

**The South Australian Government's
Response to the Review of the
Effectiveness of the Not-for-Profit
Funding Policy
May 2021**



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Introduction

The South Australian Government has released its response to the Review of the Effectiveness of the Not-for-Profit Funding Policy.

The review completes one of the recommendations of the South Australian Productivity Commission inquiry into government procurement.

It includes a focus on identifying any impediments to, and opportunities to strengthen, implementation of the NFP Funding Policy.

Of the 20 recommendations, 13 have been fully supported and 7 have been partially supported.

Background

Consultation with the Not-for-Profit (NFP) sector that commenced in 2013 through the former Human Services Partnership Forum led to the development of [DPC Circular 044 - South Australian Funding Policy for the Not-for-Profit Sector](#) (the *NFP Funding Policy*) which came into effect in July 2017. The policy aims to support and strengthen collaborative partnerships between government and the not-for-profit (NFP) sector. It provides for a consistent approach to all aspects of SA Government funding, sets clear requirements for public authorities, reduces the administrative burden on NFPs and maintains their independence.

The *NFP Funding Policy* is based on best practice principles for government and NFP funding relationships including:

- Robust planning and design
- Collaboration and partnership
- Proportionality
- An outcomes orientation
- Achieving value with relevant money
- Governance and accountability
- Probity and transparency
- Community development principles

SA Productivity Commission (SAPC) Inquiry into Government Procurement

On 17 May 2019, the SAPC released its [Final Report – Inquiry into Government Procurement Stage 1](#). This inquiry considered procurement of services from NFP entities separately to procurement from business due to the unique features of the NFP sector such as the types of services they deliver and the ways in which those services are funded and administered by government agencies.

The SAPC made several recommendations relating specifically to NFP sector procurement including that an evaluation of the implementation of the NFP Funding Policy be conducted as follows:

Recommendation 4.1:

Noting the role of the NFP Funding Policy in the procurement and grants process and its recent introduction, the government independently evaluate in the second half of 2019 the implementation of the NFP Funding Policy and associated operational procurement reforms to identify any impediments to, and opportunities to strengthen, implementation, with the evaluation process to consider the views of public authorities and the NFP sector.

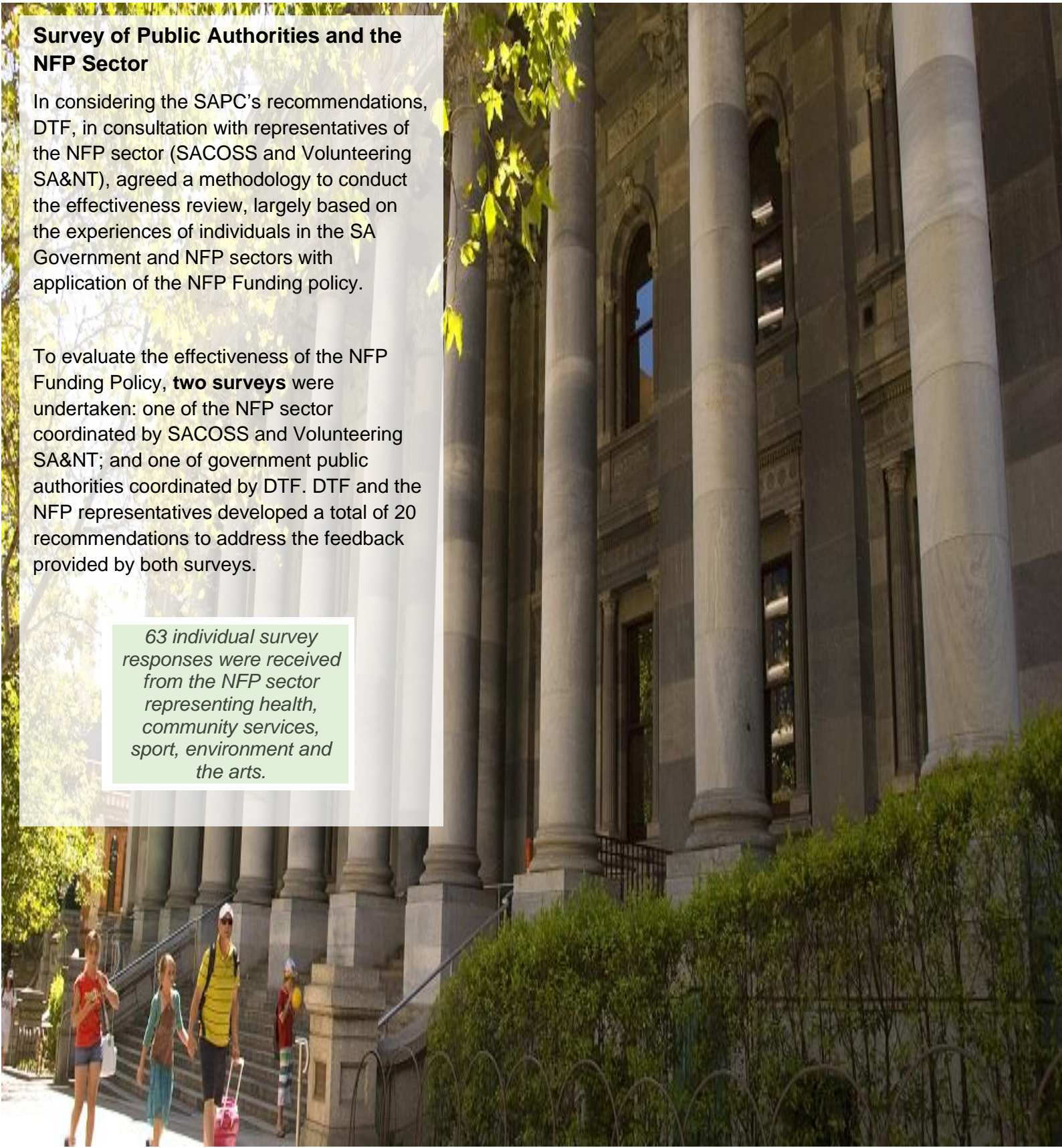
The Department of Treasury and Finance (DTF) is coordinating the implementation of the SAPC recommendations.

Survey of Public Authorities and the NFP Sector

In considering the SAPC's recommendations, DTF, in consultation with representatives of the NFP sector (SACOSS and Volunteering SA&NT), agreed a methodology to conduct the effectiveness review, largely based on the experiences of individuals in the SA Government and NFP sectors with application of the NFP Funding policy.

To evaluate the effectiveness of the NFP Funding Policy, **two surveys** were undertaken: one of the NFP sector coordinated by SACOSS and Volunteering SA&NT; and one of government public authorities coordinated by DTF. DTF and the NFP representatives developed a total of 20 recommendations to address the feedback provided by both surveys.

63 individual survey responses were received from the NFP sector representing health, community services, sport, environment and the arts.



Government Response Overview

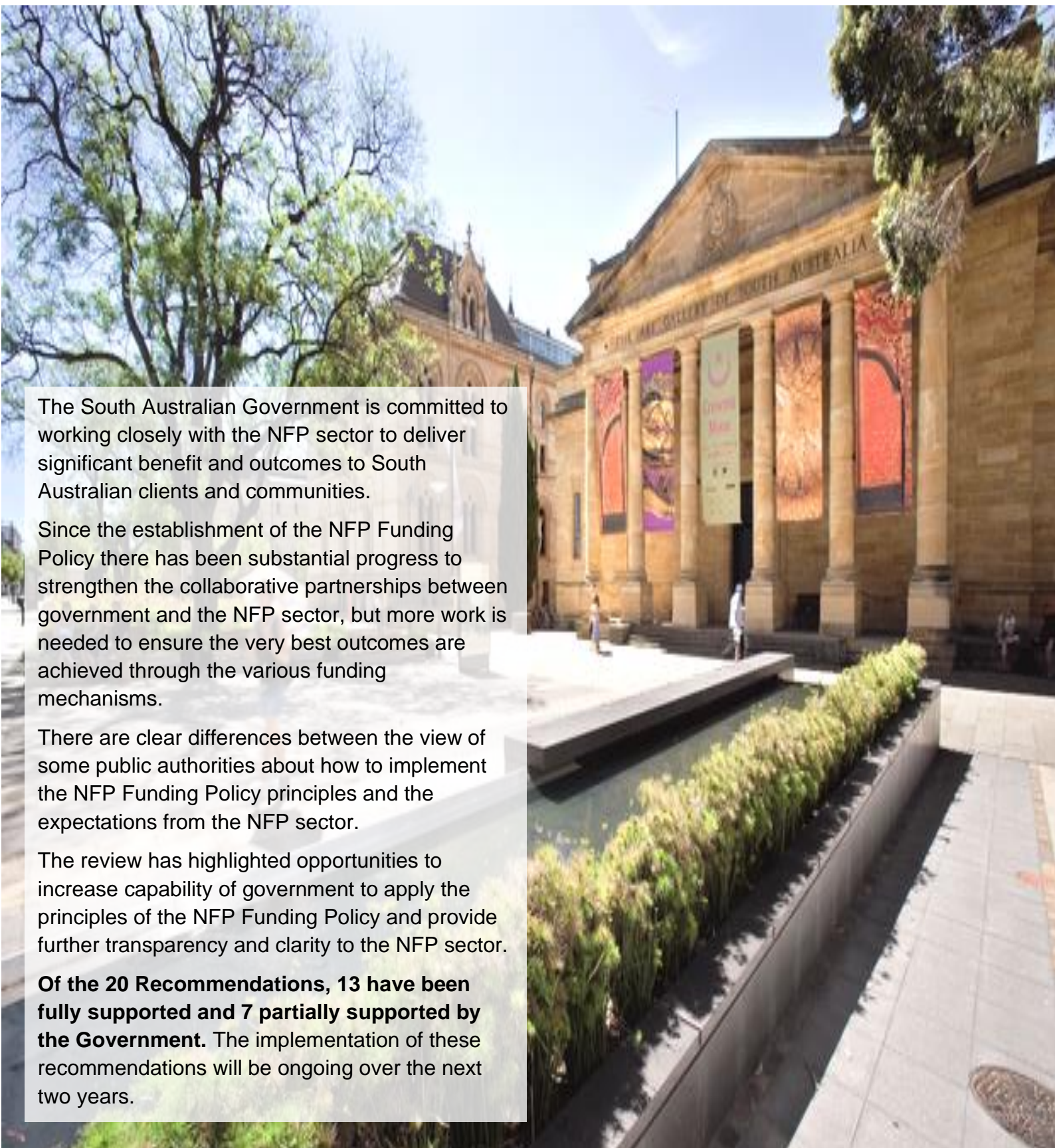
The South Australian Government is committed to working closely with the NFP sector to deliver significant benefit and outcomes to South Australian clients and communities.

Since the establishment of the NFP Funding Policy there has been substantial progress to strengthen the collaborative partnerships between government and the NFP sector, but more work is needed to ensure the very best outcomes are achieved through the various funding mechanisms.

There are clear differences between the view of some public authorities about how to implement the NFP Funding Policy principles and the expectations from the NFP sector.

The review has highlighted opportunities to increase capability of government to apply the principles of the NFP Funding Policy and provide further transparency and clarity to the NFP sector.

Of the 20 Recommendations, 13 have been fully supported and 7 partially supported by the Government. The implementation of these recommendations will be ongoing over the next two years.



<p>Recommendation 1 DTF Procurement Services Branch provide oversight of funding to the NFP sector for both grants and procurement and become the central contact point for funding to the NFP sector.</p>	<p>Partially Supported</p>
<p>Response The government supports the centralised oversight of NFP procurement funding (through Procurement Services SA) to effectively drive NFP Procurement reform and to ensure a consistent and fit-for-purpose approach is applied across public authorities. The government does not support the centralised oversight of grant funding (through Procurement Services SA) as the responsibility for grant management sits outside of the South Australian Government Procurement Framework and rests with individual Ministerial portfolios.</p>	
<p>Implementation Plan DTF will review its organisational structure to transfer necessary functions of NFP Procurement from the DTF Financial Management, Reporting and Policy Branch to the DTF Procurement Services Branch (known as Procurement Services SA). This will include central capability to shape and advise on strategy for NFP procurement practice, and oversight of PC044 and the community of practice.</p>	<p>Complete by July 2021</p>

<p>Recommendation 2 DTF Procurement Services Branch facilitate the establishment of a community of practice made up of SA public sector employees across a range of public authorities and the NFP sector, to review PC044, develop clear definitions of the PC044 principles, and develop greater guidance to support improved implementation of PC044.</p>	<p>Supported</p>
<p>Response The government supports the establishment of a NFP community of practice to strengthen collaborative partnerships between government and the NFP sector.</p>	
<p>Implementation Plan Procurement Services SA will convene a NFP community of practice to be chaired by SACOSS/VSANT and include representatives from the NFP sector and the Department of Treasury and Finance, along with key public authorities such as the Department of Human Services, Department for Child Protection, SA Health and SA Housing Authority. The NFP community of practice will inform improvements to NFP procurement practice and progress the recommendations of this report within its first 6 months of operation.</p>	<p>Complete by July 2021</p>

<p>Recommendation 3 DTF and the NFP sector continue the NFACT group until another governance structure is established.</p>	<p>Supported</p>
<p>Response The government supports the continuance of the Not-for-profit Funding and Co-design Team (NFACT) group, with its varied membership from the NFP sector and government.</p>	
<p>Implementation Plan Procurement Services SA will facilitate the continuance of the NFACT group until such time that a NFP governance structure is established.</p>	<p>Complete by July 2021</p>

<p>Recommendation 4 DTF Procurement Services Branch, in conjunction with the NFP sector, investigate a governance structure to monitor compliance of PC044 across agencies.</p>	<p>Supported</p>
<p>Response The government supports the establishment of a robust PC044 governance structure which is outcomes based and supported by enhanced performance reporting and data analytics.</p>	
<p>Implementation Plan Procurement Services SA, in conjunction with the NFP sector, will explore the appropriateness of existing governance structures, such as the Procurement Review Committee, or the establishment of a new mechanism, in order to best monitor compliance with PC044 across public authorities. The governance structure will support performance measurement and benchmarking across public authorities using data derived from the central Procurement Activity Reporting System.</p>	<p>Complete by December 2021</p>
<p>Recommendation 5 DTF Procurement Services Branch investigate the implications of expanding the mandate to use the standard grant agreements with NFP organisations to all public authorities, including current prescribed authorities.</p>	<p>Supported</p>
<p>Response The government supports the use of standardised agreements where appropriate to ensure a consistent approach across-government, and to simplify processes for both the NFP sector and public authorities.</p>	
<p>Implementation Plan The Department of Treasury and Finance will work collaboratively with key stakeholders including the Crown Solicitor’s Office and authorities currently prescribed under the <i>State Procurement Act</i> to consider an amendment to Treasurer’s Instruction 15 to extend its application to all public authorities as defined in the <i>Public Finance and Audit Act 1987</i> (not just Departments).</p>	<p>Complete by December 2021</p>
<p>Recommendation 6 As part of Recommendation 5, DTF Procurement Services Branch consider the possibility of excluding NFP arrangements established to support commercial enterprises and grant programs predominantly aimed to assist commercial initiatives (such as industry attraction grants), from the mandate to use the standard grant agreements.</p>	<p>Supported</p>
<p>Response The government recognises the importance of ensuring contractual arrangements can be tailored to the unique features of specific grant programs/initiatives involving NFPs such as targeted economic growth support.</p>	
<p>Implementation Plan The Department of Treasury and Finance will work collaboratively with key stakeholders including the Crown Solicitor’s Office to consider any necessary amendments to Treasurer’s Instruction 15, or a new mechanism in accordance with recommendation 13, to enable the use of appropriate grant agreements for specific grant programs/initiatives with NFP organisations.</p>	<p>Complete by December 2021</p>

<p>Recommendation 7 DTF Procurement Services Branch in collaboration with the NFP sector, develop enhanced training programs and deliver information sessions to increase awareness of the PC044 principles across the SA Government and NFP sector. This will help to build the capability of public authority staff in the practical application of the principles and grow knowledge of the principles across the NFP sector.</p>	<p>Supported</p>
<p>Response The government recognises the need for public authorities to build awareness and strengthen the practical application of the principles of PC044.</p>	
<p>Implementation Plan Procurement Services SA will develop improved guidance to build the capability of public authorities on the practical application of PC044. This will be supported by guidelines, case studies, tools, and an appropriate training/education program co-designed with the NFP sector.</p>	<p>Complete by September 2021</p>
<p>Recommendation 8 DTF Procurement Services Branch work with the NFP sector and community of practice to provide greater guidance and clarity for SA public authorities around the definition of a “grant”.</p>	<p>Supported</p>
<p>Response The government recognises that while the current TI15 definition has improved the understanding of what is considered a ‘grant’, further clarity is needed to ensure the methodology for determining a ‘grant’ from a ‘procurement’ is understood and consistently applied by public authorities.</p>	
<p>Implementation Plan The Department of Treasury and Finance will work collaboratively with the NFP community of practice to review the existing Funding Agreement User Guides with a view to provide improved guidance and clarity on the practical application of the TI15 grant definition.</p>	<p>Complete by December 2021</p>
<p>Recommendation 9 DTF Procurement Services Branch, in collaboration with public authorities and NFP sector representatives, co-design greater guidance for public authorities on how to maintain probity and transparency during procurement and grant processes. This may include guidance on best practice principles in the areas of co-design, NFP representation on evaluation panels and debriefing unsuccessful applicants.</p>	<p>Partially Supported</p>
<p>Response The new Government Procurement Framework (incorporating Treasurer’s Instruction 18, policies and guidelines) is relevant to all procurement activity, including with the NFP sector, and a new Probity and Ethical Procurement Guideline has been developed. This will be supported by guidelines, case studies, tools, and training/education programs.</p>	
<p>Implementation Plan Procurement Services SA has developed new guidelines, tools and templates for procurement governance, planning, sourcing and contract management. This addresses transparent engagement with industry during tender processes, including explanations of decisions. These documents will be progressively reviewed, and further NFP Procurement resources developed if required, in consultation with the NFP community of practice. These resources will be made available to public authorities for use where appropriate.</p>	<p>Complete by September 2021</p>

<p>As the responsibility for grants management sits outside of the South Australian Government Procurement Framework, and rests with individual Ministerial portfolios, the government does not support the inclusion of grant processes as part of this recommendation.</p>	
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<p>Recommendation 10 During the establishment of the Procurement Review Committee ('PRC'), DTF Procurement Services Branch consider whether it is appropriate for this committee to undertake independent reviews of funding and grant processes.</p>	<p>Partially Supported</p>
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<p>Response The government promotes the adherence to probity and transparent procurement practices that strengthen all sectors' confidence in doing business with government. The establishment of the PRC will provide the ability for increased oversight of procurement processes that are high risk, high value, or of public interest. As the responsibility for grants management sits outside of the South Australian Government Procurement Framework, and rests with individual Ministerial portfolios, the government does not support the inclusion of grant processes as part of this recommendation.</p>	
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<p>Implementation Plan The PRC will provide high-level oversight of procurement undertaken by public authorities including NFP procurement.</p>	<p>Complete by August 2021</p>
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<p>Recommendation 11 DTF Procurement Services Branch, in collaboration with the NFP sector, review the current procurement and grant framework to ensure government agencies engage with communities and key stakeholders during the planning stage of procurement and grant processes. Early engagement includes identification of need, co-design of the specification, and designing key outcomes.</p>	<p>Partially Supported</p>
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<p>Response The government supports open and transparent engagement with the community and working collaboratively with the NFP sector, and the progressive review of procurement frameworks to ensure best practice policy and guidance is provided. As the responsibility for grants management sits outside of the South Australian Government Procurement Framework, and rests with individual Ministerial portfolios, the government does not support the inclusion of grant processes as part of this recommendation.</p>	
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<p>Implementation Plan The new South Australian Government Procurement Framework provides policies, guidelines, tools and templates for procurement that includes the requirement for public authorities to undertake community, client and industry engagement. Industry engagement training will also be offered to build the engagement capability of public authorities. These new resources will be progressively reviewed in consultation with the NFP sector and made available to public authorities for use where appropriate.</p>	<p>Complete by August 2021 and progressively thereafter</p>
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<p>Recommendation 12 The new NFP community of practice consider the best way to encourage government agencies to use community development to inform government procurement and grant processes.</p>	<p>Partially Supported</p>
<p>Response and Implementation Plan As per the response to Recommendation 2, the government is supportive of the NFP community of practice considering the best way to encourage public authorities to use community development to inform procurement processes. As the responsibility for grants management sits outside of the South Australian Government Procurement Framework, and rests with individual Ministerial portfolios, the government does not support the inclusion of grant processes as part of this recommendation.</p>	<p>Complete by December 2021</p>
<p>Recommendation 13 The new NFP community of practice identifies a date by which all funding agreements with NFPs must be moved to the DTF standard agreement templates (except those arrangements referred to in Recommendation 6).</p>	<p>Partially Supported</p>
<p>Response and Implementation Plan As per the response to recommendation 2, the government is supportive of the NFP community of practice setting an appropriate timeframe by which all public authorities will be required to adopt the use of standard agreement templates for procurements. The timing of the implementation of any changes to grant funding template requirements will be considered as part of recommendations 5 and 6.</p>	<p>Complete by December 2021</p>
<p>Recommendation 14 The DTF Procurement Services Branch investigate an approval mechanism for public authorities to request exemption from using the standard NFP agreement templates.</p>	<p>Supported</p>
<p>Response The government is committed to ensuring standard procurement practices are applied by all public authorities and supportive of providing a structured approval mechanism for when public authorities may wish to seek an exemption from the use of standard NFP agreement templates.</p>	
<p>Implementation Plan The Department of Treasury and Finance will review its existing processes for exempting public authorities from using the standard NFP agreement templates, with a view to implement a standard approval mechanism in future.</p>	<p>Complete by September 2021</p>
<p>Recommendation 15 The current “Suitability of Persons” clause be removed from the NFP Sector Funded Services Special Conditions Bank and replaced with a “Child Safety” special conditions clause, similar to the State Procurement Board’s Standard Goods and Services Agreement Special Conditions Clause Bank, subject to advice from the Crown Solicitor’s Office.</p>	<p>Supported</p>
<p>Response and Implementation The government was supportive of this recommendation and in consultation with the Crown Solicitor’s Office has replaced the “Suitability of Persons” clause from the NFP Special Conditions Clause Bank with a new “Child Safety” clause in August 2020.</p>	<p>Complete</p>

Recommendation 16	Supported
The current Standard NFP Funding Arrangement, Low Value Grant Letter template and Low Value Non-Recourse Grant templates be amended to allow flexibility to include payment details.	
Response The government recognises the need to ensure transparency around payment details in all forms of agreement.	
Implementation Plan	Complete by July 2021
The Department of Treasury and Finance will engage the Crown Solicitor's Office to amend the agreement templates to include a provision for payment details.	
Recommendation 17	Supported
DTF Procurement Branch review and update the User Guides in line with any changes made to the Standard Funding Agreements.	
Response and Implementation Plan The Department of Treasury and Finance will review and update the Funding Agreement User Guides in accordance with changes made to the Standard Funding Agreements, as required.	
	Complete by July 2021 and reviewed as required.
Recommendation 18	Supported
The community of practice consider the need, feasibility and form of a standard acquittal for grant funding and/or NFP sector procurements.	
Response and Implementation Plan As per the response to Recommendation 2, the NFP community of practice will consider guidelines related to the acquittal process across public authorities in keeping with the government's commitment to reducing red tape.	
	Complete by September 2021
Recommendation 19	Supported
DTF to continue publishing NFP indexation rates four years in advance.	
Response and Implementation Plan To provide certainty to the NFP sector when considering multi-year contracts, the government will publish NFP indexation rates in advance for the next 4 years.	
	Complete by June 2021
Recommendation 20	Partially Supported
DTF Procurement Services Branch to identify mandated reporting metrics from public authorities for all NFP agreements.	
Response and Implementation The new Procurement Activity Reporting System launched by Procurement Services SA in October 2020 provides a platform for improved procurement reporting and analytics by all public authorities, including NFP procurement and resulting NFP agreements. As the responsibility for grants management sits outside of the South Australian Government Procurement Framework, and rests with individual Ministerial portfolios, the government does not support the inclusion of grant agreements as part of this recommendation.	
	Complete



Government of
South Australia