

Business Basics

Round 5 Terms and Conditions

1. The Business Basics program (**Program**) is administered by the State of Queensland acting through the Department of Employment, Small Business and Training (**DESBT**) under the Business Basics Round 5 Guidelines (**Guidelines**) and under these terms and conditions.

Definitions

2. In these Terms and Conditions, the following definitions apply:

- a) **Agreement Acceptance Form** is the form a successful Applicant must submit to certify they accept the Funding Agreement.
- b) **Applicant** means the legal entity applying for financial assistance under the Program.
- c) **Application** means the formal or official application submitted by the Applicant, including any supporting documentation as provided by the Applicant, required by the Guidelines for the Program, or otherwise requested by DESBT.
- d) **Authorised Party** means an individual or individuals who are either formally registered with the Australian Business Register as associated with the Applicant or have provided acceptable evidence of authorisation to act on behalf of the Applicant.
- e) **Business Days** are weekdays from Monday to Friday, excluding public holidays in Brisbane, Queensland.
- f) **Confidential Information** means all information, trade secrets and knowledge of or disclosed by a party (Discloser) to another party (Receiver) that:
 - a. is by its nature confidential;
 - b. is designated or marked by the Discloser as confidential; or
 - c. the Receiver knows or ought to know is confidential,but does not include information which:
 - d. is or becomes public knowledge other than by breach of this Funding Agreement or any other confidentiality obligation; or
 - e. is independently developed by a party while having no knowledge of or access to the other party's Confidential Information.
- g) **Commencement Date** means the date the Applicant accepts the Funding Agreement Letter.
- h) **Contribution** is the Grantee's financial contribution to the Total Project Costs stated in the Funding Agreement Letter or as varied under the Funding Agreement.
- i) **DESBT** means the Department of Employment, Small Business and Training.
- j) **Eligibility Criteria** means the criteria defined in the Guidelines that must be met by the Applicant to be deemed eligible for the Program.
- k) **Expiry Date** means the date upon which all parties have performed their obligations under the Funding Agreement.

- l) **Funding Agreement** means DESBT's written notice to the Applicant approving financial assistance under the Program, and the agreement formed between DESBT and the Applicant, comprised of:
 - a. the Funding Agreement Letter and Agreement Acceptance Form;
 - b. any other terms agreed in writing between DESBT and the Applicant;
 - c. these terms and conditions;
 - d. the Guidelines; and
 - e. the Application.
- m) **Funding Agreement Letter** is the letter sent by DESBT to a successful Applicant inviting the Applicant to accept the Funding Agreement.
- n) **Grant** means the funding amount for the Project under the Program approved for payment by DESBT.
- o) **Grantee** means the legal entity receiving financial assistance or support per the Funding Agreement.
- p) **Guidelines** are the Business Basics round 5 Program Guidelines as published on the Business Queensland website.
- q) **Minister** means the Minister responsible for the Small Business portfolio.
- r) **Outcome Survey** means the report, in the form required by DESBT, used by the Grantee to describe how the grant funds were spent.
- s) **Program** means the Business Basics program.
- t) **Project** means the project or activity approved by DESBT for the Funding including any variation approved by DESBT under clause 25.
- u) **Variation Request** is a written request submitted by the Grantee to DESBT seeking approval to modify the Project.
- v) **Total Project Costs** are the Grantee costs included in expending the Project, that have been approved by DESBT.

Applications

3. An Applicant can only lodge one Application under this Program.
4. The Applicant must lodge their Application electronically as described in the Guidelines.
5. DESBT reserves the right to withdraw the Program at its discretion. An Application may be refused if Program funding has been exhausted or if the Program has been discontinued. Business Queensland will publish information on its website if funding for the Program is no longer available or has been discontinued.
6. DESBT may request additional information and documentation from the Applicant to help determine whether the Eligibility Criteria have been met.
7. If the Applicant does not provide DESBT with the requested information and documentation within the period specified in the request, the Application may not be approved.
8. The conduct of inviting Applications does not create a binding agreement or relationship between an Applicant and DESBT.
9. The submission of an Application does not guarantee that the Applicant will be deemed eligible to receive funding.



11. For the avoidance of doubt, an Applicant is not entitled to any damages or compensation arising out of the Application process.

Assessment

12. An Application may be declined if:

- a) the Application has not been submitted by an Authorised Party.
- b) the Application does not meet all of the Eligibility Criteria.
- c) the Applicant has submitted more than one Application for assessment under this Program at any one time;
- d) the Applicant is not an eligible business as defined in the Guidelines;
- e) the Applicant has not submitted all required evidentiary documentation as defined in the Guidelines or otherwise requested;
- f) the Applicant (and if the Applicant is not an individual, its owners) and the Applicant's management staff have not complied with local, State and Australian laws and regulations; or
- g) there are public interest issues indicating the Application should not be approved.

13. An Applicant may request a review of a decision made under clause 11 within 30 days of the decision being issued to them.

14. If a review of decision is requested, DESBT will provide written notification of the review outcome within 60 business days from the date of the request.

15. If an Application is not declined under clause 11, Applications will undergo competitive assessment against the applicant pool and Guidelines. Funding is awarded in order of merit up to the funding limit for the Program. Not all Applications assessed will be approved for funding.

Application Approval

16. If an Application is approved, the Applicant will receive a Funding Agreement Letter.

17. To formalise the Funding Agreement, the Applicant must submit an Agreement Acceptance Form by the date specified in the Funding Agreement Letter.

18. The Applicant or Grantee may withdraw their Application or Funding Agreement by submitting a formal request to withdraw. If the Grant has been paid prior to withdrawal by the Applicant, the Applicant must repay the entire Grant to DESBT.

19. The Grantee must:

- a) complete the grant funded Project within the specified timeframe, unless otherwise agreed in writing by DESBT;
- b) immediately advise DESBT of any changes to the grant funded Project;
- c) submit an Outcome Survey as requested by DESBT;
- d) refund to DESBT any of the funds paid under clause 22 that are unspent or uncommitted on completion of the Project or termination of the Funding Agreement; and
- e) notify DESBT if their contact details or business details change.



21. DESBT may request additional information from the Applicant for ongoing monitoring, evaluation, reporting and compliance purposes. If the Applicant receives a request for additional information under this clause, the Applicant will provide that information DESBT within 5 business days from the date of the request.
22. The Applicant acknowledges that all Queensland Government programs are subject to audit. All records related to the Funding Agreement must be kept for by the Applicant for seven (7) years after lodging the Application and be kept in a way that can be readily produced if required. Relevant records must be provided to the Queensland Government within 5 Business days of the request.

Payment and GST

23. The parties acknowledge that the Grant is not payment for supply of goods or services by the Grantee and is not subject to GST. DESBT will not remit GST on the Grant to the Grantee.
24. If the Agreement Acceptance Form is submitted in accordance with clause 16, DESBT will pay the Grant in a single payment by electronic funds transfer to the bank account nominated by the Grantee.
25. If, following payment of a Grant to a Grantee, DESBT:
 - a) becomes aware of any matter; and
 - b) as a result of becoming aware, reasonably determines the Eligibility Criteria were not met for that Grant,

DESBT may:

- c) give written notice to the Grantee of that determination; and
- d) require the Grantee to repay the Grant.

26. If the Grantee receives a notice under clause 23, the Grantee agrees to repay the payment amount to the Queensland Government within 30 days.

Variation to Project

27. Before implementing any proposed changes to the Project, the Grantee must submit a Variation Request detailing the proposed changes to the Project.
28. DESBT will consider the Variation Request and notify the Grantee if the variation is approved or not approved. Approval is at the absolute discretion of DESBT and may be subject to conditions as detailed in the approval correspondence.
29. If the Grantee makes changes to the Project without approval from DESBT, DESBT may, at their discretion, terminate the funding agreement.

Termination and Return of Grant

30. Either party may terminate the Funding Agreement by written notice with immediate effect if the other party:
 - a) breaches an essential term of the Funding Agreement which is not capable of being remedied; or
 - b) breaches an essential term of the Funding Agreement which is capable of being remedied and does not remedy that breach within 10 calendar days after receiving notice requiring it to do so.



32. Where the Grantee has breached a term of the Funding Agreement, or the Funding Agreement has been terminated under clause 28, within 30 days from the date of the written notice from the Department, the Grantee must:

- a) complete an Outcome Survey, including evidence of Grant expenditure or commitment, and
- b) refund the Grant paid to the Grantee by DESBT under clause 22 less any amount legitimately spent on or committed to the Project prior to the date of termination;

Disputes

33. A party may notify the other party in writing of the occurrence of a dispute (Dispute Notice) and the parties will try to resolve the dispute through negotiation.

34. If a dispute arises and the parties are unable to resolve the dispute within 15 business days from the receipt of the Dispute Notice, the dispute is to be referred to the parties' authorised officers for resolution. Each party will continue to perform its obligations under the Funding Agreement.

35. Clauses 30 and 31 do not apply to action taken by the Applicant under clause 12 or by the Department under clauses 23 or 28.

Acknowledgements

36. If the Application is successful, the Grantee acknowledges that:

- a) DESBT makes no representations or warranties about the information sources contained in the Guidelines. The Grantee will make their own enquiries before deciding whether the supplier or service provider chosen is suitable for the Grantees needs;

- b) any products, information, opinions or other assistance provided by the supplier or service provider is in response to the information or material that the Grantee has provided, and that DESBT is not responsible for the accuracy or completeness of this information or material;

- c) any reliance or other use of the products, information, opinions or other assistance provided by a supplier or service provider shall be entirely at Grantee's own risk;

- d) should the Grantee need products or services in addition (Additional Products or Services) to the products or services forming part of the Project, the Grantee shall be required to negotiate a separate agreement directly with the supplier or service provider. Any arrangement between the Grantee and the supplier or service provider for the provision of Additional Services is not part of the Project and DESBT accepts no responsibility for any such arrangement;

- e) the provision of information or other help by DESBT, the supplier or service provider in relation to the Project does not guarantee the Grantee's success in any business activity; and

- f) the Grantee retains sole responsibility for their actions and decisions (regardless of whether they are based on options or suggestions provided by the supplier or service provider) and will not bring any claim or action against DESBT, should the business activity not achieve its intended goals.



- h) To the extent permitted by law, the Grantee releases and indemnifies DESBT and its employees and contractors against any claim of loss or damage brought against them arising directly or indirectly from business activity funded by the Grant.

37. DESBT and the Grantee agree that this Funding Agreement does not operate to transfer any intellectual property rights created in the Project to DESBT.

Other

38. Each party must not disclose the other party's Confidential Information to a third party without the other party's prior written consent, except:

- a) to its representatives who are bound to keep the information confidential and to whom it is necessary to disclose the information;
- b) to its professional advisers who must keep the information confidential;
- c) as required or permitted by law; or
- d) where that party is DESBT, to any relevant Minister (including his/her advisers), the Parliament of the State of Queensland (including Parliamentary Committees), any Australian Government department, Queensland Government department, agency or authority or where disclosure is required to be made in accordance with established governmental policies, procedures or for public accountability purposes.

39. The following clauses survive expiry or termination of the Funding Agreement:

- a) 1 f) (confidential information).
- b) 10 (compensation)
- c) 11 (reasons for decline)
- d) 18 c) (Outcome Survey)
- e) 18 d) (refund of unspent funds)
- f) 19 (records)
- g) 20 (audits)
- h) 23 and 24 (repayment of funding)
- i) 34 a) (no representation)
- j) 34 f) (no claim)
- k) 34 g) (indemnity and liability)
- l) 35 (intellectual property)

