



NQLC Guidelines

**Management and Acquittal
of
Department of Prime Minister & Cabinet (PM&C)**

PBC Support Funding

(2017/18 Financial Year period)

1. Background

Historically the Federal Government (currently through the Department of Prime Minister and Cabinet (“**PM&C**”)) has made available support funding of up to \$50,00.00 per annum to Registered Native Title Bodies Corporate (“**RNTBCs**” – most commonly referred to as Prescribed Bodies Corporates or “**PBCs**”) to enable the PBC to carry on fundamental business operations.

As the number of PBCs have increased nationally, the Federal Government has reviewed the funding arrangements, including the amount and term of support funding, and from the 2017/18 Financial Year, the revised PM&C funding approach provides:

- (i) support funding is only available to RNTBCs – no other types of Corporations are eligible;
- (ii) the ‘cap’ of \$50,000 has been lifted – but the monies still can only be applied to critical (basic operational) needs;
- (iii) support funding will only be available for a four (4) year period (all PBCs who had previously been in receipt of PBC Support Funding will continue to be eligible to apply for funding over the next 4 years) by which time the Government expects that PBCs will have transitioned to financial independence; and
- (iv) all PBC Support Funding must be applied through, and funding released by, the relevant Native Title Representative Body/Service Provider (“**NTRB/SP**”).

2. The Application Process

The PBC Support Funding program applies annually – that is, an application is required for each financial year.

If a PBC wishes to take advantage of the offer of PM&C PBC Support Funding, the following steps must be followed:

1. applications must be on PM&C’s Approved Form as provided by the NQLC;
2. all questions on the Application Form must be answered in full, supporting documentation provided, and the Application Certification duly signed;

3. applications must be submitted by the due date as advised by NQLC;
4. PM&C requires NQLC to assess and make a recommendation on each funding application submitted.

Note:

- i. If a PBC does not provide to the NQLC a satisfactory application with all of the supporting documentation required by PM&C by the due date then the application may not receive funding until late in the financial year, and/or may receive reduced or no funding.
- ii. PBCs that are approved for funding may not be granted the submitted budget it may be reduced by either the NQLC assessment process or PM&C's approval process, at NQLC's and PM&C's absolute discretion.
- iii. PM&C has the ultimate responsibility for deciding which PBCs will be funded in a year.

Approved Budget Items

The funding provided by PM&C is to support the 'critical needs' of the basic operations of the PBC *which may include* the following:

- a) accounting/audit fees;
- b) office rental expenses;
- c) relevant insurances;
- d) capital items such as computers, printers, photocopiers, telephone systems, office furniture and fittings but not motor vehicles;
- e) cost of employee's wages and on costs to administer the organisation. Generally these will be part time positions as current indicative funding levels for individual PBCs would not generally support a full time employee;
- f) repairs and maintenance on equipment and office premises;
- g) reasonable costs of venue hire and catering for Director's, general and common law holder's meetings;
- h) utilities such as phone, internet, electricity etc; and
- i) printing, posting and stationery supplies.

Budget items that *fall outside* the 'critical needs' criteria include:

- a) payment of Directors to attend board meetings or other official meetings, including "sitting fees";
- b) travel budgets for Directors to attend conferences outside of the NQLC region;
- c) consultants over the value of \$5,000.00 unless it is expressly identified as a line item in the Approved Budget;

- d) where a PBC employs a member of their own group under PBC Support Funding to perform official tasks in relation to the administration of the organisation, those payments cannot be consultant payments utilising an Australian Business Number (“**ABN**”) but must be paid as wages at an award rate commensurate with the employee’s skills and experience. In most cases the appropriate award will be the Modern Clerks Award 2010.

Assessment/Recommendation Process

PM&C requires NQLC to take into account other funding received by PBCs in the previous financial year. If PBCs or associated entities have received significant funding then the NQLC may not recommend funding for that PBC in the financial year, as it may be considered that the PBC has the ability to support its own operations without Support Funding.

There is no absolute threshold figure for earnings by PBCs that would preclude them from PM&C funding- however, the NQLC will give the highest priority to:

- a) newly registered RNTBCs; and
- b) PBCs that do not have significant alternative funding sources.

3. Receiving PM&C Funds

In order to receive funding under the PBC Support Funding program, PBCs must:

- a) have a registered Australian Business Number (“**ABN**”) allocated by the Australian Taxation Office and provided a copy to NQLC;
- b) have a bank account in the name of the RTNBCs official name as it appears on its ORIC Certificate of Registration;
- c) is registered for the Goods and Services Tax (“**GST**”) purposes, if required by law to do so because of the income level of the PBC; (the current income threshold is more than \$75,000.00 per year); and
- d) be compliant with the requirements set out in:
 - a. the Consolidated Rule Book of the PBC; and
 - b. the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth); and
 - c. *Native Title (Prescribed Bodies) Regulations 1999* (Cth); and
 - d. *Native Title Act 1993* (Cth).

Where employees are a part of your submitted budgets, there must be compliance with:

- PAYG withholding obligations;
- *Taxation Income Assessment Act 1997* (Cth); and
- *Superannuation Guarantee Act 1993* (Cth).

Failure to meet these obligations in the past may result in your application not being recommended, or in the case of approved budgets, further releases of funds being withheld.

4. Funding Releases – NQLC-PBC Process Agreement

PBCs that are approved by PM&C for PBC Support Funding will be required to enter into the “*NQLC-PBC Process Agreement*” (“the **Process Agreement**”) which sets out the terms by which PBC Support Funds will be released to PBC and specific acquittal requirements. There are two types of Process Agreement as follows:

(a) Standard

Where a PBC has capacity to manage and administer PBC Support Funding, the funding will be released directly to the PBC in accordance with the terms of the “Standard” Process Agreement.

Funding is generally be released every six months (July and January). It is possible that funds can be released at different times subject to agreement with the NQLC.

(b) Hosted

Where a PBC does not have capacity to manage and administer PBC Support Funding, the funding is generally retained by NQLC and payments are made directly to the goods and service providers upon the PBC providing an invoice to NQLC for payment.

The Host services are provided to newly established PBCs, PBCs who have not complied with a previous Process Agreement and PBCs emerging from Special Administration. The service is also available to PBCs who request such support in circumstances where they may be experiencing a period of instability, such as when their administration officer unexpectedly resigns.

The “Hosted” Process Agreement sets out more fully the requirements for the release of funds.

5. Funding Acquittals

- a) The NQLC will issue each PBC with an excel spreadsheet detailing the Approved Budget line items and budget at six (6) monthly intervals for the PBC to complete and return to NQLC. **Note:** the spreadsheet will ‘lock’ certain cells and these cells must not be altered.
- b) Adequate supporting documentation including a profit and loss statement comparing actual expenditure against approved budget item lines, is required in addition to the completed spreadsheet.
- c) Acquittals for six monthly periods need to be provided no later than three weeks after the completion of the period. Specifically, the dates that the Acquittals and Profit and

Loss Statements need to be submitted are no later than:

- the 3rd Friday of July of any given year: 1st release of new financial year funds; and
 - the 3rd Friday of January of any given year: 2nd payment release.
- d) Failure to provide acquittals within this time frame may delay further funding releases and in some cases lead to the suspension of further releases until all NQLC requirements are met.
- e) The NQLC may request supporting documentation for any expenditure item contained in PBCs' acquittals.
- f) If a PBC has not expended its release in full then subsequent releases may be delayed or reduced until previously released funds are expended.
- g) If a PBC does not expend the total of PBC support funding for the financial year, PM&C may recover those funds or the PBC may submit a business case to the NQLC seeking approval to carry the unexpended amount over to the following financial year. Approval of any such business case is at the discretion of the NQLC.

6. Varying Approved Budgets

- a) PBCs cannot expend funds on items that are not in the approved budget contained in the *NQLC-PBC Process Agreement* unless they have sought and obtained prior written approval from the NQLC.
- b) A budget variation does not mean that there will be an overall increase in funding to the PBC.
- c) To seek a variation, the PBC must make a written request to vary the Approved Budget which details:
- the need for a variance (including any supporting materials justifying the requested variation; and
 - a new budget showing where the money is being moved from other approved budget line item/s.
- d) Approval for variations is at the NQLC's absolute discretion.

7. PBCs Registered Outside the PBC Support Funding Cycle

Each year PM&C sets the date for the submission of PBC Support Funding Applications. If a PBC becomes registered after the funding allocation process is complete for a financial year then that PBC may make an application through the NQLC to be funded during that financial year.

That does not mean that PBC will be automatically funded but it does provide an opportunity to seek and receive funding at PM&C's discretion.

8. NQLC Contact Details

Email: all email correspondence to the PBC Support Unit should be directed to:
pbcsupport@nqlc.com.au

Phone: Cairns Office – (07) 4042 7000
Freecall – 1800 814 779