

N 13001075



Australian Government
Department of Health and Ageing

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02 AUG 2013

Parliamentary Section

cc: MINISTER PLIBERSEK
MINISTER COLLINS
Prof Halton
Mr Learmonth
Mr Butt
Mr Reid
Ms Palmer
Mr Pasqual
Mr McCann

MINUTE TO THE MINISTER

MINISTER SNOWDON

COPY

EXTENSION OF CONTRACT FOR INDIGENOUS MARATHON PROJECT AND APPROVAL OF FUNDING TO UNDERTAKE AN INDEPENDENT EVALUATION OF THE PROJECT

PURPOSE: To seek your approval to extend current funding arrangements for six months (to January 2015) to support the Indigenous Marathon Project ('the Project') to allow project trainees to participate in the 2014 New York City marathon and approval for funding to commence an independent evaluation of the project to help inform future funding consideration.

ISSUES:

- Current funding arrangements for the Project expire in July 2014, while the New York City marathon is scheduled for November in each year. The selection of trainees and the time required to develop their skills to be able to participate in the marathon, which is the ultimate aim of the Project for trainees, needs to be undertaken by no later than April each year. The current agreement does not provide sufficient funding for the 2014 trainees to complete the Project.
- The Project has been funded by the Department since 2010 and has not yet been the subject of any formal evaluation process. In discussions with the Department and other correspondence, *Rob de Castella's SmartStart for Kids Ltd (SSFK)* (a company limited by guarantee) has been lobbying for certainty of future funding. In taking such discussions forward, the Department will benefit from having an evaluation report of the project.
- The Department is currently in the process of finalising a novation to the existing funding agreement and any variation to timing and funding of the Project would need to be included in this novation. The Department is hoping to finalise negotiations of the novation as soon as possible and any delay of decision will adversely impact on this leading to criticism from the Project Director.

BACKGROUND:

- The Department currently contracts with SSFK to undertake the Project. Mr de Castella MBE, a former Australian of the Year and world marathon champion, is the Director of the Project.
- The Project is funded from the Aboriginal and Torres Strait Islander Chronic Disease Fund (ATSICDF)
- Since 2009-10, the project has been allocated a total of \$1.96 million (GST exclusive), with the current funding agreement providing average annual funding to the Project of \$375,000 (GST exclusive).

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| <input type="checkbox"/> Health Reform | <input type="checkbox"/> Election Commitment | <input type="checkbox"/> COAG Reform | <input type="checkbox"/> Budget | <input type="checkbox"/> Other significant policy |
| <input type="checkbox"/> Minority Government | <input type="checkbox"/> Legislation | <input type="checkbox"/> Appointment | <input checked="" type="checkbox"/> Program or grant administration | <input type="checkbox"/> Other |

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8. The Project has a broad range of aims and objectives, including:

- Developing Indigenous role models through the selection of Indigenous athletes to run the New York City Marathon;
- Promoting and supporting participation in physical activity and healthy non-smoking lifestyles in Indigenous communities;
- Complementing existing Indigenous community health initiatives, including Regional Tackling Smoking and Health Lifestyle Teams; and
- Developing and providing training, resources and support for a cross-sectoral Certificate IV in Community Recreation – Indigenous Healthy Lifestyles suited to the Project's marathon runners (and transferable to Indigenous Healthy Lifestyle Workers) which will enable graduates to become healthy lifestyle leaders and Indigenous health and recreation workers.

9. The Project has had some promising results to date and appears to be improving (noting that a formal evaluation is yet to be undertaken) with each phase of the Project, including a total of 21 Indigenous marathon runners becoming role models through participation in the New York, Boston and Tokyo marathons. To date it has received favourable media attention.

10. A squad of 12 runners has been selected for the 2013 phase of the Project, and are currently in training for the 2013 New York City Marathon. The selection process for the 2014 squad is expected to commence following the completion of this marathon.

11. The Project is the subject of a departmental audit which commenced in 2012. An interim report identified issues concerning:

- i) whether SSFK was the appropriate entity to the party to the agreement;
- ii) the apparent subcontracting of the project;
- iii) potential conflicts of interest in dealings with related parties;
- iv) the use of Commonwealth funds; and
- v) reports required under the funding agreements.

12. These issues were communicated to Mr de Castilla in a letter dated 27 September 2012 and he provided additional information on 19 November 2012. After further discussions with Mr de Castilla another draft audit report was produced on 19 February 2013. This continued to raise concerns about the issues raised previously and suggested legal advice be obtained on s 42

s 42

13. Mr de Castilla has also provided audited financial statements for the Project and advised that the Project has received cash and in kind donations, which are valued at approximately \$500,000. Audit has noted that there are inconsistencies in the audited financial statements and that only a small amount of the donations have been included in them.

14. The audit has also revealed that the current funding agreement for the project, which commenced in 2010-11, has not clearly specified expectations, parameters and deliverables for the project.

15. The Department has been working with Mr de Castilla and SSFK on novating the existing funding agreement to strengthen conditions around reporting, budgeting and expected deliverables in order to respond to concerns raised through the audit process. This will include the funding agreement being signed with the new Indigenous Marathon Project Foundation (a company limited by guarantee) rather than with SSFK directly. Funding for staff and management costs will also be limited through this process, whilst sub-contracting arrangements will require formal approval and be restricted to activities outside the core project administration.

16. Mr de Castilla has also increased the focus within the project on completion of the Cert IV health worker training. Value for money from the project, as measured by the number of runners and by completion of training has also improved over the course of the current funding agreement.

RELEVANCE TO ELECTION COMMITMENTS/GOVERNMENT POLICY/COAG REFORM AGENDA:

17. The ATSICDF contributes to closing the gap in life expectancy for Indigenous Australians.

COMMENT:

18. In July 2013 Mr de Castella advised he is writing to the Prime Minister to raise concerns about the expiry of the current funding agreement and seeking a commitment of ongoing funding. Mr de Castella is also raising concerns at inability to recruit a team for the November 2014 New York Marathon given the expiry of the current agreement in June 2014.

19. The Department proposes to include an extension of time and funding in the novation of the existing funding agreement to ensure the full 2014 phase of the project is able to be completed. Mr de Castella has indicated a willingness to discuss an extension to the existing contract, but has also expressed a preference to negotiate a new three-year agreement. The extension of funding would be subject to acceptance of conditions in the novated funding agreement.

20. The Department proposes to commence an independent evaluation of the Project in 2013, which will inform any consideration of further funding being allocated for the Project beyond January 2015.

21. Budgetary information supplied by Mr de Castella indicates that additional funding of \$366,024 (GST excl) would be required to extend the project to January 2015. In responding to queries from the Department about the comparatively high cost estimate (noting that annual average funding for the project is around \$375,000 GST excl), Mr de Castella has cited the high costs associated with activities undertaken during the extension period and anticipated reductions in sponsorship co-contributions as the basis for the estimate. While the Department believes this still to be an overestimation and will be seeking to negotiate a reduced level of funding for the extension of the Project, your approval is being sought of up to an additional \$370,000 (GST excl) in 2014-15 for finalisation of the 2014 phase of the project, governed by a renegotiated novation to the existing funding agreement expiring 31 January 2015.

22. The Department is also seeking up to \$100,000 (GST excl) to undertake a formal independent evaluation of the Project in late 2013.

23. The Department expects that Mr de Castella will continue to seek a commitment from Government for ongoing funding for the Project. However, given the concerns with the operation of the project to date, and the lack of an evaluation, an extension to January 2015 would be more appropriate and will allow the project to continue whilst the evaluation is undertaken.

24. The original funding for the Project was provided at a time when many of the Indigenous workforce measures funded through the ATSICDF were in early stages of implementation. These measures are now reaching maturity which has had a flow on effect to the ATSICDF which is now almost fully committed. Allocating further funding at this point in time to this Project beyond January 2015 may restrict the ability to provide funding for other activities or may need to be funded from OATSIH base funding.

Sensitivity:

25. Other ATSICDF funding recipients may be critical of what could be perceived as preferential treatment being provided to this Project when similar pressures are potentially being faced by other Indigenous organisations.

Financial Implications:

In June 2013 you approved (N13000772) an indicative three year budget for the ATSICDF. Funding being sought to support the extension of evaluation of this Project would be in addition to the measures previously approved. In developing this minute, OATSIH have confirmed with PHD that requested funding is available from the ATSICDF.

Compliance with Commonwealth Grant Guidelines:

26. The proposed funding is a grant. Attachment A is a copy of the Requirement for Ministers from the Commonwealth Grant Guidelines which have the force of law under the *Financial Management and Accountability Act 1997*. These requirements include the requirement that 'the Minister must not approve the grant without first receiving written advice from agency staff on the merits of the proposed grant or

Timing/Handling:

Consultations:

29. The Secretary/Deputy Secretary:

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COMMUNICATION ACTIVITIES

30. Nil. A copy of this Minute was provided to the Communication Strategy and Services Unit.

ACTIVITIES

Minute was provided to the Communication Strategy and Service

THIS DOCUMENT HAS BEEN RELEASED UNDER THE
FREEDOM OF INFORMATION ACT 1982
BY THE DEPARTMENT OF HEALTH


RECOMMENDATION

R1. That you **NOTE** that the Department is negotiating a novation of the current funding agreement for the Indigenous Marathon Project to the Indigenous Marathon Foundation, and that this novation will address administrative concerns which have arisen with the project through a recent audit process and legal review.

R2. That you **APPROVE** under FMA Regulation 9 funding of up to \$370,000 (GST excl) in 2014-15 from the ATSI CDF to complete the 2014 project cycle of the Indigenous Marathon Project.

R3. That you **APPROVE** an extension of a funding agreement with the Indigenous Marathon Project Foundation until 31 January 2015.

R4. That you **APPROVE** under FMA Regulation 9 funding of up to \$100,000 (GST excl) in 2013-14 from the ATSI CDF to undertake an independent evaluation of the Indigenous Marathon Project.


Mr Nathan Smyth
First Assistant Secretary
Population Health Division

23 July 2013
Outcome: 8: Indigenous Health

Contact Officer:
Ms Colleen Krestensen x4054
Drug Strategy Branch


WARREN SNOWDON

R1. **NOTED**
R2. **APPROVED/NOT APPROVED**
R3. **APPROVED/NOT APPROVED**
R4. **APPROVED/NOT APPROVED**

1/8/13

MINISTER'S COMMENTS:

Advice Rating	1	2	3	4	5	Comments
Timeliness						
Presentation						
Quality of Advice						
	Poor		Satisfactory		Excellent	

ATTACHMENTS:

A. Extract of Commonwealth Grant Guidelines - Requirement for Ministers

ATTACHMENT A

EXTRACT FROM COMMONWEALTH GRANT GUIDELINES

Requirements of the Commonwealth Grant Guidelines relating to Ministers

3 Legislative and Policy Framework

3.3 Ministers must also comply with these legislative requirements and the CGGs.²⁸ Agency staff are responsible for advising Ministers on these requirements.

²⁸ While the CGGs do not, in themselves, create requirements for Ministers, they reflect specific requirements decided by the Cabinet.

4 Grants-specific process requirements

Requirements for Ministers

4.2 Where a Minister exercises the role of an approver under FMA Regulation 9 in relation to a grant or group of grants, the Minister *must* not approve the grant without first receiving written advice from agency staff on the merits of the proposed grant or group of grants. That advice *must* meet the requirements of the CGGs (see paragraph 4.6).²⁹

4.3 Ministers may approve grants within their own electorate.

- a. Where a Minister (including a Parliamentary Secretary) exercises the role of approver (that is a FMA Regulation 9 decision-maker) for grants awarded in his/her own electorate, the Minister *must* write to the Finance Minister advising of the details.
- b. Where there is correspondence to the relevant grant recipient, a copy of this letter is sufficient, except in the circumstances outlined in paragraph 4.4(b). If there is no correspondence, Ministers *must* write to the Finance Minister advising of the decision as soon as practicable after it is made.
- c. There are two circumstances where grants awarded in a Minister's own electorate do not need to be reported.
 - i. Senators do not need to report on grants they decide to award in their own state or territory; or
 - ii. Where grants are awarded state-wide, Australia-wide or across a region on the basis of a formula³⁰ by a Minister, and any of these grants falls in the relevant Minister's electorate, the Minister does not need to report to the Finance Minister.

4.4 Ministers may approve grants that are not recommended by the relevant agency staff.

- a. Ministers (including Senators) *must* report annually to the Finance Minister on all instances where they have decided to approve a particular grant which the relevant agency staff member has recommended be rejected. The report *must* include a brief statement of reasons (i.e. the basis of the approval for each grant). The report *must* be provided to the Finance Minister by 31 March each year for the preceding calendar year.³¹
- b. If a decision relates to a Minister's own electorate (House of Representatives members only), the Minister *must* also include this information when writing to the Finance Minister in the context of the process outlined in paragraph 4.3.

²⁹ FMA Regulation 3 provides that an approver (i.e. a person who may approve spending proposals under FMA Regulation 9) can include a Minister, and define a spending proposal.

³⁰ Under FMA Regulation 12, an approver of a spending proposal that relates to a grant under FMA Regulation 12 must record the basis of an approval, in addition to the terms of the approval.

³¹ For example, a targeted grants program could provide that, subject to specific eligibility criteria being met, particular organisations across a region will be awarded a grant.

³² Finance Circular 2013/02, *Australian Government Grants Briefing and Reporting* contains additional guidance on the form of the report, and is available from the Finance website at www.finance.gov.au.