

Hugh Pennicook

From: Chris Tyrrel
Sent: Wednesday, 30 May 2012 6:03 PM
To: Julie Boulton
Subject: RE: APPDP update following phone conversation with Trudy and Peter [SEC=UNCLASSIFIED]

Julie

What do we want to be able to use? If it is only reports may be we limit Agreement material to the reports?

Agreement Material: "all reports and other documents created or required to be developed or created as part of or for the purposes of reporting or acquitting to AusAID as required under this Agreement

Chris
Chris Tyrrel

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From: Julie Boulton
Sent: Wednesday, 30 May 2012 1:03 PM
To: Chris Tyrrel
Cc: Simon Flores
Subject: FW: APPDP update following phone conversation with Trudy and Peter [SEC=UNCLASSIFIED]

Hi Chris

I would really welcome your advice here please. You have previously stated that perhaps we should not limit the licence to reports only.

Reports in current agreement: "any documents, information or data produced and published by the grantee for the purposes of or in connection with the Nominated Purposes (Nominated Purposes is not defined – what does it mean?)

In the proposed agreement we refer to Agreement Material: "all material created or require to be developed or created as part of or for the purposes of undertaking the activity, including any documents, equipment, information data, sounds and images stored by any means."

Your advice here would be appreciated.

Thanks

Julie

From: Nick Martin s.47F
Sent: Thursday, 24 May 2012 5:06 PM
To: Julie Boulton
Subject: Re: APPDP update following phone conversation with Trudy and Peter [SEC=UNCLASSIFIED]

Hi Julie

Thanks for getting back to us on this.

Unfortunately it wouldn't. We think the term is much too broad for the fact that you're dealing with political parties.

I think the situation is very different to dealing with standard AusAID contractors.

We really can't sign up to something that leaves us so open to having communications, internal reports, sister party information, etc able to be used in this way.

Cheers

Nick

On 24/05/2012, at 4:09 AM, "Julie Boulton" s.47F wrote:

Hi Nick

Further to the email below, would amending the definition of Agreement Material to note that it specifically excludes any training program materials produced under or pursuant to this Agreement (or words to this effect) met your concerns?

Julie

From: Julie Boulton
Sent: Wednesday, 23 May 2012 4:25 PM
To: 'Nick Martin'; Simon Flores
Cc: Trudy Jackson; Peter Yates; Matthew Byrne
Subject: RE: APPDP update following phone conversation with Trudy and Peter [SEC=UNCLASSIFIED]

Hi Nick

Thanks so much for getting back to us on the revised agreement. I have comments on four of the five points you have raised below (still working on an answer for point no. 5).

1. Agree to delete “must separate project costs from administrative costs” from Clause 17.3

2. As per Clause 14.2, the 7 principles of Grant Administration are set out in the Commonwealth Grant Guidelines <http://www.finance.gov.au/publications/fmg-series/docs/FMG23_web.pdf>. The 7 principles are:

- Robust Planning and Design
- An Outcomes Orientation
- Proportionality
- Collaboration and Partnership
- Governance and Accountability
- Probity and Transparency
- Achieving Value with Public Money

This clause is a standard AusAID clause and it is to be used for the recipients as a guide to ensure proper spending of government money.

3. Clause 13

Could we address your concerns by retaining Clause 13.1 as is but adding a new Clause 13.2 that states: “The Parties to this Agreement will have an opportunity to review material to be publicly released prior to publication”? This broadens the scope of review as it provides for a review of everything covered under 13.1 (which I believe covers the production of a summary report of activities).

4. Guidelines, Part 3, first para

I am proposing to alter the first paragraph (subject to clearance from AusAID Legal) to read “Travel and accommodation expenses of Australian party officials and members of organisations visiting Australia must be based on best value for money rates of the day” (or words to that effect). The change to “value for money” is so as to better encapsulate the fact that APPDP is often working with senior dignitaries and travel and accommodation must be accordingly sourced.

5. What AusAID can publish - definition of "Reports"

I am working through this issue at the moment and I might need to call you on this in the next day or two if I can't resolve it in my head!

Thanks again.

Kind regards

Julie

From: Nick Martin s.47F
Sent: Tuesday, 22 May 2012 6:32 PM
To: Simon Flores; Julie Boulton
Cc: Trudy Jackson; Peter Yates; Matthew Byrne
Subject: RE: APPDP update following phone conversation with Trudy and Peter
[SEC=UNCLASSIFIED]

Hi Simon, Julie

First, wanted to thank you for the hours of work that have gone into reviewing and revising the APPDP Grant Deed and Guidelines. These are now far superior documents that set up the program for the next three years and beyond. We're very appreciative of the way you have dealt with our comments on the previous Deed and Guidelines.

Some comments on the changes in the Grant Deed that we think are effective:

- The Annual Tranches at 15.1 are a great improvement.

- The advance payment of tranches on receipt of activity plans in 15.2 will allow for salaries to continue to be paid.
- The annual audit requirements at 16.3, while an extra burden, can at least now be included in the annual work plan of KPMG .
- The recognition of travel arrangements in clause 3 of the Guidelines is appreciated.

Some further areas that need work/amendment/or clarification

- Clause 17.3 seems a little unworkable, particularly since it is asking organisations to foresee all administrative expenses for a coming year. Most administrative expenses can be set and defined, however this seems to be asking the Parties to anticipate all administrative expenses for a coming year. This is unnecessary as the Parties have to justify and acquit on an annual basis all administrative expenses. This clause should be deleted.
- In Clause 14.1, what exactly are the “7 Key Principles of Grant Administration” and what burdens do they place on the Parties?
- In relation to the ANAO requirement to publish updates from the program, we would like there to be a clause inserted that would read: *“The Commonwealth may periodically provide a summary report of activities undertaken under the program for public release. The Parties to this agreement will have an opportunity to review material to be publicly released prior to publication.”* This obviously gives us some say over what is publicly being said about the work of the Parties and will ensure that nothing is released that we view to be incorrect or misleading.
- In the Guidelines, para 4 we have a significant unresolved issue. As discussed in person, if the current contractor rates are applied to the program we will not be able to conduct our current programs. I would like to be very clear with you about the problem with the rates. The main problem is for domestic accommodation rates, it is not international accommodation rates. We are not able to accommodate the guests we bring to Australia on the rates in the new contractor schedule. I would like to suggest some options for change here:
 - The current contractor rates are “rolled over” into the new 3-year cycle; or
 - The Australian contractor accommodation rates are “rolled over” into the new 3-year cycle; or

- A new accommodation rate for Australian cities is negotiated and agreed between the parties which does not exceed the combined accommodation and TA rates for a given city as outlined in the new contractor guidelines.

This third option would seem to give us the flexibility we need to book accommodation in the CBD of Australian cities. To be clear, this would mean that the accommodation and TA rates would be combined for Australian cities.

- There is another unresolved issue which must also be addressed. We were unclear in talking with you about the role of Intellectual Property and “Reports” in the previous Grant Deed and Guidelines. The problem is not with IP per se (which you have addressed) but with what may be published by AusAID or provided to Third Parties. As you are aware, we conduct political democracy training using material sensitive to the ALP and to other sister parties around the world. We need to have the previous wording in 8.1 & 8.2 reinserted (see below) into the Guidelines that only allows AusAID to publish “Reports” from the program, and not have a right to use all material. We cannot have the situation where our training programs, for example, are publicly released or circulated. These are sensitive, political programs and we need the further legal protection afforded by the old Grant Deed and Guidelines maintained.

I hope we can quickly resolve these last few issues and get the new Deed signed and executed.

Thanks again for your work.

Regards

Nick Martin

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Australian Labor Party

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8.1 Intellectual Property in all material brought into existence as required by or for the nominated purposed under this deed bests immediately in the grantee.

8.2 the grantee grants to the commonwealth a permanent, world-wide, irrevocable, royalty-free and license fee free licence to use any of the reports that the grantee has produced as required by or for the nominated purposes under this deed for any purpose, including to report on or to promote the grant or for the proposes of the grant.

From: Julie Boulton s.47F
Sent: Thursday, 10 May 2012 5:04 PM
To: Peter Yates; Nick Martin
Cc: Simon Flores
Subject: APPDP update following phone conversation with Trudy and Peter [SEC=UNCLASSIFIED]

Hi Nick, Peter and Trudy

Thank you for helping to finalise the grant deed for the next three year period of the Australian Political Parties for Democracy Program (APPDP).

Revised grant deed

I have attached a new draft of the grant deed for your consideration. You will see that we have attempted to address most of your concerns in the revised version. I draw your attention to the following in particular:

- Simplification of Clause 4.6 regarding acknowledgment of AusAID funding
- Amendment of 2 weeks to 4 weeks for notice to be given of intention to carry out monitoring and evaluation of program
- Amendment of Clause 9 so that Intellectual Property resides in the Parties
- Clarification of agreement by AusAID and dispute processes for Activity Proposals, Invoices and Acquittals

- Requirement that 80% of funds be expensed prior to disbursement of next tranche payment (Clause 15.3)
- Replacement of Clause 15.4 (previously 16.4) (funding provided on a pro rata basis) with Clause 5 of 2009 Guidelines, with the addition of funding for the Greens

Please note that travel rates remain unchanged – travel and accommodation expenses of Australian party officials and members of organisations visiting Australia must not exceed the short-term travel rates for contractors promulgated by AusAID. This is a requirement for all AusAID contracts. The section on international travel (and the ability to fly economy or business) has also been amended to be consistent with all AusAID contracts.

Publication

As discussed, AusAID's internal audit section has recently completed an audit of APPDP. The audit reviewed compliance with recommendations of a 2009 Australian National Audit Office (ANAO) performance report (see http://www.anao.gov.au/uploads/documents/2008-09_Audit_Report_18.pdf). The internal audit found that ANAO Recommendation 4 (c) - to publish grant applications, annual work plans, acquittals and performance delivery reports - has not been implemented.

As such, in response to the internal audit, and in keeping with AusAID's Transparency Charter (November 2011), we are formally seeking your views on the publication of APPDP program documentation on the AusAID website. We are proposing to publish the head agreement along with a short summary, authored by AusAID and to be updated annually, that summarizes information taken from your activity reports. We are proposing that publication starts with the introduction of the new agreement.

We look forward to receiving your views on this issue.

We would also like to inform you that, in accordance with the Transparency Charter, it is now usual practice in AusAID for all internal audits, including responses, to be published on AusAID's internet. We will let you know when this will happen and will provide you with an advance copy.

Timeframe for response

We would be grateful if you could respond with your views on the matter of publication, along with any further changes you may wish to suggest on the draft deed agreement, by **18 May**.

Many thanks for your cooperation on the revised agreement. Please feel free to call me if you have any questions or concerns.

Regards

Julie

Julie Boulton

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