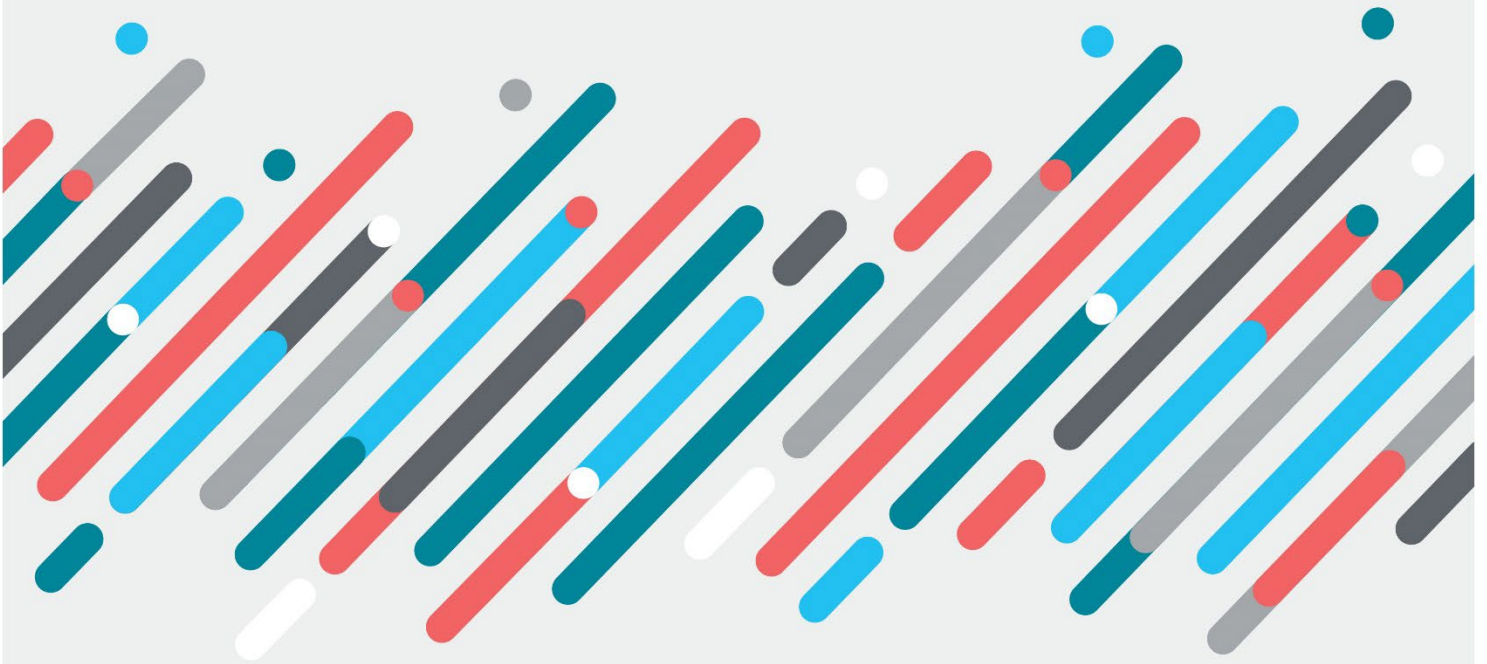




Australian Government
Department of Education

Capital Grants Program Guidelines

2024





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Definitions

The definitions below are for the purposes of these Guidelines.

The Act refers to the *Australian Education Act 2013* (the Act).

Approved Authority refers to a legal entity that the Minister has approved to administer funding for a school under Division 2 of Part 6 of the *Australian Education Act 2013*.

An Approved project refers to a project which a BGA has been directed to commit or spend capital funding on in a written direction of the Minister (or delegate) made under s30(6) of the *Australian Education Regulations 2023*.

Australian Government Education ID (AGEID) is a unique identifier created by the Department for each school. It is used to identify schools on the Department's internet interface SchoolsHUB. BGAs require a member school's AGEID to submit an application on SchoolsHUB.

Base amount has the meaning given by subsections 33(1), (2) and (3) of the *Australian Education Act 2013*.

BBSOC funding refers to capital funding that is paid to a BGA for a year as a result of a determination under s67(1) of the *Australian Education Act 2013*. BBSOC funding supports the operation of the Building Boarding Schools On-Country program described in schedule 1 of these Guidelines.

Better Practice refers to a way or method of performing functions or processes that is known to produce desired outcomes.

Block Grant Authority (BGA) are bodies corporate approved by the Minister under Division 3 of Part 6 of the *Australian Education Act 2013* to administer capital funding for non-government schools.

Capital expenditure has the meaning given by the definition in section 6 (Definitions) of the *Australian Education Act 2013*.

Capital funding refers to funding for capital expenditure by a BGA in relation to a non-government school that is determined under Division 2 of Part 5 of the *Australian Education Act 2013*.

Capital Grants Program (CGP) is the program that provides funding under s67(2) of the *Australian Education Act 2013* to assist non-government primary and secondary schools to improve infrastructure where they otherwise may not have access to sufficient capital resources.

CGP funding refers to capital funding that is paid to a BGA for a year as a result of a determination under s67(2) of the *Australian Education Act 2013*. CGP funding supports the operation of the CGP program.

Educational disadvantage refers to the circumstance where either the whole or a sub-set of the student population of a member school experiences greater levels of need within a particular area, for example socio-economic disadvantage, disability and/or low English language proficiencies.

Forward commitment refers to funding committed to a project over future years.

Goods and Services Tax (GST) refers to a broad-based tax of 10 per cent on the supply of most goods and services sold or consumed in Australia.

Governing body refers to legal entities which are accredited to operate a school under relevant State or Territory legislation. Governing bodies receive government funding from (or via) the Approved Authority.

Indexation percentage refers to capital funding indexation percentage for block grant authorities for non-government schools for a year, as per section 68 of the *Australian Education Act 2013*. The indexation percentage for a year is prescribed in section 24A of the *Australian Education Regulations 2023*.

Interest funds refers to the amount of funds that a BGA earns from a bank account which holds capital funding until it is disbursed to a member school for a capital project.

Life of the project means the period from project commencement to project completion and conclusion of post-occupancy compliance.

Member school refers to a school that is a member of a Block Grant Authority.

Non-government school refers to a school that is not a government school.

Pre-primary education refers to the education of children below the prescribed State/Territory school starting age (Year 1 minus 2 years).

Project completion is when a project reaches practical completion and appropriate certification has been issued to that effect.

Project variation refers to a change of circumstances after the approval of a project.

Overpayment refers to an overpayment of Capital funding, as defined in subsections 9(4) or (5) of the *Australian Education Act 2013*.

Qualified accountant has the meaning given by subsection 34(4) of the *Australian Education Regulations 2023*.

Recognition refers to the Recognition of Commonwealth funding through the Capital Grants Program by capital funding recipients.

The Regulations refers to the *Australian Education Regulations 2023*.

Schedules refers to a list of projects, recommended and not recommended for CGP funding, submitted by Block Grant Authorities to the Department of Education each year.

School refers to a primary school, a secondary school or a combined school.

Unfunded students refer to students at a school in respect of which the school is not eligible to receive recurrent funding from the Commonwealth under the *Australian Education Act 2013*.

Value for money refers to an assessment of the lifetime benefits of a grant opportunity against its lifetime costs. Value for money assessments guide the prioritisation of resources towards initiatives that maximise net social benefits and use taxpayer money to best effort.

General Information

Introduction

1. These Capital Grants Program Guidelines¹ (the Guidelines) set out the Australian Government's (the Commonwealth's) detailed administrative requirements for the administration of:
 - the Capital Grants Program (CGP) for non-government schools
 - the Building Boarding Schools On-Country (BBSOC) program.
2. Unless otherwise stated, the Guidelines took effect from 15 May 2014 and supersede:
 - the Administrative Guidelines: Commonwealth Programs for Non-government Schools 2009–2013/14 “the Administrative Guidelines”
 - the Administrative Arrangements for Block Grant Authorities 2010, the “Admin Arrangements” 2009–12 Funding Agreements and the 2012–14 Deed of Variation between the Commonwealth, as represented by the former Department of Education, Employment and Workplace Relations, and each Block Grant Authority (BGA).
3. The Department of Education (the Department) or BGAs can initiate amendments to the operational issues covered by the Guidelines. The Guidelines will be updated on an annual basis, or more frequently, if required. The Department will consult with BGAs prior to making any amendments and ensure that a current copy of the Guidelines is available on the Department's website.

IMPORTANT:

Please note that these Guidelines were amended in April 2022 to include requirements for BGAs that will receive capital funding under the BBSOC program.

The BBSOC program will leverage the expertise of a BGA/s in the relevant jurisdiction/s to ensure efficient and effective implementation. The Commonwealth will engage the BGA/s in their capacity as a Capital Grants Authority (CGA) under subsection 67(1) of the *Australian Education Act 2013* (the Act).

The information at **Schedule 1** sets out how relevant clauses in the CGP Guidelines applies to the BBSOC program.

Further information on the BBSOC program is at **Schedule 1**.

Relevant Legislation

4. Commonwealth funding for capital expenditure for non-government schools is provided under Division 2 of Part 5 of the *Australian Education Act 2013* (the Act). See [Federal Register of Legislation](#).

¹ Between 2014–17, this document was known as the *CGP Operating Manual*. In 2018, it was rebranded as the *CGP Guidelines*.

5. For a non-government school to be eligible for capital funding through the CGP they must be a member of a BGA, hereafter referred to as a 'member school'.
6. Section 67 of the Act allows the Minister to determine an amount of financial assistance to be paid to a member school if the Minister is satisfied the financial assistance is required for capital expenditure. The financial assistance is distributed as a grant through the CGP by BGAs to member schools for approved capital projects. Capital funding may only be paid to a non-government school through a BGA.
7. The *Australian Education Regulations 2023* (the Regulations) prescribes a range of matters relevant to the effective and efficient administration of financial assistance provided under the Act including the provision of Commonwealth capital funding. See [Federal Register of Legislation](#).
8. Section 30 of the Regulations provides that a BGA must spend, or commit to spend, funding provided to it under Division 2 of Part 5 of the Act on capital expenditure in relation to a school for which the BGA is approved and in accordance with the Capital Grants Program Guidelines and the written directions of the Minister (if any). Subsection 36(6) of the Regulations provides that a BGA must give the Secretary a report or reports for each year in accordance with the Capital Grants Guidelines. These Guidelines, once approved and given legal effect, will be the Capital Grants Program Guidelines referenced by section 30 and subsection 36(6) of the Regulations.

Objectives

9. The CGP provides funding to assist non-government primary and secondary school communities to improve capital infrastructure where they otherwise may not have access to sufficient capital resources. The objectives of the CGP are to:
 - provide and improve school capital infrastructure, particularly for the most educationally disadvantaged students
 - ensure attention to refurbishment and upgrading of capital infrastructure for existing students, while making provision for needs arising from new demographic and student enrolment trends
 - pursue the Commonwealth's other priorities and objectives for schooling.

Contact Information

10. Contact details for the Department are as follows:

Postal
Director, Capital Funding Section
Department of Education
GPO Box 9880 CANBERRA ACT 2601

Email
capitalgrants@education.gov.au

Roles and Responsibilities

Minister Responsible for the Act and Regulations

11. It is the responsibility of the Minister to:

- a) determine the amount of financial assistance that can be provided to non-government schools for capital infrastructure projects
- b) approve the projects that are eligible to receive financial assistance through the CGP
- c) approve variations to projects that have been approved for financial assistance through the CGP
- d) delegate the Minister's powers and functions as outlined in section 129 of the Act, to the Secretary or an APS employee in the Department.

The Department

12. It is the responsibility of the Department to:

- a) distribute funding to the BGAs in accordance with these Guidelines²
- b) oversee the administration of the CGP by BGAs. Activities conducted by the Department may include:
 - (i) monitoring that BGAs are undertaking activities in accordance with the mandatory requirements outlined in these Guidelines
 - (ii) conducting an audit of the administration of the CGP in accordance with BGAs' accountability activities.

Block Grant Authorities

- 13. BGAs are bodies corporate approved by the Minister to administer capital grants for non-government schools. Only non-government schools can become a member of a BGA and a non-government school must be a member of a BGA to be eligible for CGP funding (refer to clause 17 for member school eligibility).
- 14. In each State, there is one BGA for Catholic schools and one for independent schools. The Northern Territory and the Australian Capital Territory each have a joint BGA representing both the Catholic and independent schools. Contact details for the BGAs can be found at [Block Grant Authority Contact Details](#)
- 15. It is the responsibility of each BGA to:
 - a) provide relevant information to non-government schools, the Department and the public in accordance with these Guidelines
 - b) comply with all mandatory requirements set out in these Guidelines
 - c) recommend projects and project variations to the Minister in accordance with the objectives, eligibility requirements and selection criteria outlined in these Guidelines
 - d) maintain appropriate documentary evidence (refer to clauses 72–78) to support assessment processes

² Note that funding is approved by the Department of Education (as delegated by the Minister) and funding is distributed by the Commonwealth Treasury to the State and Territory treasury departments, to distribute to BGAs.

- e) manage the release of funds to, and the return of funds from, member schools, in accordance with these Guidelines
- f) monitor compliance and obtain evidence from member schools of recognition requirements (refer to clause 167) outlined in these Guidelines
- g) establish appropriate internal control mechanisms (refer to clause 70 (c)) for grants administration and report any suspected fraudulent use of grant funds within the CGP, or the BBSOC, to the Department
- h) inform the Department of any changes to the basic operations and key individuals³ of the BGA
- i) ensure that legally binding agreements are entered into with member schools receiving funding through the CGP (refer to clause 56).
- j) advise non-government schools applying to be a part of the BGA of the roles and responsibilities under the CGP of all parties, including the Commonwealth, the BGA and the member school
- k) where a BGA considers a non-government school's membership of a BGA would adversely affect the operation of the BGA, they should provide details to the Department within 60 days of receipt of such an application for membership⁴
- l) maintain accurate registers of their member schools and notify the Department in writing within 14 working days of any new BGA member school or any existing BGA member school withdrawing its membership.

BGA Member Schools

16. It is the responsibility of member schools to:

- a) adhere to the CGP guidelines, including relevant mandatory requirements, and respond to all requests for information from the Department in a timely manner
- b) manage the release of funds to, and the return of funds from, persons or entities (for example, contractors) engaged on projects in accordance with these guidelines
- c) comply with all accountability requirements set out in these guidelines, including maintaining proper records, undertaking timely and accurate reporting, managing actual and potential conflicts of interest, cooperating with any audits, and taking prompt action to rectify any non-compliance or other issues identified through any review, reconciliation, and audit processes.

³ Key individuals are defined in section 4 of the Regulations to mean either; an officer of the BGA within the meaning of section 9 of the Corporations Act 2001; a person responsible for the executive decisions of the BGA; a person concerned with or who takes part in the management of the BGA; or a person who manages or supervises the provision of school education for a BGA.

⁴ A BGA should not reject a school's application to become a member without the Department's agreement.

Grant Information

Eligibility

Eligibility for funding: Existing schools

17. To be eligible to apply for grants through the CGP, a non-government school should:
- a) be a member, or prospective member, of a BGA
 - b) be in receipt of recurrent funding under the Act (unless they are a new school yet to receive recurrent funding - see clause 18)
 - c) demonstrate to the BGA a financial need for the grant (that is, show that it and its supporting community do not have the capacity to meet the total cost of the project)
 - d) demonstrate to the BGA that the project will contribute to the objectives of the CGP
 - e) demonstrate to the BGA that the school has an appropriate maintenance plan in place and can meet the ongoing running costs of its facilities (or, for proposed new schools, a proposed maintenance plan)
 - f) demonstrate to the BGA that adequate insurance is held over its school buildings (where applicable)
 - g) propose a project that is consistent with sound educational planning, within both the school and the environment it is operating in, especially in relation to the cost, size and use of facilities to be funded
 - h) ensure their project will not adversely affect the condition of a place in relation to the Commonwealth, State, Territory or local government heritage legislation
 - i) demonstrate to the BGA that it is financially viable⁵.
 - j) own the land or have a lease for the land and/or buildings that has a period to run commensurate with the period in which the capital grant may be required to be repaid if the school no longer provides school education (refer to **Attachment 3**).

Eligibility for funding: New schools

18. Proposed new non-government schools may apply for CGP funding (if it is a member, or prospective member of a BGA), in line with the CGP objective of making provision for needs arising from new demographic and student enrolment trends, or to meet other schooling needs.
19. To be considered for CGP funding, proposed new non-government schools must be able to demonstrate some certainty of successful establishment, operation and governance in relation to Commonwealth, State or Territory and local government requirements. New non-government schools may apply for capital funding prior to receiving recurrent funding.

⁵ When considering applications for funding, the BGA should advise the Department where it has concerns about a school's financial viability.

20. Before submitting a grant application from a proposed new non-government school, the BGA should submit to the Department:
- a) the name, address and contact details, and level of education of the proposed new school
 - b) evidence that the proposed new school has received or applied for State or Territory registration as a school
 - c) evidence that the approved authority⁶ for the proposed new school would likely be able to meet the basic requirements for approval under section 75 of the Act, including in relation to being a fit and proper person and having arrangements for managing and supervising the provision of education at the school (for example incorporation details, expertise of key personnel). Where a principal or director has not been appointed to the school, an authorised representative must meet the basic requirements for approval under section 75 of the Act.
21. Proposed new schools applying for the CGP require an identifying Australian Government Education ID (AGEID) number⁷. If a member school does not have an AGEID (that is a new school) the BGA should contact the Department's Capital Funding Section (refer to clause 10).
22. The CGP grant will be cancelled and the funding must be repaid in full to the BGA if, by the end of the funding year, the member school is not approved in relation to:
- a) recurrent funding
 - b) final State or Territory registration as a school
 - c) Ministerial recognition of the approved authority.
23. While a CGP grant may be approved under these conditions, CGP grant funds should not be paid to the member school by the BGA until the approved authority or governing body of the member school has entered into a binding contract with the BGA indicating the member school's acceptance of the grant conditions.
24. The agreement between the BGA and the approved authority or governing body of the member school must include the provision that, if by the end of the funding year the member school's approved authority is not approved by the Minister; or the member school has not received approval for recurrent funding; or obtained final State or Territory registration, the CGP grant will be cancelled and the funding must be repaid in full to the BGA (refer to **Attachment 3**).

Leases

25. CGP funding is not available to meet the cost of leasing a property. However, a member school that is leasing a site can still apply for funding of a construction, refurbishment, or equipment project on

⁶ An approved authority is a legal entity that the Minister has approved to administer funding for a school. The Commonwealth expects that the approved authority will have management and operational authority over the school and its administration. An approved authority has certain legal responsibilities for the funding of, and the delivery of education to its schools.

⁷ The Department's AGEID number is a unique identifier for each school. It is used to identify schools on the Department's internet interface SchoolsHUB. BGAs require a member school's AGEID to submit an application on SchoolsHUB.

the property, provided that the lease has a term commensurate with the repayment period (see **Attachment 3**).

Selection Criteria

Criteria for funding through the CGP

26. The BGA must ensure that each project involves capital expenditure as defined in section 6 (Definitions) of the Act, which includes expenditure relating to any of the following:
- a) investigating the need for:
 - (i) schools in particular areas, or
 - (ii) schools of particular kinds in particular areas, or
 - (iii) buildings or other facilities (or parts of buildings or other facilities), or equipment.
 - b) purchasing land, with or without buildings (or parts of buildings)
 - c) planning for the erection, alteration, extension, demolition or refurbishment of a building or other facility (or part of a building or other facility)
 - d) developing or preparing land for building or other purposes
 - e) erecting, altering, extending, demolishing or refurbishing a building or other facility (or part of a building or other facility)
 - f) installing or upgrading water, electricity or any other services
 - g) providing equipment, including information technology equipment⁸
 - h) providing furniture⁹
 - i) providing library materials or obtaining services and goods for cataloguing a library (or part of a library)¹⁰
 - j) any other expenditure prescribed by the Regulations.
27. CGP funding is not available for:
- a) facilities which have religious worship as a principal purpose
 - b) facilities in a co-educational school where those facilities will not, as far as practicable, be equally available to male and female students at the school
 - c) where retrospective approval is sought (generally after a contractual arrangement to commence the project has been entered into)

⁸ See clause 27(g) below.

⁹ See clause 27(g) below.

¹⁰ See clause 27(g) below.

- d) projects proposed to be undertaken solely by parents and friends
- e) facilities where the majority of the use will be by full fee paying overseas, or other unfunded students attending a 'for profit' section of the school
- f) facilities that are principally for pre-primary education, that is for children below the prescribed State/Territory school starting age or where the facility is not in a formal school setting (for example, an Early Learning Centre attached to a school would not be eligible for CGP funding).
- g) equipment (including information technology equipment), furniture, library materials or obtaining services and goods for cataloguing a library (or part of a library) unless expenditure on these items is related to the erection, alteration, or refurbishment of a building or other facility at the school, or special circumstances exist.
 - (i) For example, the purchase of new computers would not generally be funded under the CGP because it is expected that recurrent funding will be used for this expenditure; however, expenditure on new computers would be considered for funding under the CGP if it is part of building a computer room at the school.

Finalisation of recommended projects

28. In negotiating with member schools the nature of each project to be recommended for funding, BGAs should aim for a minimum viable project that considers value for money principles which:

- a) meet the objectives of the CGP
- b) is based on sound student enrolment projections for the period closely following the completion of the project
- c) meet the educational needs in a way that is cost effective over the life of the facilities
- d) take appropriate account of the value of good quality materials and building and design practices that:
 - (i) maximise the life of the structure
 - (ii) maximise the potential for environmental performance
 - (iii) avoid design features that make no significant educational contribution and which may increase construction, maintenance or operating costs.

29. Key metrics and criterion to assess value for money can be developed by individual BGAs to assist them during their project assessments.

Not recommended projects

30. Where a project is not recommended for CGP funding, the BGA should provide its reasons for not recommending the project for Commonwealth approval. These reasons may include:

- a) no financial need
- b) less educationally disadvantaged than other applications
- c) not consistent with sound educational planning

- d) less disadvantaged on area or facilities condition
- e) does not represent value for money
- f) contribution to program objectives not demonstrated
- g) viability not sufficiently demonstrated
- h) application withdrawn
- i) deferred for consideration pending resolution of outstanding issues
- j) will receive other funding
- k) other (for example not a member of a BGA, National Estate issues).

Funding available to BGAs

Funding available

31. Section 67 of the Act allows the Minister to determine an amount of financial assistance (capital grant funding) for a year that is payable to a BGA for member schools. The financial assistance is distributed from the Commonwealth Treasury to State and Territory governments, who are then responsible for payment to BGAs.
32. Capital funding under the CGP is allocated to BGAs based on student enrolments and need (based on recurrent funding payments). The process by which the Commonwealth allocates funds to BGAs is outlined in **Attachment 1**.
33. CGP allocations to BGAs do not include the Goods and Services Tax (GST), although all payments to BGAs will include a component for GST.

Limit on total amount available for capital funding

34. Section 68 of the Act limits the total of the capital funding that the Minister can determine under subsection 67(2) of the Act for all BGAs by:
 - a) prescribing a base assistance amount applicable in a particular program year (either by reference to the Act or to an amount prescribed in the Regulations¹¹, and
 - b) applying an indexation percentage to the base assistance amount for any other year.
35. Where an indexation percentage is to be applied in order to calculate the limit of capital funding that the Minister can determine in a program year, the capital funding for a program year is calculated by multiplying the previous years' capital funding amount by the indexation percentage.
36. Any new base amount for the year, or the indexation percentage to apply, will be given effect by annual amendments to the Regulations.

¹¹ Note a program year refers to a calendar year. Applications for CGP funding are due to BGAs in September with approval notification provided in December. Grant payments are made in 11 instalments to BGAs.

Forward commitment

37. In certain circumstances, a BGA may find it practical to fund projects which run over several years. In determining the optimum funding profile for a project, BGAs may identify funding from subsequent years to be allocated to a project (forward commitment). BGAs should determine the extent to which they forward commit future years' funds, in a way that optimises the achievement of the CGP's objectives. This funding will be subject to the availability of funding in future years for a BGA. In general, forward commitments should not be used to supplement the current year's allocation.
38. Forward commitment of funding may be made over 2 future years beyond the current calendar year and should be considered based on:
 - a) forward planning: funding for a future year where the CGP funding will not be required until a future year (the project will commence within 12 months of approval, but the member school is able to use the school community or State/Territory funding for any initial payments)
 - b) staging of payments in projects constructed over more than one year
 - c) staging of payments for large projects in the smaller BGAs.
39. The Department will notify each BGA of its future funding allocation amounts.

Full commitment of annual allocation

40. Each BGA is required to spend, or commit to spend, its total CGP funding allocation within the program calendar year in which the funding is paid to the BGA, or in a period as otherwise determined by the Minister in accordance with section 30 of the Regulations.

Withholding payment and repayment

41. Under section 110 of the Act, the Minister may make a determination to delay, reduce or require the repayment of funds, if the BGA is not meeting its obligations under the Act or the Regulations. This may include repayment of a portion of the grant if there is evidence that the funding has not been used for the purpose it was provided for.
42. The BGA is required to repay any overpayments made to the BGA by the Department. Where an overpayment occurs, the Minister will make a determination under section 110 of the Act requiring the repayment of the overpaid amount, which must be repaid by the State or Territory as a debt due to the Commonwealth. Pursuant to section 11 of the Regulations, under the arrangement the BGA enters with its relevant State or Territory, the BGA must agree that any amount determined by the Minister under paragraph 110(1)(a) of the Act is a debt due to the relevant State/Territory and may be recovered by the State/Territory in court. The State/Territory has the option under subsection 11(4) of the Regulations to either recover this amount from the BGA or assign the right of recovery to the Commonwealth.

Audit

43. The Department may undertake audits or reviews of the financial and administrative procedures of the BGAs. Audits may be undertaken by the Department or by an independent auditor engaged by the Department. Matters to be audited will be determined by the Department and may include (but are not limited to):
- a) compliance with BGA's obligations under the Act and Regulations, including as set out in these Guidelines
 - b) financial records
 - c) determination of project eligibility
 - d) ranking of eligible projects
 - e) the administrative procedures and processes of the BGA.

Compliance with laws

44. It is expected that BGAs will comply with any relevant statutes, regulations, by-laws and requirements of any Commonwealth, State, Territory, or local authority. Including, where applicable, relevant anti-discrimination laws and the:
- a) *National Construction Code 2022*
 - b) *Fair Work Act 2009 (Cth)*
 - c) *Privacy Act 1988 (Cth)*
 - d) *Workplace Gender Equality Act 2012 (Cth)*
 - e) *Work Health and Safety Act 2011 (Cth)*.

Privacy and freedom of information

45. The Department is subject to the *Privacy Act 1988 (Cth)* and the *Freedom of Information Act 1982 (Cth)*. Any information BGAs submit to the Department will be subject to both pieces of legislation. Any documents BGAs submit to the Department may be subject to freedom of information applications.
46. In providing any data or any other information to the Department pursuant to the Act or Regulations, giving false or misleading information is a serious offence under s137.1 of the *Criminal Code Act 1995 (Cth)*.

Reporting Fraud

47. The Department is committed to preventing fraud in all aspects of its business. If fraudulent activity is suspected within the CGP or the BBSOC, it should be reported. Fraud can be reported anonymously through the [Department's fraud reporting tool](#). The tool allows direct communication with the Department without the disclosure of an individual's identity. Further information about how to report fraud is available on the [Department's website](#).

Grant Administration

Applications

Providing information about the CGP to school communities

48. Each year, BGAs should advise member schools of CGP funding and should invite applications for funding in accordance with the requirements of section 62 of the Regulations.
49. The BGA's application procedures should be clearly documented in their procedures manual, which must be provided to the Department upon request (refer to Attachment 5).
50. BGAs should review their procedures manual annually to ensure it reflects Better Practice.
51. Section 62 of the Regulations also requires a BGA to publish the following information about the CGP each year to make available to the public:
 - a) the amount of financial assistance provided to the BGA in a program year for capital expenditure
 - b) how the financial assistance is applied
 - c) how decisions of the BGA are reviewed.
52. BGAs should make information about the application process publicly available, including information about the eligibility criteria, required documentation, information sessions, application closing date, procedures for assessment of funding applications, how decisions are made, contact details of the BGA, and the review process for decisions of the BGA to allocate CGP funding.
53. Information can be made public by publishing the information on the BGA website, through newsletters, bulletin boards, application booklets and in other forms of communication. The BGA should provide the information on request if an applicant is unable to access the website.
54. BGAs may seek to verify and supplement quantitative data included on grant applications through visits to member schools (refer to Attachment 2). For member schools approved for grants, BGAs should commit to site visits during the life of the project (or more often if required) to ensure the works being undertaken are consistent with the project that was approved.

Mandatory Requirements

BGA membership

55. For non-government schools wishing to become a member of a BGA, BGAs must:
 - a) advise prospective member schools of the general requirements under the CGP and of any specific requirements set by the BGA (for example, closing dates for applications)
 - b) administer a written agreement with a prospective member school's approved authority which, amongst other conditions set out by the BGA, bind the member school to:
 - (i) accept the BGA's administrative process and procedures including variations to those processes and procedures as may be required from time to time by the Commonwealth

- (ii) remain a member of the BGA for a minimum period of 3 years and provide the BGA with at least 12 months' notice of its intention to withdraw from the BGA.

BGA and member schools: nature of agreements

- 56. For member schools wishing to apply for funding through the CGP, BGAs must ensure that a legally binding agreement is executed with the approved authority of the member school.
- 57. The approved authority of a member school must sign all agreements with the BGA, unless it has delegated its authority to another person, such as a governing body of a member school. Each agreement must be properly executed and constitute a legally binding contract between the BGA and the approved authority of the member school. Where a principal or director has not been appointed to the school, an authorised representative must sign all agreements with the BGA.
- 58. The Department does not specify the format of these agreements and BGAs must determine the most appropriate agreement arrangements to put in place with its members. BGAs must ensure that agreements are consistent with the provisions of the Act, the Regulations and the Guidelines. BGAs can contact the Department for further advice if required.
- 59. Conditions which relate to the responsibilities of member schools applying for grants, accepting grants, managing grant funds (including repayment of grant funds if applicable) must be included in the agreement to ensure the proper use of Commonwealth funds (refer to clauses 63 and 64).
- 60. An agreement/s must be in place prior to a BGA making any payment of Commonwealth CGP funds to a member school.
- 61. BGAs must keep copies of all executed agreements. BGAs are required to provide the Department with access to these agreements, upon request.
- 62. When entering into a written agreement with the approved authority of the member school, BGAs must notify member schools that in providing any data or any other information required to be given (pursuant to the Act or the Regulations, the Guidelines, or the agreement), that giving false or misleading information is a serious offence under s137.1 of the *Criminal Code Act 1995 (Cth)*.

BGA and member schools: financial and other conditions

- 63. The agreement between a BGA and the approved authority or governing body for the member school must contain the following conditions, requiring the member school to:
 - a) provide financial, student enrolment and other relevant data to the BGA; allow the Commonwealth to provide similar data to the BGA on a confidential basis (exclusively to allow the BGA to undertake capital grant application assessments); and allow the BGA to provide any information provided by the member school to the Commonwealth
 - b) permit access to the school (for example through school visits) and provide the BGA with information and documentation required in accordance with these Guidelines
 - c) not accept tenders, nor enter into commitments with contractors/builders, until the BGA has advised the applicant that the Minister has approved their grant.
- 64. Additionally, before a BGA provides CGP funding to an approved authority or governing body for a member school, the BGA and approved authority must enter into an agreement requiring the approved authority to:

- a) hold adequate insurance cover over its existing buildings and facilities and provide evidence of the cover as part of the grant application process
- b) seek BGA approval prior to any variation to the approved project or alterations in the scope of works
- c) contribute at least the amount specified in the funding offer or project funding agreement
- d) apply the funds provided through the CGP for purpose of the approved project only
- e) accept that if they are not complying with their agreement with the BGA, the BGA may delay payment to the BGA member school until it fulfils the condition
- f) agree to repay the BGA or the Commonwealth if the BGA or the member school has failed to comply with a condition on which the funding was provided
- g) spend capital funding payments, including any interest earned on the payments, as soon as possible and, for the CGP, not later than six months after the date of receipt
- h) agree to repay the grant in full to the BGA if, by the end of the funding year, the member school is not approved for recurrent funding and/or has not received final State/Territory registration and/or the approved authority of the member school is not approved by the Minister
- i) enter into a legally binding contractual arrangement (for example, sign a contract with a builder) with successful contractors to proceed with the project before the end of the program year in which the first instalment of funding is payable unless, in exceptional circumstances, the Department gives prior approval for a later commitment date
- j) use and document tendering procedures that encapsulate the principle of 'public invitation' and that are based on standard tendering practice
- k) comply with, and include in contracts with contractors for the performance of any construction or building activity, the requirements contained in the [National Construction Code 2022](#).
- l) maximise employment opportunities for Aboriginal and Torres Strait Islander people where a project is undertaken specifically for an Indigenous Australian community or where the project is in an area likely to provide employment or training opportunities for Aboriginal and Torres Strait Islander people, to reduce the disproportionately high unemployment rates
- m) agree to identify any perceived or actual conflict of interest to the BGA at the stage when it first occurs and ensure that the conflict is resolved, and provide written advice to the BGA on the nature of the conflict and how it has been resolved (refer to clauses 85–90)
- n) specifically identify any provision under any subcontract the member school has entered into, or proposes to enter into, in relation to the project which requires the member school to make an incentive payment to any person involved in the development and construction of the project and which is designed to reward completion of the project at a cost under budget or ahead of time
- o) ensure that the project is completed to a satisfactory standard and within a reasonable time in accordance with the approved project description and with all relevant, local government requirements

- p) comply with the Commonwealth recognition requirements for CGP funding¹²
- q) provide financial accountability information to the BGA within a specified period after the completion of a project. Accountability information includes documentation on practical completion (for example, certificate) prepared by architects and accountants which certifies:
 - (i) the total expenditure and grant received for the project
 - (ii) that the project is completed in accordance with the approved project description, and
 - (iii) that the grant monies were spend only on the approved project.
- r) use the facilities for the purpose of providing school level educational services for the locations, levels of education and students that have been approved/recognised by the relevant State or Territory government
- s) comply with section 109 of the Act and section 64 of the Regulations, by:
 - (i) notifying the BGA if the member school ceases to provide primary or secondary education within the Designated Period specified in the Commonwealth Right to Repayment table at **Attachment 3**
 - (ii) repaying to the BGA or to the Commonwealth, all or part of the grant, calculated in accordance with the Commonwealth Right to Repayment table at **Attachment 3** if the member school ceases to provide primary or secondary education Designated Period.
- t) not transfer to another BGA until the project has been completed, all grant payments have been received, and accountability requirements for the particular project have been finalised, notwithstanding the 12 months' notice required of BGA member schools that must be given before such finalisation (the date of effect of a school withdrawing from a BGA / transferring to another BGA, will be 31 December of the year the Department is notified)
- u) ensure that, if a member school is transferring to another BGA, the BGA to which it is transferring accepts responsibility for protecting the Commonwealth's right to repayment in any project funded while the school was a member of the previous BGA (the BGA must advise the Commonwealth that it has agreed to accept such a responsibility)
- v) pay all funding instalments received into an account opened with a financial institution such as a bank, building society or credit union operating in Australia. The member school must identify the receipt and expenditure of those monies in separate accounts within the school's accounting record
- w) keep full and accurate records in a form that will permit comprehensive information to be provided to the Australian Government if required in accordance with the Act. This includes adequate financial documents and records relating to each CGP and BBSOC project to enable:
 - (i) all income and expenditure related to each CGP and BBSOC project to be identified in the member school accounts

¹² Member schools should contact the schoolopenings@education.gov.au inbox if they have any questions regarding recognition requirements.

- (ii) confirmation of the completion and final expenditure on the project, such as Certificate of Occupancy
 - (iii) the preparation of financial statements in accordance with Australian Accounting Standards and generally accepted practices.
- x) allow the BGA and/or the Commonwealth to inspect the project
 - y) acknowledge and agree that if the Minister makes a determination under section 110(1)(a) of the Act following the closure, sale or disposal of facilities (see clause 65s), the BGA may recover that specified amount from the school. The agreement must also acknowledge that the BGA may assign some or all of the BGA's rights (including the BGA's rights to recover all or a portion of the grant from the BGA member school) to the relevant State/Territory or the Commonwealth (as explained in the Commonwealth Right to Payment at **Attachment 3**) A pro forma clause is at **Attachment 6**
 - z) comply with any additional conditions imposed by the Minister in relation to the approved grant.

Tendering

- 65. All tendering procedures must reflect sound building industry practice and support the principle of value for money, in accordance with the Australian Standard Code of Tendering – AS4120. Tendering procedures must be open and transparent and comply with ethical practice for tendering.
- 66. BGAs must approve all tendering and procurement procedures used by member schools prior to the preferred tenderer being engaged by the school. BGAs may determine the tendering method to be used on a particular project. If a BGA is uncertain about a proposed tender method, the BGA must consult with the Department.
- 67. Any potential conflict of interest in the tendering process must be disclosed by the member school to the BGA (refer to clause 85–90).
- 68. Where a person believes a tendering procedure approved by a BGA is unfair, the BGA must provide that person with an opportunity to explain their objections to the procedure. The BGA must provide the reasons for its approval of the tendering procedure (refer to **Attachment 4**).

Financial accountability and reporting in accordance with these Guidelines

- 69. Subsection 36(6) of the Regulations require a BGA to give the Secretary of the Department a report or reports for each year in accordance with the Capital Grants Program Guidelines. Provision of these reports helps the Department to ensure accountability for CGP funds provided under the Act.
- 70. In order to report in accordance with these Guidelines a BGA must provide an Accountability Report for a program year, via SchoolsHUB, that explains how the BGA dealt with CGP funds that year (1 January – 31 December) – by 30 June of the next program year.
- 71. Accountability Report must include:
 - a) a statement of CGP funds received and CGP funds spent or committed to be spent, during that year
 - b) whether the interest earned on that funding has been spent or committed to be spent

- c) a statement from the BGA that it has satisfactory internal accounting systems, controls and procedures in place for records relating to the CGP funds. BGAs must demonstrate that at least the following arrangements are in place to ensure the segregation of duties:
 - (i) at least one BGA staff member review, and at least one BGA staff member (not the same staff member) approve the expenditure statements and supporting documentation provided by member schools
 - (ii) one BGA staff member creates the general ledger entry associated with the payment and another BGA staff member reviews and approves it
 - (iii) two BGA staff members are required to approve payments in online banking
 - (iv) one BGA staff member prepares the remittance advice and another BGA staff member reviews and approves it
 - (v) one BGA staff member prepares the bank reconciliation and another BGA staff member reviews and approves it.
- d) an audit certification or opinion issued by an independent qualified accountant in accordance with Australian Auditing Standards and generally accepted auditing practices
- e) details of all bank accounts operated by the BGA.

Records and information requirements

- 72. BGAs must keep records relating to all income and expenditure of capital funding in accordance with Australian Accounting Standards and generally acceptable accounting practices. These records must be kept separately within the BGA accounting records. These records must be kept for at least 7 years, (see section 37 of the Regulations).
- 73. In accordance with the BGAs' obligations under section 39 of the Regulations, BGAs must allow, in response to a request for information by the Auditor General, a person authorised by the Minister to do either or both of the following:
 - a) to have full and free access, at all reasonable times after giving reasonable notice to the BGA, to the BGA's accounts, records and other documents relating to capital funding information the BGA is required to provide to the Department.
 - b) take extracts from, or make copies of, the material referred to above.
- 74. If a BGA has not provided the Department with all information requested the BGA will be in breach of its obligations under the Act and Regulations (section 39 of the Regulations). Failure to comply with the information requirements under the Act and Regulations is in breach of a BGA's ongoing requirements under section 85 of the Act, which may result in the Minister making a Determination under section 110 of the Act to delay further payments to the BGA.
- 75. Member schools must maintain records of all tendering (including response to requests for quote and assessment), payments, and accountability processes and documents (and made available to BGAs for scrutiny) for at least 7 years after the completion of each project. Documentation must be sufficiently comprehensive to justify the decisions made by member schools (for example, eligibility of preferred contractors) and payments made for each project.

76. BGAs must maintain records of all grant applications, assessments, tendering, payments and accountability processes and documents for at least 7 years after the payment of funding to a member school. Assessment documentation must be sufficiently comprehensive to justify the conclusions reached on eligibility and ranking criterion for each application.
77. Documents relevant to the Commonwealth's right to recover a capital funding amount under section 64 of the Regulations and section 110 of the Act must be retained for the period of possible recovery set out in section 64 of the Regulations (for example agreements, payment records and accountability certificates).
78. BGAs must keep adequate records to:
 - a) meet financial accountability obligations
 - b) demonstrate that BGA obligations under the Act and Regulations are satisfied
 - c) support the efficient and effective conduct of business
 - d) demonstrate that all reasonable steps have been taken to minimise risk, including documentation relating to the BGAs Risk Management Plan
 - e) support and document policy formation and decision making
 - f) ensure business performance and continuity
 - g) meet the Department's expectations of consistency, equity and transparency.

BGA Banking requirements

79. BGAs must keep up to date financial records relating to the receipt and expenditure of Commonwealth CGP funds and Commonwealth BBSOC funds separately to each other within the BGA's accounting records. This includes accounting for the funds received from any other person or entity. Furthermore, all transactions involving CGP funds and all transactions involving BBSOC funds must be made through those accounts.
80. The BGA must include the details of all accounts operated by BGAs in which CGP funds and BBSOC funds are held in the Annual Financial Accountability Report, which is provided to the Department (refer to clause 70.) The BGA must advise the Department of any changes to these details when they occur.
81. The BGA must ensure that funds are always available in order to meet all payment obligations as they are due.
82. BGAs must deposit Commonwealth funds, pending distribution to member schools, with a financial institution such as a bank, building society, or credit union operating in Australia. Exemption from this requirement is at the discretion of the Department and may be given upon provision to the Commonwealth of a legally effective, written guarantee to make good any loss sustained by a BGA as a result of depositing funds with an alternative organisation. This guarantee must be given by a body that has sufficient assets to meet the guarantee and that is acceptable to the Commonwealth.

Liaison and monitoring

83. In administering capital funding on behalf of member schools, the BGA must:

- a) liaise with non-government schools and provide information to the Department, as reasonably required by the Department
 - b) comply with all reasonable requests, directions, or monitoring requirements received from the Department.
84. The Department may, at any time, request additional information on a project and may request the BGA to inspect a project on behalf of the Department. This includes school visits (refer to clause 54).

Conflict of Interest

85. BGAs are required to:
- a) maintain a conflict-of-interest policy, which includes specific procedures to address each type of conflict, in line with best practice guidelines
 - b) maintain and regularly update a conflict-of-interest register
 - c) include standing agenda items in all committee and Board meetings to declare conflicts of interest
 - d) record in meeting minutes what actions were taken to manage conflicts of interest.
86. Where there is an actual or potential conflict of interest at any stage of a project, a BGA must manage or resolve the conflict. A conflict of interest may arise, for example, where a member of a BGA assessment committee has an interest in a member school applying for Commonwealth capital assistance. A conflict of interest may also arise when a person associated with the governance of the member school (approved authority, school board, staff member or other associated person or entity) has an interest in a body bidding for work funded by the Commonwealth.
87. BGAs must advise member schools applying for CGP grants of the Commonwealth requirements in relation to conflict of interest.
88. BGAs may seek advice from the Department to help resolve conflicts of interest. In such a case, the BGA must write to the Director of the Capital Funding Section (refer to clause 10 for contact information).
89. BGAs must document all steps taken in resolving conflicts of interest. This documentation is to be made available to the Department, or other appropriate Commonwealth authorities, upon request.
90. See **Attachment 8** for further details on identifying and managing conflict of interest.

Assessment of Applications

Probity and transparency of Capital Grants Program

91. To ensure probity and transparency of decision making, BGAs must ensure that the assessment and ranking of projects for funding is impartial, appropriately documented and reported (refer to clauses 72–78 publicly defensible and lawful).
92. BGAs can establish and maintain probity by complying with public sector values and expectations such as honesty, integrity, impartiality and accountability.

93. BGAs can establish and maintain transparency by producing appropriate documentary evidence (refer to clauses 72–78 of the application of an assessment criteria and methodology in accordance with these Guidelines. Documentation should be able to demonstrate that the:
- a) published assessment methodology was applied in a consistent, robust and equitable manner
 - b) the highest ranked applications were identified and recommended to the Minister for funding through the CGP.¹³

Meeting the objectives of Capital Grants Program

94. The Minister must be satisfied that a member school needs the financial assistance for funding through the CGP, and that the funding meets the aims of the CGP.
95. When assessing applications, each authority (BGAs and the Department) must ensure the recommended projects contribute to the objectives of the CGP (refer to clause 9). Member schools must state in their applications which of the CGP objectives their project is addressing. Where the project relates to the CGP objective of “pursuing the Commonwealth’s other priorities and objectives for schooling”, further detail should be provided by the BGA to explain how the project relates to the relevant priority or Commonwealth objective.

Assessment and ranking of projects for funding

96. Once a BGA has established which projects are eligible for funding, it should rank the projects primarily based on the relative educational disadvantage of the student population of the member school. BGAs should give priority to the more disadvantaged over the less disadvantaged. All eligible projects should be included in the ranking.
97. BGAs should use an assessment methodology, which is sufficiently discriminating to be capable of dividing the full range of its member schools. This methodology may be a combination of generally applied indices and additional applicant-specific information. BGAs should ensure that these are applied in a consistent and equitable way which is able to be supported by evidence.
98. Member schools that cannot be differentiated based on the relative educational disadvantage of their students may have their ranking refined by reference to the combined effects of the following factors:
- a) the relative contribution of the projects to the objectives of the CGP
 - b) the appropriateness of the cost, size and use of the facilities to be funded in relation to sound educational planning, such that projects that are more appropriate are given preference over others. Projects considered inconsistent with sound educational planning based on cost, size and use of the facilities should not be recommended
 - c) the condition and suitability of existing facilities in relation to the level of facilities needed
 - d) where relevant, the extent to which the projects effect economies of scale through the shared provision of educational or recreational services otherwise provided independently by State/Territory governments, local governments and member schools

¹³ ANAO, 2013, Implementing Better Practice Grants Administration, p.64

- e) the extent to which the member school is making adequate and regular provision for the upkeep of its facilities
99. A BGA may depart from this procedure for ranking in an individual circumstance where it believes strict adherence would seriously compromise the achievement of the objectives for the CGP. In such cases, the BGA must advise the Department of the specific reasons for the departure in its funding recommendation.

Timing

100. The deadline for the submission of applications for funding for capital projects is 30 September each year unless another date has been agreed by the Department in writing.
101. Acceptance of submissions after the closing date is at the discretion of the Department. Where finalisation of a recommendation is awaiting further information or development from the member school, the BGA should notify the Department.

Submission of schedule

102. The schedule should include the recommended projects and the projects not recommended for CGP funding.
103. The BGA should document and provide the Department information about any special features that have influenced the assessment of a project in a way that would not be apparent from the standard project information normally supplied.
104. BGAs should keep a detailed description of the scope of work including components of the project such as site works, items and quantity of furniture and equipment and professional fees. This detailed description should be used in the acceptance of the grant agreement between the BGA and the member school and in the financial accountability documentation completed by the member school.
105. Each BGA must submit its schedule to the Minister (via the Department) for approval via SchoolsHUB, and BGAs should identify the expected general project outcome(s) for students and school communities when submitting a Schedule via SchoolsHUB. Expected outcomes include:
- a) providing a better learning environment
 - b) addressing an area of particular educational disadvantage
 - c) responding to new demographic or enrolment trends
 - d) supporting quality teaching
 - e) supporting parental and community engagement
 - f) supporting safety for the school community
 - g) supporting the curriculum
 - h) supporting educational opportunities for Indigenous students
 - i) supporting educational opportunities for students with a disability

j) other relevant outcomes.

Ad hoc schedules

106. BGAs should include all recommendations for funding in one annual schedule to enable ranking of competing applications and for administrative efficiency. However, ad hoc schedules of projects may be accepted where it is not practicable for a project proposal to meet the annual Schedule list timeline, or where additional funding becomes available, for example through project savings. BGAs should seek approval from the Minister for any ad hoc schedule projects.
107. Ad hoc schedule projects are subject to the same assessment criteria as annual Schedule projects. Ad hoc project recommendations must also be submitted through SchoolsHUB using the same process required for the submission of the annual Schedule.
108. If an ad hoc project application has been received, but the BGA does not recommend a grant, the BGA should submit the proposal to the Minister as a new project that is not recommended for CGP funding.

Settlement of school contribution and grant sizes

109. BGAs should determine the size of grants to be recommended to the Minister, by assessing the maximum contribution a member school and its supporting community can make to the project, both in cash and loans. BGAs should consider the current student population and use a methodology for assessment of the projected student population at the member school that is primarily quantitative and will enable explanations to be made to an independent appeal body or auditor.
110. The school contribution amount should be determined in consultation with the member school. The contribution amount should be based on a realistic and informed assessment of the member school's expected financial situation in the foreseeable future. Project costings should include all financial donations and contributions to projects to be funded under the CGP.
111. All in-kind contributions not of a financial nature should be excluded from the project descriptions and costings of a project under the CGP. For example, voluntary work and/or donations of furniture and equipment should not be included.
112. When several member schools are contributing to a project that will provide common services, contributions from each member school should be assessed using the above method. With such projects, one member school should agree to accept and manage the grant on behalf of the other partners (refer to clauses 116–118).

Property purchase

113. In the case of property purchase, BGAs may assess the non-project dependent aspects of an application (for example, socio-economic status and financial capacity) ahead of a specific property becoming available. The BGA, however, should not submit a recommendation to the Minister unless a specific property is being proposed for purchase. In such a case, the value of the property is to be confirmed by an independent valuation. Where a property is to be auctioned, the BGA recommends to the Minister, ahead of the auction, a maximum grant amount. This grant should be no greater than the independent valuation, less the member school's contribution.

National Construction Code and Australian Government Building and Construction WHS Accreditation Scheme

114. The National Construction Code sets out the Australian Government's expected standards for building contractors or building industry participants involved in Commonwealth funded construction projects. It is Commonwealth policy that National Construction Code 2022 will be applied to all construction projects indirectly funded by the Commonwealth where:
- a) the value of Commonwealth contribution to a project is at least \$6 million and represents at least 50% of the total project value; or
 - b) the Commonwealth contribution to a project is \$10 million or more, irrespective of the proportion of Commonwealth funding.

For further information visit the [National Construction Code 2022](#) webpage.

115. Member schools must also comply with the Australian Government Building and Construction WHS Accreditation Scheme. Under the WHS Accreditation Scheme, member schools must only contract with contractors who are accredited under the Scheme, subject to the financial thresholds outlined in clause 114. More information is available at the [Office of the Federal Safety Commissioner \(OFSC\)](#) webpage.

Multiple-school project

116. A single project providing facilities available to multiple member schools may also be eligible for funding. One member school must be nominated to be the lead school, which would have primary management of the project. Evidence should be provided showing that access to the facilities by all contributing member schools is protected for a reasonable period.
117. In exceptional circumstances, BGAs may also apply to manage a project on behalf of multiple member schools ('BGA Project' in SchoolsHUB). Under subsection 67(2) of the Act, the Minister may determine a single amount of financial assistance which the Minister is satisfied is required for capital expenditure by a BGA for all the member schools (or a number of member schools) that the BGA is approved for under the Act.
118. BGA managed projects must demonstrate the benefits to be achieved by conducting a single BGA-managed project, rather than a series of projects from individual member schools. Such projects may be considered as a response to unforeseen or developing issues affecting a number of member schools. Projects would be assessed on based on meeting the CGP objectives, aligning with the CGP criteria for funding and demonstrating a particular benefit to disadvantaged member schools.

Approval process

Notification of approval

119. The Department will inform each BGA in writing of all approved projects and of any special conditions applying to individual projects. Successful member schools will also be notified in writing by the Department.
120. The approval notification normally occurs in December each year.
121. BGAs should ensure that any conditions which attach to the approval of a project are legally enforceable. Each member school receiving capital funding must enter into legally binding written

agreement with its respective BGA and in doing so, the member school must agree to be bound by all attached conditions. Agreements should include certain conditions, including the Commonwealth right of recovery, assignment of rights and other requirements (refer to clause 63–64). BGAs must provide copies of executed agreements to the Department when requested.

122. Where a new member school has been approved for capital funding, the BGA must include a clause in the agreement with the approved authority of the member school specifying that if the member school is not approved for recurrent funding by the Minister; and/or not receive final State or Territory registration; and/or the approved authority not be recognised by the Minister, the member school will repay the grant in full to the Commonwealth (refer to clause 64h).
123. The entity with which a BGA enters into an agreement in relation to a grant must be a legal entity, usually an incorporated body (for example a body corporate or an incorporated association) or a statutory body with the ability to enter into legally binding contracts and to sue and be sued in its own name.
124. This entity / body must:
 - a) operate the member school
 - b) have a legal right to own or occupy the land on which the project facilities are to be built (for example, under a lease or as beneficiary of a trust).
125. Where the operator of the member school and the owner of the land are not the same entity, the BGA should ensure that the Commonwealth's recovery rights are protected, for example by an agreement between the member school and the land owner. This may be the existing tenancy lease, where the lease runs for a period commensurate with the designated used period.

Public announcement of funding

126. The Minister reserves the right to make public announcements about the capital program or relevant capital projects at any time and to inform member schools about the approval of projects.
127. BGAs should not publicly announce the approval of grants or advise member schools that an approval has been granted until formally advised by the Department (refer to clause 167 for recognition of assistance requirements).

Review of decision

128. Where a BGA does not recommend a project, the BGA should provide reasons to the applicant member school and should afford the member school the opportunity to have the application reviewed.
129. The review process must be:
 - a) independent of the original assessment process and personnel
 - b) mutually acceptable to the BGA and its member schools.
130. The review process may be done before, or in parallel with, the submission of the BGA's Schedule list to the Department.
131. Member schools or members of the school community may also request a review of other aspects of the application or grant management process from the BGA.

132. The BGA should advise the Department, in writing of any appeal as soon as it becomes aware of a request for review. All outcomes of the reviews should be communicated in writing to the Department.

Payment Process

Commitment to commence a project

133. When funds are approved for payment in a particular program year, the BGA should ensure that the relevant member schools enter into legally binding commitments to proceed with those projects (for example signing a building contract) by the end of that year or such later date as the Minister approves.
134. If a member school cannot make a commitment to commence the project by the end of the program year, the BGA should seek the Minister's approval to reallocate the funds to other projects which have commenced, or can commence, before the end of the year. In exceptional circumstances, the Minister may consider approval for a later commitment date.
135. If the BGA is unable to reallocate the funds in this way, the BGA should advise the Department in writing.
136. Member schools seeking CGP funding should not commit themselves to proceed with a project (for example by signing a contract) prior to being advised by their BGA that the Minister has approved the project. Grants will not be approved where a commitment has already been made to proceed with the project. Subject to the BGA's agreement, member schools may proceed to prepare working drawings and to call tenders prior to project approval, but the Commonwealth does not accept liability for the costs of doing so in the event the project is not approved.

BGA agreements with schools

137. Member schools must enter into appropriate funding agreements with their BGA before any capital funding payment can be made. Payments of capital funding will not be made to member schools that are not formally bound to the mandatory requirements (refer to clauses 63–64).

Assignment of rights

138. Every agreement between the BGA and a member school must include a provision permitting some or all of the BGA's rights, including repayment of the capital funds, to be assigned to the relevant State/Territory or the Commonwealth. A pro forma clause is at **Attachment 6**.

Payment to BGAs

139. Grant payments under the CGP are made in 11 instalments up to the commitment of the BGAs' allocation amount. The first payment in January is for administration allowance only. The February payment is for project grant funds only. From March onwards, the payment will be for both project grant funds and administration allowance.
140. Payments to BGAs will be increased by the required amount for Goods and Services Tax (GST). A Recipient-Created Tax Invoice will be available via SchoolsHUB.
141. BGAs should manage the timing of the payments to member schools to minimise paying out funds ahead of expenditure being incurred on projects.

142. If, at a point in time, a BGA has insufficient funds on hand to pay all claims, it should give priority to those member schools that can least afford to wait for the payment.
143. If a BGA does not comply with any conditions under the Act or the Regulation, the payments may be delayed in accordance with section 110 of the Act.

BGA Administration Expenses

144. A BGA's administrative allowance for a year is:
- a) 3 per cent of the amount of CGP funding payable to that BGA for that program year, or
 - b) an amount specified in a written direction made by the Minister (or delegate) under subsection 30(6) of the Regulations for the purposes of paragraph 30(1)(b)(i) of the Regulations. Such a determination will ordinarily be made for small BGAs.
145. It is expected that a BGA will manage its operations to ensure the costs of administering capital expenditure on the approved projects stays within the administrative allowance. But if the cost of administering the CGP in a program year is likely to exceed the BGA's administrative allowance for that year, the BGA may write to the department before the end of the program year, explaining their circumstances and asking the Minister (or delegate) to taken any of the following actions:
- a) increase the administrative allowance (per clause 144(b)), or
 - b) direct the BGA to use interest earned on CGP funding towards its administrative costs in a written direction under subsection 30(6) of the Regulations for the purposes of paragraph 30(5)(a) of the Regulations.
146. If a BGA's administrative expenses for a year are less than their administration allowance, the BGA must apply to the Minister (or delegate), through a project variation via SchoolsHUB, for a written direction in relation to spending the CGP funding on an approved project and a resulting reallocation of CGP funding from the BGA's administration allowance to an approved project on SchoolsHUB.
147. A BGA must not spend its administration allowance on expenses relating to:
- a) security to obtain, or comply with, any form of loan, credit, payment or other interest, or
 - b) the preparation of, or in the course of, any litigation.

Spending and committing CGP funding in accordance with these Guidelines

148. In order to spend or commit CGP funding in accordance with these Guidelines, a BGA must:
- a) spend, or commit to spend, CGP funding on capital expenditure in relation to:
 - i. an approved project, by paying amounts of CGP funding to the approved authority or governing body of a member school that is responsible for that approved project, and
 - ii. administrative expenses the BGA incurs in administering capital expenditure on an approved project, so long as the amount spent on this in a program year does not exceed the BGA's administrative allowance for that year, and

- b) not make a payment of CGP funding to the approved authority or governing body for a member school unless:
 - i. a legally binding agreement/s is in effect between the BGA and the approved authority or governing body of the member school that contains the mandatory conditions (specified in clauses 63 and 64)
 - ii. the BGA is satisfied after making reasonable enquiries, that the approved authority or governing body of the member school has met all grant condition requirements (for example, that the member school has executed contracts with third party providers to undertake project work)
 - iii. the BGA is satisfied that the approved project has commenced, and
 - iv. with the exception of an initial advance payment, that the amount that the BGA pays to the member school is based on evidence of capital expenditure costs incurred by the approved authority or governing body for that member school in relation to the approved project (i.e., as supported by progress and expenditure statements provided to the BGA by the approved authority for that member school including photographic evidence of progress and invoices).
 - c) not commit CGP funding to an approved authority or governing body for a member school unless the BGA ensures it will have sufficient funds available to fulfil that commitment when it falls due.
149. BGAs may require a member school to pay its contribution before the BGA commences grant payments, where the BGA judges that it would be prudent. For example, there may be circumstances where a BGA believes a member school has the capacity to contribute a certain amount to its project, but the BGA is not confident the member school will necessarily preserve the funds/assets for this purpose. There may also be circumstances where the member school has indicated it will acquire the necessary funds (for example, through borrowing) however the BGA may not be confident of this happening.

Project Variations and Terminations

Project variations

150. A change of circumstances after the approval of a project may require a variation to the project. Aspects of the projects that may be varied include, but are not limited to:
- a) total project cost increase or decrease
 - b) school contribution increase or decrease
 - c) the start or end date being moved by more than one year
 - d) changes to the scope or project category, facility category or other project descriptor
 - e) a request to vary the date for commitment if the member school cannot enter into a commitment (sign a contract with a builder) for the project before the end of the year in which the project was approved

- f) moving an amount of funding to an earlier or later program year (re-profiling). Re-profiling occurs when CGP funding for a project is moved between program years with no change to the total CGP funding amount (for example, increasing a project's 2022 funding amount by \$10,000 and reducing its 2021 funding by \$10,000).
 - g) cancelling (withdrawing) a project.
151. All variation requests must be submitted via SchoolsHUB to the Department for consideration and approval by the Minister. For more complex variations, the BGA may wish to discuss the circumstances of the variation with the Capital Funding Section or provide additional information by email.
 152. It is the responsibility of the BGA to recommend to the Minister, in respect to funding or other changes to the project, the course of action which best serves the objectives of the CGP.
 153. BGAs should ensure that, if additional funding is required for a variation, sufficient funds are available for the proposed variation.
 154. If a variation would affect the current year's allocation, it should be committed before the end of the current year to ensure the full allocation can be paid before the end of the year.
 155. The Minister will approve all changes in writing or through SchoolsHUB.

Commonwealth right to repayment

156. Section 109 of the Act and section 64 of the Regulations provide the Commonwealth with a right to repayment for funding allocations of more than \$75,000 where the school has ceased to provide primary or secondary education.
157. It is a condition of funding that approved authorities advise the BGA should such a circumstance arise.
158. The amount of funds repayable in the above circumstances is dependent on the capital funding amount and the number of years the facility was used for the provision of primary or secondary education. (See **Attachment 3** for further details on Commonwealth right to repayment).

Savings

Recovered Funds, Interest and Savings

159. Recovered funds, interest or savings can be allocated to an existing or new project, by submitting a request to the Minister (or delegate).
160. Recovered funds and savings funds must be committed to another project within 12 months of the funds becoming available, irrespective of the year in which the funds were originally allocated (see section 30 of the Regulation).

Recovered Funds

161. Recovered funds refer to funds that are returned to the BGA after a project has been acquitted, usually because of a member school closing. If a member school has acquitted a capital project and is still bound by the designated use period, a recoverable amount will be determined to be repaid to the BGA in accordance with section 64 of the Regulation.

Interest

162. Interest refers to the amount of funds that a BGA earns from a bank account which holds capital funding until it is disbursed to a member school for a capital project.
163. The Minister may direct the BGA in relation to the use of accrued interest funds (see subsection 30(5)(a) of the Regulation).

Savings

164. Savings refer to unspent grant funds at completion of the project. For example, where a total project cost has been over-estimated and there are unspent grant funds at completion of the project, those funds are referred to as 'savings'.
165. In the case where the cost of an approved project, at the completion of the project, is less than the estimated cost upon which the Commonwealth capital funding offer is based, the funding should be reduced by the amount by which the project cost has decreased. A decrease in the member school's contribution following project savings may occur, with the approval of the Minister, where the BGA has re-assessed the member school's capacity to contribute to the project and found that the member school's underlying financial position has changed since the project was approved.

Cancelled

166. Cancelled funds refer to funds that were allocated to an approved project which does not or cannot commence. The funds which were allocated to the cancelled (withdrawn) project become unallocated and should be reallocated to other eligible project/s within 12 months.

Recognition of Assistance

167. Capital funding recipients must meet Commonwealth recognition requirements for CGP funding. BGAs should ensure member schools are aware of their obligations concerning recognition and should monitor and obtain evidence of their compliance. These requirements include:
- a) recognition of the Commonwealth's funding contribution in all announcements and other publicity
 - b) ensuring that member school communities are advised directly about assistance received from the Commonwealth, including through school newsletters
 - c) arranging an official opening ceremony of the funded facilities after the physical completion of the project and within 7 months of completion where the Commonwealth has contributed funding of \$100,000 or more, unless otherwise agreed by the Commonwealth
 - d) the Minister or the Minister's representative must be invited to speak at all official openings of capital projects¹⁴. Where the Commonwealth has contributed more than 50% of the total project cost, the Minister or Minister's representative must be invited to officially open the facility
 - e) advising the Department, via the schoolopenings@education.gov.au inbox, of 3 proposed dates for school recognition ceremonies well in advance of the proposed opening dates

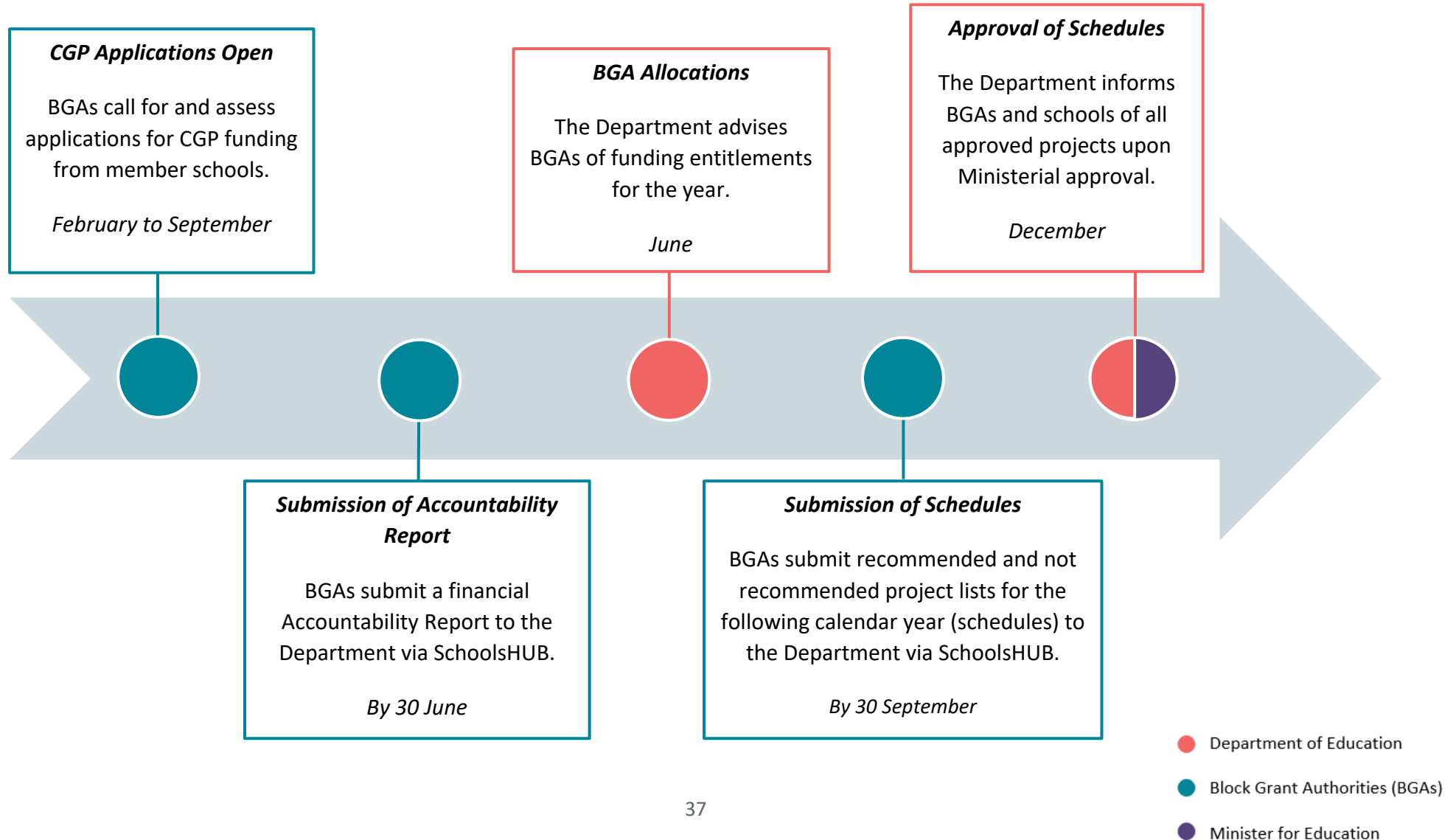
¹⁴ The Minister responsible for the Act and Regulations has responsibility for the CGP and invitations to attend ceremonies will be directed to the Minister.

f) recognition of Commonwealth funding on plaques, as follows:

- (i) installing building plaques on all completed projects, irrespective of project cost, which recognise Commonwealth funding, unless otherwise agreed by the Department
- (ii) where a facility is opened by a Commonwealth representative, the name of the person opening the facility should be included on the plaque
- (iii) wording on plaques recognising Commonwealth funding should be of similar size and style to wording recognising other funding sources
- (iv) including the Australian Government crest on all plaques
- (v) the Department will approve all plaque wording.

168. All requests and inquiries regarding recognition ceremonies or plaques should be made to the Department at schoolopenings@education.gov.au. Member schools should contact the Department through this inbox in relation to any uncertainty or issues regarding the recognition requirements, including applications for variations to, or exemptions from, the recognition requirements. A Recognition Factsheet is at Attachment 7 and is also available on the [Department's website](#).

Capital Grants Program (CGP) Key Milestones



Attachments

Attachment 1 Calculation of Entitlements

1. The total amount of funds to be made available for each year under the CGP is appropriated under the Act. Any indexation to entitlements for building price movements will normally be made in the later part of the program year.
2. BGAs' entitlements are calculated in two stages: firstly, the administration allowance and secondly project funds.
3. The following flow chart stipulates the formulas used in calculating the various stages.

Calculate Administration Allowance (Stage 1)

Calculate State/Territory notional allocations based on proportion of national non-govt enrolments.
(Stage 1a)

Calculate notional allocations to each BGA based on proportion of recurrent funding payments to member schools in each BGA (60%) plus proportion of enrolments of each BGA (40%) in that State/Territory.
(Stage 1b)

Calculate administration allowance for each BGA. **(Stage 1c)**

Calculate Project Funds (Stage 2)

Subtract total administration allowance from the national allocation. **(Stage 2a)**

Calculate State/Territory project allocations based on the proportion of national non-govt enrolments.
(Stage 2b)

Calculate project allocations to each BGA based on proportion of recurrent funding payments to member schools in each BGA (60%) plus proportion of enrolments of each BGA (40%) in that State/Territory. **(Stage 2c)**

For the first List of Capital Project year calculated, add each BGA's administration allowance to its project allocation to obtain total BGA allocation.
(Stage 2d)

Attachment 2 Better Practice School Visit Report

Below are suggestions for a set of group headings that BGAs should consider incorporating into their member school visits reports as part of their initial applications. Individual BGAs will develop sub-heading within each of these groups. The questions provided outline the issues that BGAs should consider when developing their sub-headings for each of the groups. BGAs should have inspection schedules/checklists/score sheets to assist them during their visits.

GROUP HEADINGS	QUESTIONS TO BE CONSIDERED
1. Date of visit and details of the visiting team	Who visited the school and when was the visit conducted? Who was present at the time of the visit?
2. Summary of the requested grant	What is the reason for the school's application? What is the estimated total cost? What is the proposed size of the grant? How will the school meet its contribution?
3. Eligibility	Does the school meet all the eligibility requirements of the CGP?
4. Existing facilities	Is a site plan available? To what extent does the current accommodation meet the needs of the school?
5. Proposed project	What does the proposed project involve? Will this project contribute to the goals of the Capital Grants Program?
6. Enrolment information/ catchment area	What are the enrolment trends over the past 5 years? What are the projected enrolments and how stable and consistent are enrolments? What are the main drawing areas for enrolments? What are the minor drawing areas for enrolments? What transport arrangements are available for current and prospective students?

GROUP HEADINGS	QUESTIONS TO BE CONSIDERED
	<p>Are the proposed facilities adequate in area and nature for the number of current and prospective enrolments?</p> <p>Are there any other considerations such as class size policy or international students that are worth commenting on?</p>
7. Project management	<p>If the school is successful in obtaining a grant, does the school have the capacity/expertise to manage the infrastructure project?</p> <p>Is the school aware of the Commonwealth tendering requirements, including potential conflict of interest with bodies bidding for work?</p>
8. Other discussion points	<p>Does the school have a strategic plan that demonstrates the school's consideration of all aspects of its development? If so, how was it developed?</p> <p>Does the school have a master plan? If so, how was it developed?</p> <p>Does the School have a maintenance policy and objectives from which a maintenance plan arises?</p> <p>Has the community been consulted about the prospective work?</p> <p>Has the school considered increased or decreased enrolment implications?</p> <p>What other alternatives have been or could be considered?</p> <p>Has the school carefully considered the impact of the works including energy consumption, security, access for students/staff with a disability?</p> <p>What will the school do if this application is eligible but is unsuccessful due to insufficient priority?</p> <p>What will they do if this application is rejected due to insufficient/financial and/or education need?</p>
9. Appendices	<p>Please append any working templates such as inspection schedules/checklists/score sheets</p>

Attachment 3 Commonwealth Right to Repayment

In section 64 of the Regulations it specifies the repayment periods and recoverable amounts on the calculated portion of the grant that will become repayable where, at any time during the Designated Use Period, the member school ceases to provide primary/secondary education:

Recovering capital funding when a member school ceases to provide education

Section 64 of the Regulations provides the following:

- (1) For subsection 109(4) of the Act, an amount (the **capital funding amount**) of financial assistance, mentioned in paragraph 109(4)(a) of the Act, that is provided for a member school is recoverable if:
 - a) the capital funding amount is included in column 1 of an item of the table in this subsection; and
 - b) the member school ceases to provide any primary education or secondary education in the period mentioned in column 2 of that item.

When a capital funding amount may be recovered

Item	Capital funding amount	Designated use period
1	\$75,001 to \$500,000	2 years plus one additional year for each \$50,000 of financial assistance that is over \$100,000
2	\$500,001 to \$1.5 million	10 years plus one additional year for every \$100,000 of financial assistance that is over \$500,000
3	Over \$1.5 million	20 years

- (2) If the member school ceases to provide primary education or secondary education during the first half of the period specified in column 3 of an item in the table in subsection (1), the amount specified under paragraph 110(1)(a) or (b) of the Act must not exceed the capital funding amount.

Note 1: Paragraphs 110(1)(a) and (b) of the Act allow the Minister to require a State or Territory to repay an amount and reduce the amount that is payable to a State or Territory.

Note 2: Subsections (2) and (3) are prescribed for subsection 110(3) of the Act.

- (3) If the member school ceases to provide primary education or secondary education during the second half of the period specified in column 3 of an item of the table in subsection (1), the amount specified under paragraph 110(1)(a) or (b) of the Act must not exceed the amount that remains if, each year in the second half of the period, the capital funding amount were reduced by equal proportions.

Example: Financial assistance of \$2 million is provided to a BGA to build a school building for a primary school. If the member school ceases to provide primary education during the 10-year period after the financial assistance is provided, the entire amount may be recovered by the Commonwealth. For each year following that 10-year period, the amount that may be recovered by the Commonwealth reduces by 10%.

- (4) In determining a period for the purposes of subsection (2) or (3), round the period to the nearest full year.

Examples of the recoverable amount are set out in the table below:

Total grant amount	Designated use period	Recoverable portion	Example
\$75,001 to \$500,000	2 years plus one additional year for each \$50,000 over \$100,000 (Rounded to the nearest full year)	Full amount will be recoverable up to half way through the Designated Use Period, and then reduced by equal proportions of the total amount over the remaining period.	Grant amount \$475,000: retain interest for 2 years plus 7.5 years (total rounded up to 10 years). The full amount recoverable up to 5 years then the amount to be recovered would be reduced by 20% of the total amount each year until \$0 is recoverable after the 10 years from the date of the commencement of the Designated Use Period.
\$500,001 to \$1.5 million	10 years plus additional year for every \$100,000 over \$500,000 (Rounded to the nearest full year)	Full amount will be recoverable up to half way through the Designated Use Period, and then reduced by equal proportions of the total amount over the remaining period.	Grant amount \$1m: retain interest for 10 years plus 5 years (total 15 years). Full amount recoverable up to 7.5 years then would reduce by 13.33% of the total amount each year to the end of 15 years.
Over \$1.5 million	20 years	Full amount will be recoverable up to half way through the Designated Use Period then reduced by equal proportions of the total amount over the remaining period.	Grant amount \$2m: retain interest for 20 years. Full amount recoverable over 10 years and then would reduce by 10% of the total amount each year to the end of the 20 years.

Right to repayments prior to 2009

The right to repayment arrangements were varied in 2009. The following right to repayment arrangements apply where a grant was approved prior to the issue of the 2009 *Administrative Guidelines: Commonwealth Programs for Non-Government Schools*.

The Commonwealth retains, for 20 years from the date of completion of a project, a right to repayment from non-government bodies of grants of more than \$75,000 should they, within the 20 years, sell or otherwise dispose of the facilities or cease to use the facilities principally for the approved purpose.

Calculated portion of the grant

The calculated portion of the grant (that is the repayable amount) repayable to the Commonwealth is calculated as follows where a grant was approved prior to the issue of the Administrative Guidelines for 2009:

- The Designated Use Period that the facility was used by the member school for the Approved Purpose is:
 - (i) 20 years where the Facilities are buildings
 - (ii) 5 years for computer equipment
 - (iii) 10 years for equipment other than computer equipment.

- The Calculated Portion of the grant is calculated by applying a reduction of:
 - (i) 5% where the Facilities are buildings
 - (ii) 20% where the Facilities are computer equipment
 - (iii) 10% where the Facilities are equipment other than computer equipment

to the grant for each year during the Designated Use Period that the facility was used by the BGA Participant for the Approved Purpose.

It should be noted that, on or after the date of issue of the revised program guidelines for 2009, the equipment cost component of projects was assumed to be funded under the member school contribution component of project funding and does not receive any special consideration with respect to shorter right of repayment time periods. Where this may unfairly disadvantage a member school, for example when the equipment cost component exceeds the member school contribution, the BGA may seek the Minister's approval in writing of a modified Right of Repayment arrangement for the project which takes the shorter effective life of equipment into account.

Attachment 4 Tendering Processes

1. BGAs must approve all tendering procedures used by the member schools and prior to the preferred tenderer being engaged by the member school. The procedures should be in line with sound tendering practices and support the principle of value for money. Tendering processes used by member schools and by those submitting offers must be based on sound building industry practice in accordance with the [Australian Standard Code of Tendering - AS4120](#).
2. Where a person believes a tendering procedure approved by the BGA is unfair or inconsistent with sound tendering practice the BGA must provide that person with an opportunity to explain why it objects to the procedure approved, and the BGA must explain the reasons for the BGA's approval of the process.
3. BGAs must ensure member schools obtain value for money from a tender process and not just the lowest price offered. Member schools must assess all tender submissions for eligibility, adherence to applicable policies, quality assurance, capability and capacity of offers and ensuring value for money is achieved. Member schools must document their assessment methodology, selection criteria and recommended outcome for each tender submission and seek appropriate approvals.
4. Member schools must not accept tenders, nor enter into commitments in relation to recommended projects, until advised by the BGA of the formal approval of the CGP project and their agreement with the BGA has been finalised.
5. The Commonwealth does not accept any liability for costs incurred by member schools in preparing applications, tenders or the development of project plans. In special circumstances BGAs may apply to the Department for special consideration for payment of such costs from BGA allocations.
6. As outlined in the Australian Standard Code of Tendering, the school principal or the person calling for tender, can negotiate with a single prospective tenderer to achieve an acceptable tender. Negotiations should be carried out in good faith.
7. Where applicable, BGAs must require and ensure member schools implement projects in accordance with the requirements contained in the [National Construction Code 2022](#) and the [Australian Government Building and Construction WHS Accreditation Scheme](#)
8. A checklist for tendering is provided below. The principles contained in the checklist include:
 - a) project implementation must be overseen by a licensed building industry professional who is independent of those carrying out the work.
 - b) member schools should not be prevented from having direct access to professional advice (consultants), independently of the builder or project manager, about the implications of design, materials and construction decisions.

- c) there should be effective competition to the greatest extent practicable for all major elements of a project. Being fair and equitable to the market and achieving greater value for money.
- d) procurement processes used by member schools and by those submitting offers should be based on sound building industry practice in accordance with the Australian Standard Code of Tendering. Member schools must advise the BGA of the tender method used for each tender process.
- e) all tender assessment criteria must be specified in tender documentation and should include tenderers' capability and capacity, financial and technical capacity to carry out the work.
- f) there must be signed written contracts for the engagement of all major parties. It would be expected that these contracts would be based on standard industry contracts, and the contracts must clearly state the responsibilities and liabilities of the parties to the contract.
- g) the contract between a member school and the independent professional overseeing the implementation of a project must include a condition that the person overseeing the project must monitor the performance of all subcontracts for the project on behalf of the member school to ensure the work is undertaken in accordance with the terms and conditions of those contracts.
- h) a reasonable project end date must be estimated.
- i) claims for payment must be certified by a licensed building industry professional who is independent of the client (including any member school/school community personnel) and the builder.
- j) BGAs should keep records of the tender methods utilised for each project tender. These records may be required by the Department, if for example, the BGA assigns rights to the Department. BGAs should contact the Capital Funding Section in relation to any uncertainty or issues regarding tendering.

Employment and Training provisions for Aboriginal and Torres Strait Islanders

9. Capital funding is offered on the additional condition that the member school will encourage the employment and training of Aboriginal and Torres Strait Islanders.
10. Where a project is to be undertaken specifically for an Indigenous Australian community, at least one member of that community is to be involved in the evaluation of tenders, except where a conflict of interests would arise.

Checklist for tendering requirements

1. Prior to starting the project have you:
 - Clearly documented the need for the tender in a business case?
 - Undertaken a risk assessment and document in a risk plan?
 - Researched the market and decided on the most appropriate procurement method?
 - Outlined the timeline for the project noting all the required steps?
 - Clearly detailed the relevant conditions for participation and not excluding potential tenderers unfairly in doing so?
 - Drafted a request to market document (including the draft contract) that clearly articulates what you need and has all necessary standard terms and conditions?
 - Developed a written statement of requirements for the work that is unambiguous in its requirements?
2. Have you complied with the National Construction Code 2022 and the Australian Government Building and Construction WHS, where applicable?
3. Have you, in relation to the Conduct of the Process:
 - Considered the involvement of the Indigenous Australian community as part of the evaluation of tenders if the project is primarily for the benefit of the Indigenous community and addressed in your evaluation plan?
 - Encouraged the employment and training opportunities of Aboriginal and Torres Strait Islanders in the project in some way? Reiteration of the need to encourage this in any project to improve opportunities for Indigenous workers.
 - Provided evaluation criteria robust enough to provide a clear guide for assessment and comparison of the costs and benefits of all submissions on a fair and equitable basis over the whole tender life cycle?
 - Asked for sufficient detail from the tenderer on tender assessment criteria to ensure the tenderers, technical and financial capacity and capability to carry out the work?
 - Ensured that your tender delivers value for money over the life of the project?
 - Ensured that your tender does not unfairly discriminate against small and medium enterprises (SMEs)? SMEs are organisations with fewer than 200 full time employees.
 - All tender documentation provides an understanding of the reasons for the tender, the process that was followed and all relevant decisions, including approvals and authorisations, and the basis of those decisions?
 - Documented any plan for contract negotiations?

4. After the award of the contract:

- Do you have a contract management plan?
- Do you have clearly defined key performance indicators (KPIs)?
- Have you provided the opportunity to debrief unsuccessful tenderers?
- Is a written contract signed with the supplier on file?
- Do you have a verification process in place to confirm that subcontractors, consultants and material suppliers' workplace arrangements comply with the Code and Guidelines? For example, as part of the contract KPIs and/or contract management activities.
- Do you have processes in place to monitor on-site compliance of subcontractors engaged during the life of the project? For example, as part of the contract KPIs and/or contract management activities.
- Do you have a process for the retention of the documentation for a period of 7 years? Is this stated in your contract?

Attachment 5 Better Practice Procedures Manual

A Common Table of Contents

The Department recommends that, as a minimum, BGAs include each of the following group headings in the table of contents section of their procedures manuals. The actual sub-headings may vary but this list provides a sample of the most common.

GROUP HEADINGS – to be common across BGAs	Sub-Headings – to be included/altered at the discretion of each BGA
1. INTRODUCTION	<p>An introduction to the Capital Grants Program</p> <p>The purpose of the manual</p>
2. COMPANY OR ASSOCIATION DETAILS	<p>About the company or association</p> <p>Company or association details (such as ABN)</p> <p>Board of management</p> <p>Roles and responsibilities</p> <p>Code of conduct</p> <p>Board member remuneration</p> <p>Board management policies</p>
3. STAFFING	<p>Staff structure</p> <p>Staff contact details</p>
4. THE CAPITAL GRANTS PROGRAM	<p>Objectives of the program</p> <p>Overview of the selection process</p> <p>Membership in the BGA</p> <p>Member schools</p> <p>Use of grant funds</p> <p>Capital grants application process</p> <ul style="list-style-type: none"> - processing applications - school visits - assessment process - eligibility criteria - assessment criteria - weighting of assessment criteria

GROUP HEADINGS – to be common across BGAs	Sub-Headings – to be included/alterd at the discretion of each BGA
	<ul style="list-style-type: none"> - socio-economic information - other factors (for example location –regional, remote) - finalisation of recommended and not recommended projects <p>Approval and notification</p> <p>Annual project lists</p> <p>Capital Grants Program process of appeal and dispute resolution</p> <p>Department of Education contacts</p>
5. CURRENT TIMELINE	A timeline for the relevant funding year
6. ACTIVE CAPITAL GRANTS PROJECTS – PROCESSES AND PROCEDURES	<p>Acceptance of grants</p> <p>Schedule of grant payments</p> <p>Project records</p> <ul style="list-style-type: none"> - project files - project database <p>Project financial accountability procedures</p> <ul style="list-style-type: none"> - method of management - tendering processes - progressive expenditure statements - payments for projects completed <p>Project completion</p> <ul style="list-style-type: none"> - architect’s/supervisor’s statement - accountant’s statement <p>Notification of project variation</p> <ul style="list-style-type: none"> - processes and procedures - project details <p>Commonwealth accountability requirements</p> <p>Recognition of Commonwealth assistance</p> <p>Commonwealth equity</p>

GROUP HEADINGS – to be common across BGAs	Sub-Headings – to be included/alterd at the discretion of each BGA
7. OTHER SERVICES TO SCHOOLS (optional)	<p>Newsletter or other communication tool</p> <p>- Distribution List</p>
8. APPENDICES	<p>The appendices should include all detailed information such as checklists, reporting templates and step-by-step procedures for SEMIS. These should not appear within the body of the procedures manual</p>
9. THE BUSINESS ¹⁵ENVIRONMENT – FINANCES, ADMINISTRATION AND TECHNOLOGY	<p>Bank accounts and signatories</p> <p>Auditor</p> <p>Insurances</p> <p>FBT, PAYG, GST, BAS, WorkCover</p> <p>Rental and Leasing Arrangements</p> <p>Board Member Payments</p> <p>Petty cash</p> <p>Account payments</p> <p>Annual accounts</p> <p>Motor vehicle</p> <p>Meeting arrangements</p> <p>Filing system</p> <p>Electronic archiving</p> <p>Storage and filing</p> <p>Computer system</p> <p>Communications system</p>

¹⁵ Heading 9 should be deleted prior to a BGA sharing their better practice procedure manual with non-government schools. Information is relevant for BGAs and the Department only.

Attachment 6 Proforma Clause to be Included in Agreements Between BGAs and Schools

Agreement to assignment to the Commonwealth

- a) The BGA Participant acknowledges and agrees that the BGA may assign some or all of the BGA's rights under this agreement (including the BGA's rights to recover all or a portion of the grant from the BGA Participant).
- b) The BGA Participant acknowledges and agrees that, where the BGA assigns a right to the Commonwealth (the 'Assigned Right'), the Commonwealth may exercise the Assigned Right and enforce the Assigned Right directly against the BGA Participant, in the Commonwealth's name, as the BGA's assignee.
- c) Without limiting paragraph (b), the BGA Participant acknowledges and agrees that the Commonwealth may institute legal proceedings directly against the BGA Participant School to enforce the Assigned Right.

Attachment 7 Summary of Capital Grants Program Recognition Requirements

Schools which receive funding through the Capital Grants Program (CGP) are required to:

- acknowledge Commonwealth funding in all announcements and other publicity of all school capital projects to which the Commonwealth is contributing funds
- install building plaques on all completed projects, irrespective of cost, which acknowledge Commonwealth funding
- arrange for the recognition of funding after the physical completion of a project and within 7 months of physical completion, unless otherwise agreed by the Commonwealth:
 - where the Commonwealth contribution is equal to or exceeds \$100,000 irrespective of the year in which the funding was approved, or
 - where the member school or the Commonwealth requests an opening.

CGP GRANT UNDER \$100,000 – CEREMONY PROCEDURE

- Where the CGP grant to a project is under \$100,000 a member school can choose to recognise the Commonwealth's assistance by installing a building plaque only.
 - A member school should advise the Department via the school openings inbox that a project is complete and that an official opening ceremony will not be held as the grant amount is under \$100,000.
 - The Department will provide a plaque template to the member school.
 - The member school is to formulate the plaque wording based on the template and provide it back to the Department for approval.
 - The Department will advise the member school when approval has been given.
 - The member school then arranges for the plaque to be manufactured and installed on the building.
- Alternatively, **if a member school wishes to hold an opening**, the opening requirements for grants over or equal to \$100,000 apply. Please see the procedure below for further information

CGP GRANT OVER OR EQUAL TO \$100,000 – OPENING CEREMONY REQUIRED – PROCEDURE

- Member schools are required to hold an official opening ceremony where the CGP grant for the project is equal to, or more than \$100,000.
- Dates of openings must be convenient to all parties including the Commonwealth. To ensure opening dates are suitable to the Minister or the Minister's representative, it is requested that:
 - invitations are sent to the Minister by recipient schools via the school openings inbox at schoolopenings@education.gov.au at least 2 months in advance of the opening.
 - three possible dates should be included in the invitation that do not coincide with Parliamentary of Australia sitting days, refer to the [Parliamentary Sitting Calendar](#)

REQUIREMENTS FOR CEREMONIES

- The following conditions apply for an official opening ceremony
 - The Minister or the Minister's representative must be invited to open those projects for which an official opening is being arranged.
 - The Minister or the Minister's representative must be invited to speak at all official openings of capital projects to which the Commonwealth has contributed funding.
 - In the case of an opening with other sources of funding, for example State contribution, the Minister or the Minister's representative must be invited to open those projects to which the Commonwealth contribution is greater than 50% of the project cost.

Note: Member schools are welcome to elect the attending Commonwealth representative to open facilities where the Commonwealth has contributed less than 50% of the project cost.

- Where a facility is opened by a Commonwealth representative, the name of the person opening the facility must be included in the associated commemorative plaque, which must be either affixed to the new or refurbished buildings, or displayed in an appropriate position.
- If the Minister or the Minister's representative attends an opening, they may issue media releases.
- Member schools may receive exemptions from opening requirements depending on the type of facility and works applied. For example, intangible improvements such as the replacement of an electrical system or a simple refurbishment of an amenities block may be considered for exemption by the Department.
- A member school must obtain the Department's agreement for an exemption from holding an official opening, or for deferment of an opening.

Note: Invitations to attend ceremonies will be directed to the Minister responsible for the CGP in the first instance.

Contact Us:

You are welcome to contact a schools liaison officer through the schoolopenings@education.gov.au inbox if you would like to discuss or need further information regarding any aspects of CGP requirements for recognition.

Sample plaque wording for projects funded under the Capital Grants Program



Australian Government

SCHOOL NAME

This plaque commemorates the official opening of the

Project Description

by

Name

on

Date

This/these project/s were jointly/entirely/principally/partly funded by the Australian Government under the Capital Grants Program (Include other funding sources if relevant/desired. for example, ', and the [State] government', or ', and the [Name of School] community')

Principal: (Optional)

President, School Council: (Optional)

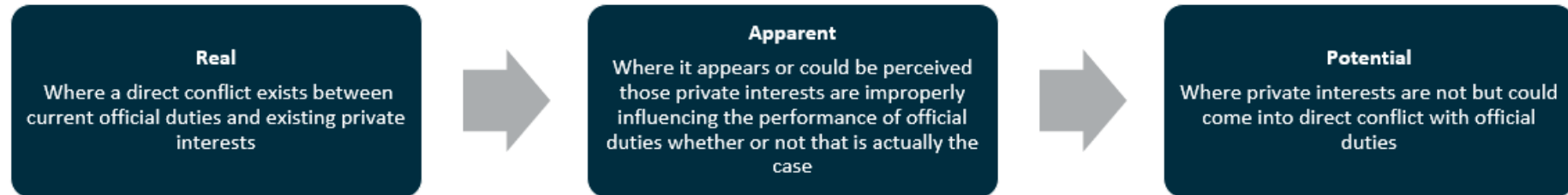
Notes:

- **Highlighted Text**
 - The areas highlighted green should be completed with the appropriate information.
- **Style**
 - Wording on plaques acknowledging Commonwealth funding must be of similar size and style to wording acknowledging other funding sources.
- **School and Australian Government logos**
 - If you would like to include the school's logo on the plaque, please position it directly above the school's name on the plaque.
- **Approval**
 - Departmental approval of plaque wording is required. A school is to send the draft wording to the Department via the school openings inbox. The Department will provide clearance or comment.
- **Plaque costs**
 - The manufacturing and installation costs of Capital Grants Program plaques are the responsibility of recipient schools.

Attachment 8 Conflict of Interest Guidance Information

A **conflict of interest** exists when it appears likely a Block Grant Authority, Approved Authority, School Board Member, School Principal, Staff Member or other Associated Person or entity could be influenced, or where it could be perceived that they are influenced, by a personal interest in carrying out their duty.

Conflict of interests may be real, apparent or potential:



Examples of conflict of interest include:

- A board member deals with an application in which their family member was the decision maker.
- A committee member should not be a principal with a current project
- A person associate with the governance of the school has an interest in the body bidding for work funded by the commonwealth.
- An apparent conflict of interest could be where an employee maintains strong social and personal relationships with the school application.
- Another instance of bias might arise where, an assessor is known to hold views on a school application that could suggest he or she might not bring an open mind to the subject.
- A board member has a personal relationship with an applicant.
- The BGA accepts a gift from a school.
- Where decision-makers or officials involved in grant administration have a direct or indirect interest, which may influence the selection of a particular grant activity.
- Where a member of external committee has a direct to indirect interest in information a decision about expenditure it is providing advice on grant opportunities.

- Where potential grantee has a direct to indirect interest which may influence the selection of their proposed grant activity during the application process.

Avoiding Conflict of Interest

- Ensure all conflict of interests are disclosed at the start of the board meeting prior to starting the review of projects.
- BGA's individuals must regularly assess whether they have a conflict of interest and take reasonable steps to avoid situations where their private financial or other interests (or those of immediate family members, such as spouses/partners or dependants) could or could be perceived to conflict with their official duties.
- Replace any Directors to Committee members who have a conflict of interest with the project.
- BGA assessors must not allow their interests to influence the decisions they make, the actions they take or the advice they provide in the course of their official duties.
- BGA should not accept gifts from a school or should declare the gift via a conflict-of-interest registry.

Managing Conflicts of Interest

While avoiding conflicts is generally preferable, in practice there may be some situations in which conflicts of interest cannot be wholly avoided and need to be managed in a way which will withstand external scrutiny.

The action taken to manage a real or apparent conflict of interest will be determined according to the specific circumstances of the individual case, including the role and responsibilities that the employee performs for the Office and the nature and extent of the conflict. Without limiting the types of action which could be taken, there are several ways in which conflicts of interest may be managed, including:

- establishing guidance materials/policy for BGA panel members, that includes specific procedures to address each type of conflict
- understanding legal obligations
- altering the employee's duties so they are no longer performing the role which may potentially put them in a conflict situation
- allowing the employee to continue in the same role but for the Office to implement appropriate safeguards which address the real or apparent conflict of interest
- completing a conflict-of-interest declaration form and registry
- keeping good records including committee meeting notes.

Compliance actions

Where there is a conflict of interest at any stage of a project, a BGA should manage and resolve the conflict. BGAs may seek advice from the Department to help resolve any conflicts of interest.

BGAs should document all steps taken to resolve conflicts of interest.

Additional Resources

[Conflicts of Interest - Fact Sheet \(nsw.gov.au\)](https://www.nsw.gov.au)

[Managing conflicts of interest | ACNC](#)

[Conflicts of interest and duty as a board director | boards.vic.gov.au](https://boards.vic.gov.au)

SCHEDULE 1 - Building Boarding Schools On-Country

Purpose

The purpose of this schedule is to give administrative effect to the Australian Government's decision to provide Commonwealth funding support for the Building Boarding Schools On-Country (BBSOC) program.

As this initiative involves the planning and construction of new schools in remote locations and given their extensive experience and expertise facilitating Commonwealth capital projects in schools under the Capital Grants Program (CGP), the Department will engage Block Grant Authorities (BGAs) to work with the project proponent – Studio Schools of Australia – to manage project delivery.

Funding appropriated for this measure will be provided, in the first instance, to BGAs under subsection 67(1) of the *Australian Education Act 2013*. As such, all funding must be dealt with in accordance with section 30 of the *Australian Education Regulation 2013*, including the requirement that the BGA spend, or commit to spend, the financial assistance in accordance with the CGP Guidelines.

However, while many clauses in the CGP Guidelines are directly relevant to the Building Boarding Schools On-Country program, there are a number that are either not applicable or require modification to more clearly align with the BBSOC objectives and processes. For example, as a decision of government, BBSOC projects are not subject to the full suite of processes that CGP projects ordinarily are (such as the CGP application process (see clauses 48 to 54) or the CGP approval process (see clauses 119 to 132)).

This Schedule specifies how the CGP Guidelines are to be applied to the BBSOC measure, as detailed below in the section 'Application of CGP Guidelines'.

A BGA that receives amounts of capital funding in relation to the CGP and the BBSOC should refer to:

- the body of the CGP Guidelines in relation to the CGP (i.e. capital funding paid to the BGA as a result of a determination under s67(2) of the Act), and
- this schedule in relation to the BBSOC (i.e. capital funding paid to the BGA as a result of a determination made under s67(1) of the Act).

Overview

The Building Boarding Schools On-Country program was announced by the Australian Government in August 2021 as a measure under its [2023 Commonwealth Closing the Gap Implementation Plan](#). The measure addresses **Target 5: Aboriginal and Torres Strait Islander students achieve their full learning potential**.



Over 2021–22 to 2024–25, the Building Boarding Schools On-Country program will:

- construct one new on-Country boarding schools for Years 7 to 9 in the Kimberley Region of Western Australia
- upgrade an existing on-Country boarding school for Years 10 to 12 in the Kimberley Region of Western Australia
- establish an Indigenous Education Research Centre (IERC) at the site of the new school
- contribute to operational expansion costs.

Commonwealth funding of \$70.8 million has been provided for these activities.

This new infrastructure will be used to deliver school education to Indigenous students from remote communities under the Studio Schools model as used in the Yiramalay–Wesley Studio School in the Kimberley region since 2010.

Establishing new on-Country boarding facilities will ensure schooling options reflect local needs, cultural backgrounds and aspirations. Students who must board away from home face challenges staying connected to school as a result of homesickness and other difficulties transitioning into boarding schools and life in major cities or regional areas far from home. This project aims to reduce those difficulties by bringing boarding options closer to home.

This initiative will provide infrastructure that will improve access by Aboriginal and Torres Strait Islander students from remote communities to culturally-appropriate and high-quality schooling opportunities. It will expand the current Studio Schools model of providing residential schooling on-Country which is closer to family, culture and local community. An estimated 1000 remote Indigenous students will be supported through this investment over the 20-year capital period of each school.

The IERC will provide a program of professional development for all staff across the Studio Schools network, as well as partner schools, sharing knowledge, culture and practice. It will also gather and disseminate evidence of best practice from across the system of schools, ensuring that the Studio School model remains evidence-led in its practice of serving the needs of local Indigenous students and their communities.

Block Grant Authorities

BGAs are best placed to manage critical implementation and delivery elements of the BBSOC program, including:

- providing advice regarding local planning requirements and delivery scheduling
- identifying key milestones, and developing, entering into, and managing contractual arrangements with Studio Schools of Australia
- facilitating payments of capital funding provided by the Commonwealth



- facilitating payments of project operational expenditure funding provided by the Commonwealth
- monitoring progress to ensure timely project implementation
- providing general support to coordinate logistics and other matters.

From 2022, relevant BGAs will work with Studio Schools of Australia to implement key planning considerations and develop and execute funding agreements.

National Indigenous Australians Agency

It is important to note that the National Indigenous Australians Agency (NIAA) is delivering the first stage of this project. Administered funding appropriated for the 2021–22 financial year totalling \$6.8 million was provided to the NIAA in late 2021 to enable certain project activities to commence. On 24 November 2021, the NIAA entered into a funding agreement with Studio Schools of Australia for \$6.8 million for:

- ICT infrastructure and other urgent upgrades at Yiramalay Studio School (\$2.35 million (GST exclusive))
- prefabrication for the new Studio School (\$200,000 (GST exclusive))
- operational funding for Yiramalay Studio School to June 2023 due to impacts of COVID-19 pandemic on student enrolments (\$1.75 million (GST exclusive))
- administration funding for operational expansion of the SSA System, including staff recruitment, consultancies, Head Office requirements and communications/publications (\$2.5 million (GST exclusive)).

The Department will provide the balance of administered funding for project costs, totalling around \$60.6 million, to relevant BGAs in 2012–25 and 2023–24.

BGAs may be required to oversee project activities that incorporate elements of the initial implementation stage as undertaken by the NIAA. Where a capital project is completed in successive stages and a school or its approved authority has already entered into commitments for the project with the NIAA, BGAs are only required to comply with the tendering requirements as set out in clauses 63 to 65 and **Attachment 4** to the extent practicable.

Application of CGP Guidelines to the BBSOC

The CPG Guidelines apply to the BBSOC program as specified below.

From Clause 9 onwards - where a clause applies, the following references within that clause are to be read as follows:

- 'CGP' is to be read as 'BBSOC', and
- 'BGA' is to be read as a 'BGA in its capacity as a CGA'
- 'CGP project' is to be read as 'BBSOC project'
- 'CGP approved project' is to be read as 'BBSOC approved project'

Definitions

General Information

Introduction

Clauses 1–3: applies

Relevant Legislation

Clauses 4–8: applies.

Objectives

Clause 9: is to be read as follows:

The specific objectives of the BBSOC program are to provide and improve school capital infrastructure for Aboriginal and Torres Strait Islander students from remote communities by:

- building one new remote boarding school for Years 7, 8 and Year 9 in the Kimberly Region of Western Australia; and
- refurbishing the existing Yiramalay Studio School (Years 10 to 12) that is currently operating in the Fitzroy Valley in the Kimberley Region of Western Australia.

These new facilities will provide culturally-appropriate and high-quality schooling options that reflect local needs and aspirations – specifically, providing residential schooling on-Country which is closer to family, culture and local community.

The facilities will provide high-quality learning environments and support quality teaching to underpin student engagement, including:

- a high-quality of teaching and learning, with a central focus on Aboriginal and Torres Strait Islander culture and identity
- supporting pathways to further education and employment through a balanced learning framework that focuses on:
 - academic learning, including recognising the importance of Indigenous cultural knowledge; and
 - job-readiness, with workplace training in partnership with local industries; and



- personal and social development through two-way learning alongside non-Indigenous students from a partner school

The facilities will support parental and community engagement and other agreed relevant outcomes.

Contact information

Clause 10: applies.

Roles and Responsibilities

Clauses 13–14: applies.

Clause 15: applies.

Clause 16: applies.

Grant Information

Eligibility

Eligibility for funding: Existing schools

Clauses 17: is to be read as follows:

A BBSOC funding recipient should:

- a) be a member, or prospective member, of a BGA
- b) be in receipt of recurrent funding under the Act (unless they are a new school yet to receive recurrent funding - see clause 18)
- c) ensure their project will have an appropriate maintenance plan in place and can meet the ongoing running costs of its facilities (or, for proposed new schools, a proposed maintenance plan)
- d) ensure their project will not adversely affect the condition of a place in relation to the Commonwealth, State, Territory or local government heritage legislation
- e) own the land or have a lease for the land and/or buildings that has a period to run commensurate with the period in which the capital grant may be required to be repaid if the school no longer provides school education (refer to **Attachment 3**).

Eligibility for funding: New schools



Clauses 18-22: applies; however, no grant application and application process is required for BBSOC funding recipients

Clause 23: is to be read as follows:

BBSOC funds should not be paid to the school by the BGA until the school/approved authority has entered into a legally binding written agreement with the BGA indicating the school's acceptance of the capital funding conditions.

Clause 24: is to be read as follows:

The agreement between the BGA and the approved authority/school must include the provision that if by the end of the funding year the new school's approved authority is not approved by the Department; or the school has not received approval for recurrent funding; or obtained final State or Territory registration, the capital funding may be cancelled and the funding must be repaid in full to the BGA (refer to **Attachment 3**)

Leases

Clause 25: applies.

Selection Criteria

Criteria for funding through the CGP

Clauses 26–27: applies.

Finalisation of recommended projects

Clause 28: is to be read as follows:

As BBSOC funding has been approved by the Australian Government, the BGA is not required to recommend projects for funding. However, the BGA will negotiate with schools the nature of individual projects for which funding has been provided, with a view to identifying a minimum viable project that:

- a) meets the objectives of the CGP
- b) is based on sound student enrolment projections for the period closely following the completion of the project
- c) meets the educational needs in a way that is cost effective over the life of the facilities



- d) takes appropriate account of the value of good quality materials and building and design practices that:
 - (i) maximise the life of the structure
 - (ii) maximise the potential for environmental performance
 - (iii) avoid design features that make no significant educational contribution and which may increase construction, maintenance or operating costs.

Clause 29: does not apply.

Not recommended projects

Clause 30: does not apply.

Funding available to BGAs

Funding available

Clause 31: does not apply.

Clause 32: is to be read as follows:

Capital funding for BGAs for schools that are to be supported by the BBSOC program will be determined by the Minister. The Department will notify the relevant BGAs of the amount of funding determined and the timing of the relevant payments of that funding.

Clause 33: is to be read as follows:

The budget appropriation for the BBSOC does not include the Goods and Services Tax (GST), although all payments to BGAs will include a component for GST.

Limit on total amount available for capital funding

Clause 34–36: does not apply.

Forward commitment

Clauses 37–39: does not apply.

Full commitment of annual allocation

Clause 40: is to be read as follows:



Each BGA is required to spend, or commit to spend, its capital funding in the calendar year in which the financial assistance is paid, or by a time determined by the Minister.

Withholding payment and repayment

Clauses 41–42: applies.

Audit

Clause 43: applies.

Compliance with laws

Clause 44: applies.

Privacy and freedom of information

Clause 45–46: applies.

Reporting Fraud

Clause 47: applies.

Grant Administration

Applications

Providing information about the CGP to school communities

Clause 48: does not apply.

Clause 49: does not apply.

Clause 50: does not apply.

Clause 51: does not apply.

Clause 52: does not apply.

Clause 53: does not apply.

Clause 54: applies.

Mandatory Requirements

BGA membership

Clause 55: applies.



BGA and member schools: nature of agreements

Clauses 56–62: applies.

BGA and member schools: financial and other conditions

Clause 63: is to be read as follows:

BGA member schools approved for Building Boarding Schools On-Country funding

The agreement the BGA has with each member school must contain the following conditions requiring the approved authority for the BGA member school to:

- a) provide financial, student enrolment and other relevant data to the BGA; allow the Commonwealth to provide similar data to the BGA on a confidential basis; and allow the BGA to provide to the Commonwealth any information provided to the BGA by the BGA member school
- b) permit access to the school and provide assistance at least equivalent to that required in accordance with these Guidelines
- c) not accept tenders, nor enter into commitments with contractors/builders, until the Commonwealth has approved their capital project funding.

Clause 64: applies.

Tendering

Clauses 65–68: apply; however, where a capital project is completed in successive stages and a school or its approved authority has already entered into commitments for the project with the NIAA, BGAs are only required to comply with tendering requirements to the extent practicable.

Financial accountability and reporting in accordance with these Guidelines

Clauses 69: applies

Clause 70: is to be read as follows:

Subsection 36(6) of the Regulations require a BGA to give the Secretary of the Department a report or reports for each year in accordance with the



Capital Grants Program Guidelines. Provision of these reports helps the Department to ensure accountability for CGP funds provided under the Act. In order to report in accordance with these Guidelines a BGA must provide an Accountability Report for a program year, via email, that explains how the BGA dealt with BBSOC program funds that year (1 January – 31 December) – by 30 June of the next year. This means that a BGA that dealt with CGP funds and the BBSOC program funds in a year must provide the Secretary with separate Accountability Reports in relation to each program.

Clause 71: applies.

Records and information requirements

Clauses 72–78: apply.

Banking requirements

Clauses 79–82: apply.

Liaison and monitoring

Clauses 83–84: apply.

Conflict of interest

Clause 86: applies.

Clause 87: is to be read as follows:

BGAs must advise member schools applying for BBSOC funding of the Commonwealth requirements in relation to conflict of interest.

Clauses 88–90: applies.

Assessment of Applications

Probity and transparency of Capital Grants Program

Clauses 91–93: applies in relation to the BGAs role in the evaluation of the tender process and associated documentation by applying similar assessment criteria and methodology used to evaluate other CGP projects.

Meeting the objectives of Capital Grants Program

Clause 94: does not apply.



Clause 95: is to be read as follows:

The Minister is satisfied that the existing school and the proposed new school for which BBSOC funding has been approved, needs the financial assistance and that the capital expenditure, and meets the Commonwealth's other priorities and objectives for schooling under the [2023 Commonwealth Closing the Gap Implementation Plan](#)

Assessment and ranking of projects for funding

Clauses 96–98: do not apply.

Timing

Clauses 100–101: do not apply.

Submission of schedule

Clauses 102–103: do not apply.

Clause 104: applies.

Clause 105: does not apply.

Ad hoc schedule

Clauses 106–108: do not apply.

Settlement of school contribution and grant sizes

Clauses 109–112: do not apply.

Property purchase

Clause 113: does not apply.

National Construction Code and Australian Government Building and Construction WHS Accreditation Scheme

Clauses 114–115: apply; however, where a school has already entered into commitments for a project with the NIAA, BGAs are only required to comply with the National Construction Code 2022 and Australian Building and Construction WHS Accreditation Scheme to the extent practicable.

Multiple-school project



Clauses 116–118: do not apply.

Approval process

Notification of approval

Clauses 119–120: do not apply.

Clauses 121–125: apply.

Public announcement of funding

Clauses 126–127: apply.

Review of decision

Clauses 128–132: do not apply.

Payment process

Commitment to commence a project

Clause 133: applies.

Clause 134: is to be read as follows:

If a school cannot make a commitment to commence the project by the approved date as per the milestones stipulated in the funding agreement with the BGA, the BGA should seek the Department's approval of a later commitment date.

Clauses 135–136: do not apply.

BGA agreements with schools

Clause 137: is to be read as follows:

A BGA must enter into an appropriate funding agreement with the approved authority for a school, before making any payment of capital funding to that approved authority.

Assignment of rights

Clause 138: applies.

Payment to BGAs



Clause 139: is to be read as follows:

Payments of capital funding will be made in accordance with the timing and amounts specified in the Minister's determination of funding for that BGA. The timing and amounts will be within the Department's annual appropriation budget for the BBSOC.

Clauses 140–141: apply.

Clause 142: is to be read as follows:

Funding provided to a BGA for the BBSOC initiative can only be used for projects approved under that measure. This funding cannot be used for claims on projects that are funded through the CGP's monthly grant instalment processes.

Clause 143: applies.

BGA Administration Expenses

Clauses 144–146: are to be read as follows:

144. An administration allowance additional to that which is provided under the CGP will be provided to the relevant BGA/s for funding provided under the BBSOC measure.

145. Where a BGA incurs additional expenses, the BGA may apply in writing to the Director, Capital Funding Section, for additional funds to meet these expenses and increase its administration allowance for a program year. The Minister (or delegate) may approve the use of BBSOC interest funds to supplement the administration allowance in such circumstances.

146. If a BGA's administrative expenses for a year are less than their administration allowance, the BGA must apply to the Minister (or delegate), in writing for a written direction in relation to spending the CGP funding on an approved project and a reallocation of BBSOC funding from the BGA's administration allowance to an approved project. .

Clause 147: applies.

Spending or committing CGP funding in accordance with these Guidelines

Clauses 148–149: apply.



Project Variations and Terminations

Project variations

Clause 150: is to be read as follows:

A change of circumstances after the approval of a project may require a variation to the project. Aspects of the projects that may be varied include, but are not limited to:

- a) total project cost increase or decrease
- b) school contribution increase or decrease
- c) the start or end date being moved by more than one year
- d) changes to the scope or project category, facility category or other descriptor of the project
- e) a request to vary the date for commitment if the school cannot enter into a commitment (sign a contract with a builder) for the project before the end of the year in which the project was approved
- f) cancelling (withdrawing) a project.

Clause 151: is to be read as follows:

The BGA must, in the first instance, discuss all variation requests with the Capital Funding Section and, if required, provide additional information to the Capital Funding Section by email.

Clauses 151-153: apply.

Clause 154: does not apply.

Clause 155: applies.

Commonwealth right to repayment

Clause 156-1581: apply.

Savings

Recovered Funds, Interest and Saving

Clause 159: applies.

Clause 160: is to be read as follows:



Funds that have been recovered from savings on capital expenditure or capital expenditure that has not proceeded must be committed to another BBSOC project within 12 months of the funds becoming available (or other timeframe determined by the Minister), irrespective of the year in which the funds were originally paid (see Section 30 of the Regulation).

Recovered Funds

Clause 161: applies.

Interest

Clause 162: is to be read as follows:

Interest refers to the amount of funds that a BGA earns from a bank account which holds BBSOC funding until it is disbursed to a school for a BBSOC project.

Clause 163: applies.

Savings

Clause 164-165: apply.

Cancelled

Clause 166: is to be read as follows:

Cancelled funds refer to funds that were allocated to an approved project which does not or cannot commence. The funds which were allocated to the cancelled (withdrawn) BBSOC project become unallocated and should be reallocated to other eligible BBSOC project/s within a timeframe as agreed with the Department.

Recognition of Assistance

Clauses 167: apply.

Capital Grants Program (CGP) Key Milestones

Does not apply.

Attachment 1 – Calculation of Entitlements

Does not apply.



Attachment 2 – Better practice school visit report

Does not apply.

Attachment 3 – Commonwealth right to repayment

Applies, except the words which appear immediately under the heading ‘Right to repayments prior to 2009’.

Attachment 4 – Tendering Processes

Applies; however, where a capital project is completed in successive stages and a school has already entered into commitments for the project with the NIAA, BGAs are only required to comply with tendering requirements to the extent practicable.

Attachment 5 – Better Practice Procedures Manual

The BGA is to apply its better practice procedures manual to its implementation of the BBSOC, with applicable adjustments to the information at Group Heading 4 ‘The Capital Grants Program’.

Attachment 6 – Proforma clause to be included in agreements between BGAs and schools

Applies.

Attachment 7 – Summary of Capital Grants Program recognition requirements

Applies, with references to the Capital Grants Program to be replaced with references to the Building Boarding Schools On-Country Closing the Gap measure.

Attachment 8 – Conflict of Interest Guidance Information

Applies.