

# Submission to the Department of Finance on the Review of Commonwealth Grant Agreement Templates

5 September 2024

## About ACOSS

The Australian Council of Social Service (ACOSS) is a national voice in support of people affected by poverty, disadvantage and inequality and the peak body for the community services and civil society sector.

ACOSS consists of a network of approximately 4000 organisations and individuals across Australia in metro, regional and remote areas.

Our vision is an end to poverty in all its forms; economies that are fair, sustainable and resilient; and communities that are just, peaceful and inclusive.

## Summary

ACOSS welcomes the opportunity to provide feedback to the Department of Finance's review of the Whole of Australian Government [grants template suite](#), which includes grant agreement templates, grant agreement template user guides, and grants opportunity guideline templates.

ACOSS has consistently advocated for government to provide secure, adequate funding to community sector organisations to meet community need, and to provide this through funding agreements that promote adequate notice of funding and indexation, flexibility to agree to repurpose funds in appropriate circumstances, and fairness in the allocation of risks and benefits to grantees such as for intellectual property (see for example [this submission](#) to DSS for details). Adequate funding and contracting arrangements are essential to enable organisations to efficiently provide quality care, support and advocacy.

As we recognise the Department's review is limited to grant templates (rather than broader policy matters), our submission focuses on improvements to funding agreements. However, this does not take away from the urgency of our substantive funding asks, and we also urge the Department to work across government to ensure it fully funds the costs of community sector organisations to meet service demand, including overheads, mandated improvements to pay and conditions, and adequate and transparent indexation.

The Albanese government made [election commitments](#) to improve funding arrangements for the community sector, including longer term funding agreements, and proper and transparent indexation funding. However, the government has not fully delivered on these election promises, with many community sector services undermined by short term funding agreements, and without adequate or transparent indexation to cover increases in costs.

ACOSS and community sector organisations have also consistently reiterated, including through departmental processes (such as the Department of Social Services Community Services Advisory Group) and with Ministers, the need for more notice of any funding renewal or cessation and transitional funding where funding is not reviewed, as well as the need for funding agreements to be flexible for organisations to repurpose funds to respond to disasters and redirect surpluses for similar activities. However, these issues remain unaddressed, disrupting the productivity and effectiveness of service continuity to people needing assistance, and undermining the ability of sector organisations to flexibly respond to circumstances.

We urge the government to deliver on its commitments and the sector's recommendations noted above to improve funding arrangements, and we see amendments to grant templates as an important though insufficient step in this direction. Importantly, shifts in government practice are also needed to ensure departments and agencies comply with grant agreement templates and deliver adequate, long-term, flexible and transparent funding. We also recommend proposed amendments to grant agreement templates to protect the independence of grantees in undertaking research and advocacy.

Our submission focuses on proposed amendments to the grant agreement templates, however we ask the Department to consider how other elements of the templates suite, and the broader Commonwealth Grants Rules and Guidelines, should be edited to reflect our proposed amendments. Where relevant, and where we have had capacity, we have suggested wording changes to the standard and simple grant agreement templates. We seek the opportunity to collaborate further with the Department to refine the wording of amendments to the agreement templates further.

We make seven recommendations below.

## **1. Accountability for transparent and consistent use of templates**

Commonwealth government departments and agencies need to be transparent and consistent in how they decide whether to use procurement contracts or grant agreements, and what type of grant agreement to use, in providing funding to community services. This would better equip community sector organisations to understand, fairly negotiate (where appropriate), and comply with funding agreements by reference to public, consistent standards. Greater transparency and consistency in the government approach to legal agreements

is particularly important in a context where community sector organisations are chronically underfunded to carry out the full cost of service delivery, including in relation to negotiating and engaging with legal agreements. Ensuring providers are sufficiently informed in this way, can help ensure the agreement to deliver services is appropriate in substance, and the agreement process occurs efficiently (so that more resources can be directed towards the essential community services themselves).

Currently however, the Commonwealth government has not publicly articulated its decision-making process for selecting between the use of procurement contracts or grant agreements to fund community services. Where grant agreements are used, while the Department of Finance has indicated that the selection between different grant agreement templates (including letter of agreement, simple grant agreement, and standard grant agreement) is based on the 'risk' rating of the grant, there is no information on how this risk is determined or has been applied by departments and agencies. In addition, we understand that government departments and agencies do not always follow the grant agreement templates, and that there are little to no accountability mechanisms to promote compliance with the templates or for agencies to justify and explain their departures from the templates.

**Recommendation 1:** The Commonwealth government should, in consultation with community sector organisations, develop, publish, and implement policies that govern its use of funding agreements with community sector organisations, which includes:

- a. clear, public criteria for how Commonwealth government departments and agencies are required to select between and justify their use of procurement contracts or types of grant agreements (e.g. short, standard, ad hoc) to fund community sector organisations; and
- b. a requirement that Commonwealth government departments and agencies use the grant templates, and must justify to the grantee based on clear, public criteria, any departures from the template in negotiating grant agreements.

## 2. Indexation notification and early payment

It is basic responsibility of the Commonwealth government to fund the full costs of community sector organisations to meet service demand, including overheads, mandated improvements to pay and conditions, and adequate and transparent indexation funding. Indexation is critical to ensure that the value of a grant does not deteriorate over time, and to allow organisations to cover the increasing costs of service provision that are due to external factors beyond their control. The government's changes to indexation arrangements in the May 2023 budget were welcome, as were the subsequent steps taken to ensure all departments were passing on indexation. Despite this, many community sector organisations are still not provided with any indexation funding, and where indexation funding is provided, it is often inadequate

because the indices used in its calculation (where they are known), such as CPI and WPI, are not designed for community sector organisations and do not accurately reflect their increased costs.<sup>1</sup>

Community sector organisations need to be informed, before the start of each financial year, the amount, method of determination, and timing of indexation funding payable to them for that financial year, so that they can appropriately plan, allocate resources, determine service capacity, and also be in a position to fairly negotiate funding increases each year. Currently, however, government departments and agencies mostly do not, and are also not required to, provide organisations with this basic information about indexation.

Community sector organisations also need to be provided indexation funding as early as possible within the grant term, and by no later than the first quarter of the first year or financial year, so that this funding can be used to cover the continuously increasing costs of service delivery. Currently however, there is no requirement of government departments to provide indexation funding early or by a certain date, and many community sector organisations only receive indexation funding partway through or at the end of a grant period, and so are forced to limit service provision or take on financial debt before then.

**Recommendation 2:** The grant agreement templates (and all associated grant documents including grant rules, guidelines, user guides and checklists) should be amended to require the Commonwealth to:

- a. inform the grantee, before the start of a financial year, the amount, method for calculating, and timing of indexation funding payable to them in that financial year as part of the grant; and
- b. pay the indexation funding to the grantee as soon as possible within the grant term, and by no later than the first three months of grant activities commencing for the first year, and the first quarter of the financial year for subsequent years.

**Draft amendments:** As a starting point for further discussion, see our proposed amendments in tracked changes in the attached standard and simple grant agreement templates in::

- Part D – contains the substantive new amendments
- Part C – in respect of 'Activity Start Date'
- clause 21/22 (definitions) in the Standard/General Grant Conditions – in respect of 'Previous Agreement' and 'Activity Start Date'

As an illustration, key amendments to the standard grant agreement template are extracted below in blue text (note the black text and yellow highlights are already in the template).

---

<sup>1</sup> David Gilchrist and Clare Feenan, 'Why the CPI and WPI are not appropriate bases for human services funding indexation', April 2024, available [online](#), accessed 20 August 2024.

#### Amendments to Part D:

Subject to indexation funding below, the total amount of the Grant is **[insert amount]** (GST **[incl/excl]**).

GST **[is/ is not]** payable on the Grant.

The total amount of the Grant payable in each financial year is subject to indexation funding:

- (a) if a Previous Agreement exists — in respect of the first financial year of the Grant; and
- (b) in respect of the second and each subsequent financial year of the Grant.

[...]

For each financial year in respect of which indexation funding is payable, the Commonwealth will notify the Grantee, as soon as reasonably practicable before 1 July of that financial year:

- (a) the amount of indexation funding;
- (b) the amount of indexation funding expressed as a percentage of funding payable in respect of that financial year;
- (c) the date by which the Commonwealth intends to pay indexation funding to the Grantee (which must be no later than (i) in respect of the first financial year of the Grant (if a Previous Agreement exists), **[three calendar months after the Activity Start Date]** and (ii) in respect of each subsequent financial year of the Grant, 30 September of that financial year);
- (d) the method and formula used to determine the amount of indexation funding; and
- (e) whether, and if so how, compared to the previous financial year, there are changes to the matters listed in (a)-(d).

#### Amendments to clause 22 (definitions), Standard Grant Conditions:

##### 22. Definitions

In this Agreement, unless the contrary appears:

- **Activity Start Date** means the date or event specified in the Grant Details.
- **Previous Agreement** means an agreement, under which the Commonwealth provides a grant to the Grantee in respect of an activity which is substantially similar in nature to the Activity, and which ends during the 12 months prior to the Activity Start Date of this Agreement.

### 3. Longer grant terms and transition funding

The Albanese government made [election commitments](#) to 'move towards longer, more stable funding cycles' and said that 'in many instances, services may be best delivered through 6-year contracts'. It also acknowledged the drawbacks of short-term contracting, including that frequent retendering of grant programs is unproductive, that changes to service providers are very disruptive to people using services, and noted that longer contract terms give organisations the funding certainty to adopt more secure employment.

However the government has not fully delivered on its commitment to longer contracting, and short funding timeframes continue to make it more difficult for community sector organisations to plan their operations, to attract and retain staff, and to deliver long-term positive outcomes for the people they support. Shorter term funding is also impeding the government's ability to pursue permanent employment and creating difficulties for sector organisations to comply with limitations on fixed term contracts.

ACOSS's consistent view has been that contracts of at least five years is leading practice, and in certain cases, longer agreements are preferable such as 10 year agreements for service delivery in remote Aboriginal and Torres Strait Islander communities, given the complexity and volume of need, and the unique challenges of building sustained, self-determining and trusted services in these communities.

Managing funding agreements is particularly challenging for community service organisations when government funders offer minimal notice of renewal, granting or cessation of a contract. Sector leaders have repeatedly told ACOSS for years that this insufficient notice is impeding the productivity and effectiveness of their organisations and ultimately reducing the quality of services they provide. Cessation of a contract without provision of funding to organisations to manage the transition of a service to a new provider also means existing service users do not have continuity of support and are more likely to be unable to get the help they need.

ACOSS's view is that the government should provide at least 6 months' notice to a grantee of any renewal or cessation, and extensions to funding agreements when this cannot be achieved. In addition, where the government does not renew funding, a grantee should be able to request reasonable additional funding to manage the transition of services to another provider.

**Recommendation 3:** The grant agreement templates (and all associated grant documents including grant rules, guidelines, user guides, checklists) should be amended to require the Commonwealth to:

- a. provide grant funding and grant agreements with duration of at least 5 years, and 10 years for service delivery in remote Aboriginal and Torres Strait Islander communities, and to justify based on clear, public criteria, any departures from these standard durations;
- b. provide at least 6 months' notice to a grantee of any renewal or cessation of funding, and where this cannot be achieved and grantee services would otherwise cease, provide an extension of funding and funding agreement for at least 12 months; and
- c. where a funding agreement is not renewed, enable a grantee to request reasonable additional funding to manage the transition of services to another provider, and the Commonwealth not unreasonably withhold this funding and provide the funding in a timely manner.

In the time available, we did not have capacity to draft proposed amendments to the grant agreement templates or associated grant documents for this recommendation, but are interested in collaborating further with the Department to develop potential amendments.

## 4. Flexibility for grantee to use surplus funds on similar activities when deliverables met

Community sector organisations are currently required to repay the Commonwealth government any remaining grant funds at the end of the grant, even where all deliverables have been met. This is despite the fact that in these circumstances, providers have already been competitively assessed as an appropriate and competent recipient of the grant, and have demonstrated by the fact of their meeting deliverables with surplus funding, that they can effectively and efficiently deliver services.

ACOSS's view is that once deliverables have been met, organisations should be able to spend the remaining funds for purposes substantially similar to the activity funded under the agreement. Providers and government spend considerable effort applying for, assessing and administering grant funding, and there is insufficient government funding for providers to meet need across almost all community services. Accordingly, enabling community sector organisations to spend surplus funds on similar activities once deliverables are met would be a more efficient way to improve outcomes for people experiencing disadvantage than returning these funds to government.

**Recommendation 4:** The grant agreement templates (and all associated grant documents including grant rules, guidelines, user guides, checklists) should be amended to enable a grantee to spend any remaining grant funds, after complying with its obligations under the grant agreement, for purposes substantially similar to the activity funded by the agreement and otherwise in accordance with the agreement.

**Draft amendments:** As a starting point for further discussion, see our proposed amendments in tracked changes in the attached:

- standard grant agreement template – in the Standard Grant Conditions,
  - clause 10 (spending the grant)
  - clause 11 (repayment)
  - clause 22 (definitions) – in respect of 'Remaining Funds'
- simple grant agreement template – in the General Grant Conditions
  - clause 9 (spending the grant)
  - clause 10 (repayment)
  - clause 21 (definitions) – in respect of 'Remaining Funds'

As an illustration, key amendments to the standard template are extracted below in blue text (note the black text and yellow highlights are already in the template).

Amendments to clause 10 (spending the grant):

10.1 Subject to clauses 10.2 and 19.4.1(a), the Grantee agrees to spend the Grant for the purpose of performing the Activity and otherwise in accordance with this Agreement.

10.2 If the Grantee has substantially complied with its obligations under this Agreement as at

the Activity Completion Date, the Grantee from that date may, and agrees to, spend the Remaining Funds for purposes substantially similar to the Activity and otherwise in accordance with this Agreement.

10.3 Within one month after the Activity Completion Date, and at least every 12 months after the Activity End Date during which there are Remaining Funds, the Grantee agrees to provide a statement signed by the Grantee in a form specified by the Commonwealth verifying the Grant was spent in accordance with this Agreement.

Amendments to clause 11 (repayment):

11.1 Subject to clauses 10.2 and 19.4, if any amount of the Grant:

- (a) has been spent other than in accordance with this Agreement; or
- (b) is additional to the requirements of the Activity;

then the Commonwealth may by written notice:

- (c) require the Grantee to repay that amount to the Commonwealth; [...]

Amendments to clause 22 (definitions):

22. Definitions

In this Agreement, unless the contrary appears: [..]

- **Remaining Funds** means any amount of the Grant paid or payable to the Grantee, but which has not been spent by the Grantee, at the Activity Completion Date.

## 5. Flexibility for grantee to repurpose funds to respond to emergencies

Community sector organisations provide essential support to people to deal with the impacts of unexpected emergencies, such as during natural disasters like bushfires, floods, and the recent pandemic. Often they are quickly inundated with additional requests for assistance on top of already high service demand, yet it can take significant time for government to provide additional funding to support this work. In these circumstances, community sector organisations who understandably seek to provide assistance to those impacted by emergencies can be forced to either carry out this critical work without funding (only adding to the pressures on an already overworked and underpaid workforce), or risk breaching their grant agreement by using grant funds to perform work not initially envisaged or pausing work envisaged under the agreement.

ACOSS's view is that grant agreements should contemplate greater flexibility for a grantee to agree with the Commonwealth to spend grant funds for the purpose of responding to an emergency, and for the grantee's obligations under the agreement to be suspended when an emergency prevents them from carrying out these obligations. This should be accompanied by adequate Commonwealth government funding of community sector organisations to provide assistance in responding to the impact of emergencies and to continue service delivery as envisaged by the grant, after the impacts of the emergency have passed.



**Recommendation 5:** The grant agreement templates (and all associated grant documents including grant rules, guidelines, user guides, checklists) should be amended to enable the grantee to, if an emergency occurs:

- request the Commonwealth to consent to the grantee spending grant funds for the purpose of responding to the emergency (with consent not unreasonably withheld and provided within a reasonable time); and
- have suspended its obligations under the grant agreement that it cannot perform due to the emergency (or due to the Commonwealth's consent to their responding to the emergency), so long as the grantee promptly provides notice to the Commonwealth and resumes performance of its obligations as soon as reasonably possible.

**Draft amendments:** As a starting point for further discussion, see our proposed amendments in tracked changes in the attached:

- standard grant agreement template – in the Standard Grant Conditions
  - new clause 19 (emergency)
  - clause 10 (spending the grant)
  - clause 22 (definitions) – in respect of 'Emergency'
- simple grant agreement template – in the General Grant Conditions
  - new clause 20 (emergency)
  - clause 9 (spending the grant)
  - clause 21/22 (definitions) – in respect of 'Emergency'

As an illustration, key amendments to the standard template are extracted below in blue text (note the black text is already in the template).

Insertion of new clause 19 (emergency):

19.4 Emergency

19.4.1 If an anticipated Emergency occurs, the Grantee may request that the Commonwealth consent to:

- (a) (whether or not the Emergency directly impacts the Grantee) the Grantee spending the Grant, or part thereof, for the purpose of responding to the Emergency; and/or
- (b) clause 19.4.2(b) applying to the whole or part of the Grantee's obligations for a given period.

Within a reasonable time (having regard to the nature of the Emergency), the Commonwealth must notify the Grantee whether it consents to the request. The Commonwealth's consent must not be unreasonably withheld.

19.4.2 This clause 19.4.2 applies:

- (a) if the Grantee is prevented in whole or in part from carrying out its obligations under this Agreement as a result of the Emergency and promptly gives a notice to the Commonwealth which describes the Emergency and the obligations the Grantee cannot perform, while the Emergency continues and to the obligations described in the notice; or
- (b) if the Commonwealth consents under clause 19.4.1(b), for the given period and to the obligations in respect of which the Commonwealth has consented.

19.4.3 While clause 19.4.2 applies, the obligations in respect of which it applies will be suspended.

19.4.4 The Grantee must resume performance of its obligations:

- (a) if clause 19.4.2(a) applies, as soon as reasonably possible; and
- (b) if clause 19.4.2(b) applies, as soon as reasonably possible after the given period ends.

Amendments to clause 10 (spending the grant):

10.1 Subject to clauses 10.2 and 19.4, the Grantee agrees to spend the Grant for the purpose of performing the Activity and otherwise in accordance with this Agreement. [...]

Amendments to clause 22 (definitions):

22. Definitions

In this Agreement, unless the contrary appears: [..]

- **Emergency** means an event or cause beyond the reasonable control of the Grantee, including without limitation an act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, adverse weather conditions, act of public enemy, war (declared or undeclared), terrorism, sabotage, blockage, revolution, riot, insurrection, civil commotion, epidemic, or power or water shortage.

## 6. Limits to and information on government use of grantee's intellectual property

Currently, the standard grant agreement template provides that the grantee, despite owning intellectual property in the materials it creates using funding under the agreement, grants the Commonwealth a licence to use, modify, communicate, reproduce, adapt and sub-license all 'Reporting Material' for 'Commonwealth Purposes'. The Commonwealth Purposes are an inclusive, open-ended list of purposes, so long as they are not commercial, which include:

- a. the Commonwealth verifying and assessing grant proposals, including a grant application;
- b. the Commonwealth administering, monitoring, reporting on, auditing, publicising and evaluating a grant program or exercising its rights under this Agreement;
- c. the Commonwealth preparing, managing, reporting on, auditing and evaluating agreements, including this Agreement; and
- d. the Commonwealth developing and publishing policies, programs, guidelines and reports, including Commonwealth annual reports. [...]

Reporting Material is defined in the grant conditions and essentially means all material the grantee is required by the grant agreement to provide to the Commonwealth for reporting purposes. However, there are no firm limits on what the Commonwealth can ask the grantee to report on, meaning the grantee could be asked to provide substantial elements of material it has created or developed using grant funds (even though this might otherwise be distinguished and termed as 'Activity Material' which is not meant to be licensed to the Commonwealth).

Community sector organisations create and develop a significant amount of valuable intellectual property in activities funded by the Commonwealth.

ACOSS's view is that the Commonwealth should seek consent of and negotiate with the grantee (rather than being automatically licensed) to use their intellectual property for designing government programs or services, in recognition of the value of this intellectual property. The other Commonwealth Purposes currently listed – assessing grant proposals, evaluating grant programs, developing and publishing policies – are more understandable purposes for which the Commonwealth have license to use the grantee's intellectual property. However, the Commonwealth Purposes should be set out in the agreement as a closed list, and if the Commonwealth seeks to use the grantee's intellectual property for purposes that are not listed, it should negotiate these with the grantee on a case by case basis.

In addition, the standard clause bank currently includes optional clauses (CB3 and CB3A) that provide that the grantee licenses the Commonwealth to use the Activity Material for unlimited purposes, and with a warranty by the Grantee of no infringement of third party intellectual property rights. ACOSS's view is that this clause should be removed, and that if the Commonwealth seeks licence to use the Activity Material, then this should be negotiated on a case by base basis.

It is also important for a community sector organisation to know how the Commonwealth is using its intellectual property so that it can demonstrate the impact of its work (such as when seeking further funding), and to learn from how its work has been used. Currently however, the grantee has no rights under the standard grant agreement template to be informed about how the Commonwealth is using their intellectual property. ACOSS's view is that a grantee should, as a condition of their licensing the Commonwealth to use its intellectual property, at a minimum be able to request the Commonwealth inform the grantee how their intellectual property is being used, and for the Commonwealth to not unreasonably withhold relevant information and respond in a timely way.

**Recommendation 6:** The grant agreement templates (and all associated grant documents including grant rules, guidelines, user guides, checklists) should be amended to ensure that:

- a. the grantee licenses the Commonwealth to use its intellectual property only for Commonwealth Purposes listed in the template (so the Commonwealth Purposes should be a closed list), other than for developing 'programs' which should be excluded; and
- b. as a condition of a grantee's licensing of the Commonwealth to use its intellectual property, enable the grantee to request that the Commonwealth notify the grantee how the intellectual property has been used.

**Draft amendments:** As a starting point for further discussion, see our proposed amendments in tracked changes in the attached:

- standard grant agreement template:
  - in the Standard Grant Conditions
    - clause 17 (intellectual property)
    - clause 21 (survival)
    - clause 22 (definitions) – in respect of 'Commonwealth Purposes'
- in the standard agreement clause bank – clauses CB3 and CB3A
- simple grant agreement template – in the General Grant Conditions
  - clause 12 (intellectual property)
  - clause 20/21 (survival)
  - clause 21/22 (definitions) – in respect of 'Commonwealth Purposes'

As an illustration, key amendments to the standard template are extracted below in blue text (note the black text is already in the template).

Amendment of clause 17 (intellectual property):

17.3 ~~Subject to the Commonwealth's ongoing compliance with clause 17.5, the Grantee provides hereby grants~~ the Commonwealth a ~~permanent~~ perpetual, non-exclusive, irrevocable, royalty-free and non-transferrable licence to use, modify, communicate, reproduce, publish, adapt and sub-license ~~the~~ Reporting Material, ~~other than any of the Commonwealth's Material,~~ for Commonwealth Purposes.

17.4 The licence in clause 17.34 does not apply to Activity Material.

17.5 The Grantee may request that the Commonwealth notify the Grantee of how the Commonwealth has used, modified, communicated, reproduced, published, adapted and sub-licensed Reporting Material, or intends to do so, under clause 17.3. The Commonwealth must provide a reasonably specific response within a reasonable time (having regard to the nature of the request) and must not unreasonably withhold information from the Grantee.

Amendments to clause 22 (definitions):

22. Definitions

In this Agreement, unless the contrary appears: [..]

- **Commonwealth Purposes** ~~includes~~ means the following:
  - a. the Commonwealth verifying and assessing grant proposals, including a grant application;
  - b. the Commonwealth administering, monitoring, reporting on, auditing, publicising and evaluating a grant program or exercising its rights under this Agreement;
  - c. the Commonwealth preparing, managing, reporting on, auditing and evaluating agreements, including this Agreement; and
  - d. the Commonwealth developing and publishing policies, ~~programs,~~ guidelines and reports, including Commonwealth annual reports;but in all cases:
  - e. excludes the commercialisation (being for-profit use) of the Material by the Commonwealth.

Amendments to Standard Clause Bank:

Delete clause CB3 (including both options) in its entirety

In clause CB3A (intellectual property – research), delete subclause CB3A.3: ~~CB3A.3 — The Grantee provides the Commonwealth a permanent, non-exclusive, irrevocable, royalty-free licence (including a right to sub-license) to use, modify, communicate, reproduce, publish and adapt the Activity Material~~

## 7. Grantee independence from government in research and advocacy

Many community sector organisations receive Commonwealth grant funding to carry out research, evaluation and related activities. ACOSS understands that grantees are sometimes asked to provide draft publications to the Commonwealth government before publication, and that the government may request, suggest or otherwise imply that revisions to the publications should be made. Given the Commonwealth's currently broad powers to terminate grant agreements, and the power imbalance associated with grantees' dependence on the Commonwealth for funding, there is a real risk that grantees may feel a pressure by government to revise publications, undermining research integrity and independence. ACOSS proposes that the grant agreement templates should be amended to prevent the Commonwealth from requesting grantees make substantive revisions to grant-funded publications.

Community sector organisations that receive Commonwealth grant funding also engage in valuable systemic advocacy to improve laws, policies and services of government or other bodies. Previously the Commonwealth has sought to use clauses in funding agreements intending to restrict lawful advocacy by grantees. ACOSS opposes restrictions of this kind, as this undermines valuable democratic participation and debate. We acknowledge the Albanese government's efforts to remove or nullify such gag clauses during this parliamentary term. ACOSS proposes that the grant agreement templates should be amended to prevent the Commonwealth from including any such restrictions in grant agreements.

**Recommendation 7:** The grant agreement templates (and all associated grant documents including grant rules, guidelines, user guides, checklists) should be amended to:

- a. limit the Commonwealth's power to make substantive edits, or to request or require (whether expressly or implicitly) the grantee to make substantive edits, to grant-funded publications; and
- b. prevent the Commonwealth from requiring or pressuring the grantee to cease or limit their lawful advocacy, lobbying, campaigning or reform activities, especially such activities that may be inconvenient to or inconsistent with government policy.

In the time available, we did not have capacity to draft proposed amendments to the grant agreement templates or associated grant documents for this recommendation, but are interested in collaborating further with the Department to develop potential amendments.

### Contact

James Hall  
Senior Advisor

[james@acoss.org.au](mailto:james@acoss.org.au) | 0459 962 377