



Australian Government

Department of Industry

ETHANOL PRODUCTION GRANTS PROGRAMME

Programme administrative guidelines

I, the Hon Ian Macfarlane MP, Minister for Industry, issue the following guidelines relating to the Ethanol Production Grants (EPG) programme for use by the Department of Industry.

A handwritten signature in black ink, appearing to read 'Ian Macfarlane', written over a dotted line.

Minister for Industry

Date: 2 June 2014



Australian Government

ETHANOL PRODUCTION GRANTS PROGRAMME

PROGRAMME ADMINISTRATIVE GUIDELINES

Table of contents

PART ONE – PROGRAMME OVERVIEW	3
1 Background	3
2 Programme objective	3
3 Programme outcome	3
4 Programme administrative guidelines	3
5 Conduct of programme	3
PART TWO – GOVERNANCE	4
6 Minister	4
7 Programme delegate	4
8 Department	4
9 Documentation	5
PART THREE – APPLICATION AND ASSESSMENT PROCESS	6
10 Application process	6
11 Process for determining eligibility	6
12 Eligibility criteria	6
13 Third party grant payment arrangements	7
14 Grant approval and notification	7
15 Negotiations and announcement	7
PART FOUR – GRANT ADMINISTRATION	8
16 Funding agreement	8
17 Variations to the funding agreement	9
PART FIVE – MISCELLANEOUS	10
18 Confidentiality	10
19 Programme delegate to provide guidance to applicants	10
20 Eligible claim	10
21 Requests for and the treatment of information	11
22 Taxation treatment of grant payments	11
23 Contact details and feedback	11
24 Interpretation	12

PART ONE – PROGRAMME OVERVIEW

1 Background

- 1.1 In the 2014-15 federal Budget the Government announced that the Ethanol Production Grants would cease on 30 June 2015.
- 1.2 The Department of Industry (department) is responsible for administering the programme.

2 Programme objective

- 2.1 The objective of the programme is to support production and deployment of ethanol as a sustainable alternative transport fuel in Australia.
- 2.2 The programme will provide fuel excise reimbursement at the legislated rate (under the Excise Tariff Act 1921) until 30 June 2015, for ethanol produced and supplied for transport use in Australia from locally derived feedstock. No reimbursements will be provided after this date. .

3 Programme outcome

- 3.1 The intended outcome of the programme is to:
 - a. encourage the use of environmentally sustainable fuel ethanol as an alternative transport fuel in Australia
 - b. increase the capacity of the ethanol industry to supply the transport fuel market
 - c. improve the long term viability of the ethanol industry in Australia

4 Programme administrative guidelines

- 4.1 This document is the Ethanol Production Grants programme administrative guidelines (guidelines). The objective of these guidelines is to provide a framework for the operation of the programme.
- 4.2 These guidelines are supported by the initial enquiry form, application form and funding agreement.
- 4.3 These guidelines commence when they are published by the department and expire on 30 June 2015, unless superseded by a revised edition.
- 4.4 The Australian Government has absolute discretion to amend or revoke these guidelines.

5 Conduct of programme

- 5.1 The programme is a demand driven eligibility-based programme where applications can be submitted at any time during the operation of the programme. All applicants for funding under the programme must be approved by the department.

PART TWO - GOVERNANCE

6 Minister

6.1 The Minister is responsible for the programme.

7 Programme delegate

7.1 The Minister may delegate certain responsibilities for the programme to an officer in the department (programme delegate).

7.2 The programme delegate will be responsible for decisions in relation to the granting of programme funds.

7.3 The programme delegate is to act in accordance with the *APS Code of Conduct* in section 13 of the *Public Service Act 1999*. More particularly, the programme delegate is to observe subsections 13(7) and (10), provisions which require that:

- a. the programme delegate must disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment, including his or her functions as programme delegate
- b. the programme delegate must not make improper use of:
 - i. inside information
 - ii. his or her duties, status, power or authority

in order to gain, or seek to gain, a benefit or advantage for himself or herself or for any other person.

8 Department

8.1 The department has policy and administration responsibility for the programme, including:

- a. issuing documentation in relation to the administration of the programme
- b. providing programme advice to the Minister
- c. administering the programme to ensure policy objectives for the programme are met
- d. providing a point of contact for the programme's stakeholders, including responding to requests for information on the delivery of the programme
- e. preparing, publishing and maintaining of programme information and related documentation
- f. undertaking eligibility assessments and due diligence of programme applications
- g. negotiating and entering into funding agreements
- h. monitoring programme expenditure and compliance by grantees in relation to contractual obligations
- i. implementing any variations to funding agreements as required
- j. maintaining data for reporting and evaluation requirements

- k. assessing, approving and paying EPG claims on a regular basis
 - l. receiving, assessing and reconciling quarterly EPG payment and excise payment records and reports from grantees
 - m. undertaking programme compliance audit of grantees as required
 - n. commissioning and managing evaluations of the appropriateness, efficiency and effectiveness of the programme in meeting its objective as required
 - o. initiating action in response to breaches of funding agreements
 - p. issuing repayment notices and pursuing repayment of programme funds
 - q. any other actions required to develop and implement the policy underlying the programme, or for the administration of the programme
- 8.2 The programme funds are appropriated to the department. The department must administer the programme in accordance with the Australian Government's financial management and accountability framework including the *Commonwealth grant guidelines*.
- 8.3 The department will have regard to the programme objective and outcome when performing any function or making any decision in relation to the programme.

9 Documentation

- 9.1 The administrative framework for the programme is derived from:
- a. these guidelines;
 - b. delegations from the Minister and the Secretary of the department;
 - c. the initial enquiry form;
 - d. the application form; and
 - e. the funding agreement.

PART THREE – APPLICATION AND ASSESSMENT PROCESS

10 Application process

- 10.1 Applications for the programme can be submitted at any time during the operation of the programme. Producers who believe they may be eligible should complete an initial enquiry form which is available on the department's website at: www.industry.gov.au.
- 10.2 Potential applicants may consult the department in regard to their project eligibility or clarify any other aspect of the programme at any time.
- 10.3 There is no limit to the size of a grant under the programme, subject to the availability of funding.

11 Process for determining eligibility

- 11.1 Upon receiving an initial enquiry, the programme manager will undertake a preliminary assessment of the initial enquiry.
- 11.2 If the programme manager determines that a producer may be eligible in accordance with the eligibility criteria in clause 12, the applicant will be asked to submit a formal application.
- 11.3 Upon receiving a formal application, the programme manager will assess it to determine its eligibility against the eligibility criteria set out in clause 12.
- 11.4 If the programme manager determines that the application is eligible, the application will be referred to the programme delegate for consideration and approval.
- 11.5 The programme manager and the programme delegate may seek further information from the applicant in the context of considering the application for approval.

12 Eligibility criteria

- 12.1 To be an eligible applicant under the programme, an applicant must:
- a. be an Australian entity incorporated under the *Corporations Act 2001* (Cth);
 - b. produce and supply eligible ethanol as transport fuel for use in Australia; and
 - c. not be named as an entity that has not complied with the *Equal Opportunity for Women in the Workplace Act 1999* (Cth).
- 12.2 Eligible ethanol means ethanol that:
- a. is produced by the applicant in Australia from locally derived feedstock being either:
 - i) biomass feedstock (including biomass waste and residues); or
 - ii) urban waste;

- b. is classified to be sub-items 10.7, 10.11, 10.20 or 10.30 of the schedule to the *Excise Tariff Act 1921*;
- c. has been entered for home consumption under section 58 or section 61C of the *Excise Act 1901*;
- d. for which the excise payable has been paid; and
- e. does not include any ethanol that has been imported into Australia and then converted to fuel ethanol.

13 Third party grant payment arrangements

- 13.1 The grantee may request that the Australian Government make the payments under the Ethanol Production Grants programme to a third party nominated by the grantee.
- 13.2 The programme delegate may, at the programme delegate's absolute discretion, either accept the nomination made under 13.1 and make payments to the third party, or continue to make payments to the grantee.
- 13.3 Where payment is made to a third party, the grantee remains responsible for ensuring all reporting and accountability requirements are met.

14 Grant approval and notification

- 14.1 The programme delegate will consider the programme manager's recommendations in relation to an applicant's eligibility and other relevant information, such as the achievement of the programme outcome, value for money and matters relevant to the approval of the expenditure of public monies.
- 14.2 All applicants will be advised in writing of the outcome of their application within 30 days of the completion of the assessment process.

15 Negotiations and announcement

- 15.1 Successful applicants will have 60 days (negotiation period) from the date the grant offer is made to execute a funding agreement with the Australian Government. Failure to execute a funding agreement in this time may result in the withdrawal of the grant offer.
- 15.2 Any request for an extension of the negotiation period (for example any unexpected delay in commencing production of ethanol) must be made to the programme manager and will be granted at the discretion of the programme delegate.
- 15.3 Following execution of the funding agreement, the details of each grant decision, except payment details, will be published on the department's website, in accordance with the *Commonwealth grant guidelines*. Grant payment details will be published within three months of the end of each financial year.

PART FOUR – GRANT ADMINISTRATION

16 Funding agreement

16.1 A successful applicant must enter into a funding agreement with the department before programme funds will be paid to the grantee.

16.2 The funding agreement will provide the legal framework for the making of grant payments, and will:

- a. not be inconsistent with the law of the Australian Government, a state or territory, or these guidelines
- b. specify the rate at which the grant will be paid for the eligible ethanol, and the timing and method of delivery of the grant payments
- c. specify that grant payments will be conditional upon meeting the agreed requirements
- d. require the grantee to provide to the department proof of payment of excise on the eligible ethanol together with the regular grant claims
- e. require the grantee to provide the department with quarterly reports of type, source and quantity of feedstock used in the production of eligible ethanol, quantity of eligible ethanol produced and supplied, excise payment and an original statement from the Australian Tax Office confirming the excise payment for that quarter
- f. require the grantee to keep records relating to the procurement of feedstock, production and sale of ethanol and payment of excise on eligible ethanol to the Australian Tax Office
- g. require the grantee to facilitate and cooperate with any independent evaluation of the programme undertaken by the department
- h. provide for inspection by or for the department of any premises where ethanol is produced and records are kept
- i. provide for variation and termination of the funding agreement
- j. provide for recovery of grant payments in certain circumstances
- k. require the grantee to comply with all applicable Australian Government, state and territory laws
- l. require claim estimates (based on supply contracts in place plus up to 10 per cent) to be provided to the department on a quarterly basis
- m. also include other matters

17 Variations to the funding agreement

17.1 A request to vary a funding agreement, whether during the negotiation period or after a funding agreement has been executed, must be submitted in writing by the successful applicant or grantee to the programme manager. The decision to grant the variation will be made at the discretion of the programme delegate.

17.2 The department may also seek input from probity, technical or due diligence experts as required to assess the full impact of the variation request.

17.3 In undertaking an assessment of a request to vary a funding agreement, the programme delegate will assess:

- a. whether the proposed variation would still meet the programme's eligibility requirements;
- b. the extent to which the varied project would still meet the criteria; and
- c. whether the variation would:
 - i. significantly change the outcome of the project
 - ii. be consistent with the programme objective
 - iii. be acceptable from a probity perspective
 - iv. impact upon the project's ability to satisfy agreed performance milestones
 - v. be appropriate in all the circumstances

17.4 The department may seek to vary the funding agreement to incorporate any future changes to the programme objectives, guidelines and other administrative arrangements.

PART FIVE – MISCELLANEOUS

18 Confidentiality

18.1 Information supplied by applicants and grantees as part of the initial enquiry, application negotiation and contract management process will be treated as commercial-in-confidence by the Australian Government.

18.2 Australian Government agencies are subject to the legislative and administrative accountability and transparency requirements, including disclosures to the Parliament and its committees. The department may disclose, or allow at any time the disclosure of, any information contained in or relating to any grantee:

- a. to its advisers or employees solely in order to evaluate or otherwise assess grant issues, including variations
- b. to its internal management personnel for purposes related to grant issues, including variations
- c. to its internal auditor
- d. to relevant ministers
- e. to the Australian National Audit Office
- f. in response to a request by a House or a Committee of the Parliament of the Commonwealth
- g. within the relevant departments, or with another agency, where this serves the Australian Government's legitimate interests
- h. where the information is authorised or required by law to be disclosed
- i. where the information is in the public domain otherwise than by the Australian Government's disclosure

19 Programme delegate to provide guidance to applicants

19.1 The Programme delegate may prepare additional documentation to provide guidance to applicants and grantees in relation to the administration of the programme, provided that the documentation is consistent with these guidelines and any instrument of delegation in place. Where there is a perceived or real inconsistency between these guidelines and any subordinate documentation, the details in these guidelines will prevail over the subordinate documents.

20 Eligible claim

20.1 Grant funding will be paid only in respect of eligible ethanol as described in clause 12.1.

20.2 Eligible ethanol produced only after a funding agreement has been executed can be deemed to be an eligible claim.

21 Requests for and the treatment of information

21.1 The programme delegate will have primary responsibility for responding to requests for information on all aspects of the delivery of the programme.

21.2 The treatment, exchange and sharing of information must recognise the confidentiality of that information and must be in accordance with relevant legislative requirements and agency-specific confidentiality policies, which include, but are not limited to, the following:

- a. *Privacy Act 1988* (Cth)
- b. *Freedom of Information Act 1982* (Cth)
- c. *Public Service Act 1999* (Cth)
- d. Public service regulations
- e. *Crimes Act 1914* (Cth)
- f. *Copyright Act 1968* (Cth)
- g. *Auditor-General Act 1997* (Cth)
- h. *Archives Act 1983* (Cth)
- i. The common law.

21.3 Any information must not be used or further disclosed except for the purpose for which that information has been supplied or as otherwise required or permitted by law, subject to the distribution of responsibilities in relation to the programme, as provided for by these guidelines.

22 Taxation treatment of grant payments

22.1 Grants are subject to normal taxation treatment and no special arrangements will apply to a grant under the programme. All potential applicants are strongly advised to seek independent taxation advice on the tax implications of receiving a grant under the programme.

23 Contact details and feedback

23.1 The department will respond to queries, concerns or feedback offered by an applicant in relation to the programme.

23.2 If you have a question or complaint concerning the grant application assessments or any other aspects of the programme, please contact:

EPG programme Manager
Transport Fuels Section
Energy Security Branch
Department of Industry
Email: EPGenquiries@industry.gov.au

23.3 If you are not satisfied with a complaint resolution procedure, you can contact the:

General Manager
Energy Security Branch
Department of Industry
GPO Box 1564
CANBERRA ACT 2601

23.4 If your complaint is unresolved, you may wish to lodge a complaint with the Commonwealth Ombudsman. There is no fee for making a complaint, and the Ombudsman will conduct an independent investigation of the applicant's concerns. You should note that the Ombudsman prefers that you first raise your concern to the relevant department before lodging a formal complaint.

23.5 The Commonwealth Ombudsman has offices in all states and territories, and can be contacted by telephoning 1300 362 072, or by writing to the relevant contact address specified on the Ombudsman's website at www.ombudsman.gov.au.

24 Interpretation

In these guidelines, unless the contrary intention applies:

Applicant means any eligible entity that has submitted a formal EPG application to the programme.

Application means the applicant's formal programme application submitted for assessment under the programme. A formal application must be submitted in the format of the application form.

Application form means the Ethanol Production Grants programme application form, a document issued by the department through which an applicant formally applies for a grant under the programme.

Commonwealth means the Australian Government, as represented by the department.

Department means the Department of Industry.

Eligible claim means any claim which is acceptable under the programme, and for which the applicant may claim payment under the EPG programme.

Eligible ethanol means any ethanol produced in accordance with the eligibility criteria in clause 12.

Funding agreement means the Ethanol Production Grants programme funding agreement between a grantee and the department for grant funding under the programme, as amended from time to time in accordance with the rules of the programme.

Grant means the amount to be paid for an eligible ethanol production project in return for the completion of specified conditions and requirements. A grant is not to be confused with a gift or a loan.

Grant offer means the letter by the department confirming the approval of an applicant as an eligible ethanol producer under the programme outlining the conditions under which the grant is offered and the specific grantee and project details of the grant that has been approved. The grant offer has an expiry of 60 days, unless the negotiation period is extended by the programme delegate.

Grantee means an entity that was a successful applicant as a result of the assessment process and is entitled to receive a grant under the programme pursuant to a funding agreement between the grantee and the department.

Guidelines mean the Ethanol Production Grants programme administrative guidelines.

Initial enquiry means the submission of an initial enquiry form in relation to the production and supply of eligible ethanol.

Locally derived feedstocks means any eligible feedstock sourced from Australia for the production of eligible ethanol.

Minister means the Minister for Industry.

Negotiation period means the 60 day period from the date a grant offer is made for the successful applicant and the department to execute a funding agreement.

Producer means any eligible ethanol producer based in Australia that has submitted a EPG grant application to the department.

Programme means the Ethanol Production Grants programme.

Programme funds means the funding made available by the Australian Government for the programme in any given financial year, being the funding specified in the Portfolio Budget Statement (as varied by any Portfolio Additional Estimates Statement or by the Minister) for that year. There is no authority to enter into a funding agreement to provide a grant beyond the limit of available programme funds.

Programme delegate means the Australian Government officer with certain decision making responsibilities for the programme, as delegated by the Minister.

Programme manager means the main department contact person responsible for managing the delivery of the programme.

Urban waste means any homogenous or heterogeneous material; discarded, rejected, abandoned, unwanted or surplus matter (in solid, liquid or gaseous forms) from any process from which the matter was produced and the purpose it was produced for; or anything declared by regulation or by an environment protection policy to be a waste, whether of value or not. Specifically excluded are the following:

- any waste categorised as 'prescribed' or 'scheduled' by an environmental protection policy of Australian, state or territory governments
- any waste generated outside of Australia

- any waste derived from the manufacture, production, refinement or extraction of fossil fuels
- any source separated solid waste intended for sale or for recycling, reprocessing, recovery or purification by a separate operation.

Third party is any person or entity (other than the grantee) who receives a payment under the EPG at the direction of the grantee.