

# Business Boost Grants

## Round 3 Terms and Conditions

1. The Department of Youth Justice, Employment, Small Business and Training (**DYJESBT**) on behalf of the State of Queensland conducts the Business Boost grants program (**Program**) under the Business Boost Round 3 Guidelines (**Guidelines**) and under the following terms and conditions.

### Definitions

2. In these terms and conditions:
    - a) **'Acquittal Report'** means a report in the form required by DYJESBT about your financial performance in connection with carrying out the Project.
    - b) **'Applicant'** mean/s the entity submitting the Application to DYJESBT relating to the Project.
    - c) **'Application'** means the official application for a grant submitted by You as part of the Program.
    - d) **'Approval Date'** means the date on the Funding Agreement letter provided by DYJESBT to You.
    - e) **'Business Days'** are weekdays from Monday to Friday excluding public holidays for Brisbane, Queensland.
    - f) **'Bank Account Details Form'** is the form You must submit to certify you accept the Funding Agreement.
    - g) **'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.
    - h) **'Contribution'** is Your financial contribution to the total costs of the Project stated in the Funding Agreement Letter or as varied under the Funding Agreement.
    - i) **'Duration'** means the period from the Approval Date to the Project End Date.
    - j) **'Eligibility'** means the criteria set out in the Guidelines that the business must meet to be eligible to apply for the Program.
    - k) **'Funding Agreement'** means the funding agreement between DYJESBT, and You which is formed on the Approval Date and is comprised of:
      - a. the Funding Agreement Letter;
      - b. any other terms agreed in writing between the parties;
      - c. these terms and conditions;
      - d. the Guidelines; and
      - e. the Application submitted by You relating to the Project.
- Where there are differences between the documents listed above in a-e, the earlier-listed documents (e.g. the Funding Agreement Letter) override the later-listed ones (e.g. the Application).
- l) **'Funding Agreement Letter'** is the letter sent by DYJESBT to successful Applicants inviting the Applicant to accept the offer of the Grant.



- m) **'Grant'** means the amount up to the maximum amount set out in the Funding Agreement Letter to be paid by DYJESBT under the Funding Agreement for the Project, or as varied under this Funding Agreement.
  - n) **'Minister'** means the Minister with responsibility for the Program.
  - o) **'Personal Information'** has the same meaning as in the *Information Privacy Act 2009* (Qld).
  - p) **'Project'** means the project or activity approved by the Department for the Grant including any variation approved by the Department under clause 24.
  - q) **'Project End Date'** means the end date of the Project set out in the Funding Agreement Letter or as varied under the Funding Agreement.
  - r) **'Project Report'** is the report on the progress of the Project in the form required by DYJESBT as required by clause 17.d).
  - s) **'Recipient'** is an Applicant that has accepted the offer of a Grant as required by clause 16.
  - t) **'Round'** is the funding round for the Program.
  - u) **'Variation Request'** is a written request from You seeking DYJESBT's approval to change Your details or Project.
  - v) **'You' or 'Your'** means the Applicant or Recipient, as the context requires.
- 6. You may withdraw Your Application at any time prior to **the Approval Date** by notifying DYJESBT in writing.
  - 7. You cannot submit more than one Application under this Program Round.
  - 8. DYJESBT reserves the right not to allocate the total amount of funding available for the Program if, in the opinion of the Application review panel, there are insufficient Applications of suitable merit.
  - 9. All costs associated with the preparation of Applications and any associated costs will be Your sole responsibility.
  - 10. Additional terms and conditions may be included in the Funding Agreement Letter provided to You by DYJESBT.
  - 11. Recipients of this Grant cannot apply for funding under future Rounds of the Program.

## Disclosure and publication

- 12. By submitting an Application, You:
  - a) acknowledge that submitting an Application does not guarantee that You will be eligible to receive a Grant. Your selection for a Grant shall be at DYJESBT's sole and absolute discretion;
  - b) acknowledge that if the Application is approved, You have read and agree to be bound by the Funding Agreement;
  - c) authorise the use and/or publication of Your name and details of the Project, in relation to any promotional or advertising purposes in conjunction with the Program;
  - d) authorise the use and disclosure by DYJESBT and/or the Minister of Your name, contact details and details of the Project (including the Grant), for any promotional, advertising or accountability reporting purpose in relation to the Program. Disclosure may include to Members of Parliament;
  - e) acknowledge that DYJESBT, and its employees may use and disclose any of the information provided with the Application, including Personal Information, to the following for any purpose in connection with the administration of the Program:

## Applications

- 3. The conduct of inviting applications does not give rise to any legal or equitable relationship.
- 4. DYJESBT may, by direct notification to You or via its website ([www.business.qld.gov.au](http://www.business.qld.gov.au)), change the Guidelines and these terms and conditions, or cancel or vary the application process at any time.
- 5. No person shall be entitled to claim compensation or loss from DYJESBT for any matter arising out of the application process, including but not limited to failure by DYJESBT to comply with the Guidelines or these terms and conditions.

- a. Queensland Government departments or agencies,
- b. Queensland Government bodies,
- c. non-government organisations,
- d. the Commonwealth, states or territories and/or
- e. suppliers as listed in the Application;
- f) acknowledge that the *Right to Information Act 2009* provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies, subject to the exemptions under that Act;
- g) warrant that You are not in breach of any law, constitution or any other requirement You are bound to comply with;
- h) warrant that You are not bankrupt or insolvent; and
- i) warrant that the use of such information or material as above will not infringe the rights of any third party or any law.

## Assessment

- 13. DYJESBT will assess applications against the assessment criteria and will provide recommendations to the DYJESBT delegate for approval.
- 14. All decisions and recommendations of DYJESBT are binding and final. An Applicant may request a review of DYJESBT's decision not to provide funding for their Application. The application for review must:
  - a) be lodged within 30 business days of the decision being provided to the Applicant;
  - b) state in detail the reasons the Applicant relies upon in requesting the review; and
  - c) attach all relevant supporting material.

## Successful applications

- 15. DYJESBT will give a Funding Agreement Letter and a Bank Account Details Form to a successful Applicant.
- 16. To accept the offer of the Grant, the Applicant must give DYJESBT a completed Bank Account Details Form within 2 weeks of the Approval Date.

## 17. The Recipient must:

- a) obtain all appropriate documentation for the Project (e.g., permits, approvals, insurances and any legal requirements) and provide copies to DYJESBT on request;
- b) complete the Project by the Project End Date;
- c) immediately notify DYJESBT using a Variation Request of any proposed changes to the Project, including but not limited to changes to the Project End Date, activity, scope, business entity and suppliers;
- d) submit a Project Report completed to DYJESBT's reasonable satisfaction within 30 business days of DYJESBT's written request;
- e) over the term of the Funding Agreement pay Your Contribution
- f) retain documentary records related to the Project and the Contribution for audit purposes including, but not limited to supplier quotes, invoices, evidence of payments and made to suppliers;
- g) within 30 business days after the Project End Date, or as required by clause 26, submit an Acquittal Report completed to DYJESBT's reasonable satisfaction;
- h) have and maintain appropriate insurances in relation to the business, including the Project, and upon reasonable request, provide evidence of its currency to DYJESBT;
- i) maintain Your Eligibility for the Duration;
- j) notify DYJESBT if Your contact details change; and
- k) provide to DYJESBT in a prompt way any information reasonably requested by DYJESBT.

## Payments and GST

- 18. The Grant is not subject to GST. The Grant is GST exclusive. You cannot use any part of the Grant for the payment of GST.

19. DYJESBT will pay the Grant to the Recipient via electronic funds transfer to the Recipient's nominated bank account as soon as practicable after the Recipient:
- a) has submitted an Acquittal Report completed to DYJESBT's reasonable satisfaction; and
  - b) notifies DYJESBT of the details of the bank account into which the Grant is to be paid.
- e) the provision of information or other help by DYJESBT, the supplier or service provider in relation to the Project does not guarantee Your success in any business activity; and
  - f) You retain sole responsibility for Your actions and decisions (regardless of whether they are based on options or suggestions provided by the supplier or service provider) and. You will not bring any claim or action against DYJESBT, should Your business activity not achieve its intended aims.

## Acknowledgements

20. If Your Application is successful, You acknowledge that:

- a) DYJESBT makes no representations or warranties about the information sources contained in the Guidelines. You shall make Your own enquiries before deciding whether the supplier or service provider chosen is suitable for Your 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 You have provided, and that DYJESBT 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 Your own risk;
- d) should You need products or services in addition (Additional Products or Services) to the products or services forming part of the Project, You shall be required to negotiate a separate agreement directly with the supplier or service provider. Any arrangement between You and the supplier or service provider for the provision of Additional Services is not part of the Project and DYJESBT accepts no responsibility for any such arrangement;

21. You release (to the full extent permitted by law) and indemnify DYJESBT from and against any claim which may be brought against or made upon or incurred by DYJESBT arising directly or indirectly out of any advice provided to You by a supplier or service provider or any agreement You enter into with a supplier or service provider or a third party, or as a result of the advice provided by DYJESBT.

22. You agree that except for any liability that cannot be excluded by law, DYJESBT (including its officers, employees, contractors and agents) is excluded from all liability (including negligence) for any loss or damage (including loss of opportunity or personal injury) whether direct, indirect, special or, arising in any way out of the application or the Funding Agreement.

23. DYJESBT and You agree that this Funding Agreement does not operate to transfer any intellectual property rights created in the Project to DYJESBT.

## Variation to Project

24. A project may only be varied as provided in this clause 24:

- a) Before implementing any proposed changes to the Project, You must submit a Variation Request detailing the proposed changes to the Project.
- b) DYJESBT will consider the Variation Request and notify the Recipient if the Request is approved, or not approved. Approval is at the absolute discretion of DYJESBT.

- c) If You change your Project without DYJESBT first approving Your Variation Request, you may be in breach of the Funding Agreement.

## Termination and expiry

25. Either party may terminate the Funding Agreement by written notice with immediate effect if the other party:

- a) breaches a material term of the Funding Agreement, which is not capable of being remedied; or
- b) breaches a material term of the Funding Agreement which is capable of being remedied and does not remedy that breach within 10 Business Days after receiving notice requiring it to do so.

26. Where the Funding Agreement has been terminated under clause 25, within 20 Business Days of the date of termination, You must submit an Acquittal Report completed to DYJESBT's reasonable satisfaction.

27. Unless terminated under clause 25, this Funding Agreement will expire when each party has completed all its obligations.

## Disputes

28. 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.

29. If a dispute eventuates, 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.

## Other

30. 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 DYJESBT, 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.

31. DYJESBT may, at its discretion, carry out random audits of Projects to ensure that the information provided is true and correct. Where it is found that false or misleading information has been provided, penalties may apply, including refunding to DYJESBT some or all of the Grant.

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

- a) 17.f) (records)
- b) 17.g)(Acquittal Report)
- c) 17.h)(insurance);
- d) 20.a) (no representation);
- e) 20.f) (no claim);
- f) 21 (indemnity);
- g) 22 (liability);
- h) 23 (intellectual property);
- i) 26 (obligations after termination);
- j) 30 (confidential information);
- k) 31 (audits); and
- l) 32 (survival).

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