

COVID Safe Australia Day Program Guidelines (Round 2)

Reflect. Respect. Celebrate. We're all part of the story



Australia Day

Reflect. Respect. Celebrate.

Opening date:	12 October 2020
Closing Date and Time:	5.00pm AEDT on 9 November 2020
Enquiries:	If you have any questions, contact grants@australiaday.org.au (Contact Officer).
Date Guidelines released:	12 October 2020
Type of grant opportunity:	Open competitive

Introduction

For Australia Day 2021 the National Australia Day Council (NADC) aims to encourage celebrations to occur in a COVID safe environment. Events can be a new or existing public event or activity, a community activity or an online engagement.

For the purpose of assisting eligible event organisers to ensure Australia Day 2021 events proceed and that the events are able to be held in a COVID safe environment, the NADC, with the assistance of the Australian Government, is making available grants of up to \$20,000 (GST exclusive) through the COVID Safe Australia Day Program (**Program**).

Recently Australia has faced harsh challenges – drought, floods, Black Summer bushfires and the coronavirus pandemic. On Australia Day 2021 Australians will be encouraged to reflect, respect and celebrate and, more than ever, mark our nation’s resilience and the ability of Australians to rise to meet these extraordinary challenges.

These grants will support events that allow communities to come together and reflect, respect and celebrate the individual and collective efforts of Australians who put the wellbeing of others before themselves, supported their communities in a time of need and rose to the challenges of an extraordinary year – because we’re all part of the Story of Australia.

Local, state and territory government entities, entities that are part of the Australia Day Network and Australian not for profit organisations are eligible to apply for this grant opportunity.

Applicants are encouraged to support local businesses and communities through the planning and execution of the event including through fostering creation and enabling retention of local employment opportunities.

For Australia Day 2021, NADC also seeks to encourage a new message of *Reflect. Respect. Celebrate. We're all part of the story*. The NADC has created new branding and design assets with this message for Australia Day 2021 (**Australia Day Designs**). These designs are available for use by all organisations in their Australia Day promotional collateral. Successful applicants will be required to promote this message through NADC available collateral. Where organisations do not have access to local printing or production facilities, grant recipients will be able to purchase items online through the [Australia Day Council Aussie Merchandise program](#).

A total of \$7.5 million (GST exclusive) is available through the Program (inclusive of all grant rounds). Successful applicants may only receive a grant through the Program once per grant round. There is no guarantee or assurance that an application will be successful.

The intended outcomes of this grant opportunity are to provide funding for Australia Day 2021 events that:

- enable Australia Day events/activities to proceed in a COVID safe environment
- encourage community participation in Australia Day events/activities
- create or retain local employment
- support communities, regions and industries affected by the economic impacts of COVID-19
- promote the messaging of *'Reflect. Respect. Celebrate. We're all part of the story'*.

Australia Day events of successful applicants will be publicised by inclusion on the NADC's Australia Day Event Register website.¹

Key Dates

The expected timing for this Round 2 of the grant opportunity is below. The NADC may vary the timeframes.

- applications will open on 12 October 2020
- applications will close at 5:00pm on 9 November 2020 (**Closing Date**)
- applicants will be notified of the outcome of their application within 20 business days after the Closing Date
- successful applicants must complete their Australia Day 2021 event/s by 26 January 2021
- reporting including photographs of the successful applicant's materials must be submitted by 28 February 2021.

Eligibility

Who is eligible

To be considered for this grant opportunity, the applicant must be:

- an Australian local government entity
- an Australian state or territory government entity
- an entity that is part of the state and territory Australia Day Network
- an Australian not for profit organisation.

The applicant must also have public liability insurance.

Who is not eligible

An applicant is not eligible for a grant under this grant opportunity if they:

- are an individual
- are an unincorporated organisation
- are an entity who is not
 - an Australian local government or state or territory government
 - part of the state and territory Australia Day Network
 - an Australian not for profit organisation
- do not have public liability insurance.

¹ <https://www.australiaday.org.au/events/>

Australia Day Messaging

It is a condition of receiving a grant under the Program that the message of *Reflect. Respect. Celebrate. We're all part of the story* is promoted through NADC available collateral. Successful applicants must:

- use the Australia Day Designs
- display the Australia Day Designs at an event or in a public space and
- use the Australia Day Designs up to and on Australia Day 2021.

Applicants are strongly encouraged to support local businesses in the manufacturing and printing of promotional items displaying the Australia Day Designs.

For applicants who do not have access to local printing or production facilities, assets will be able to be purchased online from the [Australia Day Council Aussie Merchandise program](#).

What we will fund

Funding may be used by successful applicants to:

- deliver Australia Day activities in a COVID safe environment, including but not limited to:
 - additional cleaners
 - additional cleaning supplies including soap and hand sanitizer
 - safety cleaning officer (COVID Marshall)
 - physical barriers and guides
 - food service (i.e touchless payment options, limit sharing items)
 - modified layouts, seating set up
 - event ticketing systems
 - contact identifying staff and/or technology
 - staff COVID safe training
 - additional public restrooms
 - fencing to control attendee numbers
 - increased transport options
 - increased food and water distribution areas
 - Personal Protective Equipment
 - COVID-19 signage
 - Australia Day Designs.

Eligible activities include any public event that will take place leading up to and on Australia Day 2021. The event can be an existing or new event. Events could include, but are not limited to the following categories:

- fireworks
- live entertainment
- family friendly
- novelty and special Interest
- flag raising ceremony
- community awards
- food & BBQ
- art & culture
- citizenship

- sporting
- ambassadors
- community event
- multi faith ceremony
- an online engagement

Australia Day events should promote the message of *Reflect. Respect. Celebrate. We're all part of the story* through NADC available collateral (see above).

What we won't fund

The grant funds cannot be used for:

- costs not clearly attributable to undertaking events in communities economically impacted by COVID
- events previously held by local, state or territory governments where the applicant intends to financially invest less in the planned 2021 event than it invested in the previous event. The grant is intended to top up the budget for the planned event, and must not be used to offset costs. Note that this requirement does not include contra and sponsorship arrangements
- events that received funding in round 1
- events that do not have a clear focus on Australia Day: *Reflect. Respect. Celebrate. We're all part of the story.*

What you need to do

Before applying, the applicant must read and understand these guidelines and the sample grant agreement. NADC may vary the grant process or documentation at any time. Any changes will be published on the new online application portal.

To apply, an applicant will need to complete an online application form before the Closing Date. The applicant will need to register to use NADC's new online application portal.

The application form requires information about:

- the applicant, including their ABN as well as the organisation's mission statement or purpose
- the planned event, including with reference to the assessment criteria
- how the grant funds are proposed to be used.

In addition, the NADC requires the following with an application:

- a copy of the applicant's public liability insurance policy
- banking details including evidence that the account is the applicant organisation's account
- for local, state or territory government applicants, evidence that they will financially invest no less than the level of investment they made in the previously held event.²

The applicant is responsible for ensuring that their application is complete and accurate.

² Where the applicant is a local, state or territory government entity, and the planned event has been held in previous years, evidence that the applicant has maintained not less than the same level of financial investment, and that there is no reduction in government investment in the planned event. The grant is intended to top up the budget for the planned event, and must not be used to offset costs. Note that local government or state or territory government investment does not include contra and sponsorship arrangements.

What we will do

The NADC intends to distribute grants across the nation, including metropolitan, regional, rural and remote locations, in proportions as determined by the NADC. The NADC may give greater weighting to applicants that propose face to face events, and to applicants who have demonstrated previous participation in the NADC Australia Day Ambassador Program and/or Australia Day activities, or are a local council.

The NADC will review applications, to determine whether the applicant and the intended event or activity are eligible. If the process identifies unintentional errors, the applicant may be contacted to correct or explain the information.

If the application passes the initial screening against the eligibility criteria, the application will proceed to a full assessment. The NADC assessors will consider an application on its merits, based on:

- how well it meets the intended outcomes for the Program
- how well it meets the assessment criteria (set out below)
- how it compares to other applications
- whether it provides value for money.

When assessing the extent to which an application represents value for money, the NADC may have regard to (without limitation):

- the overall objective/s to be achieved in providing the grant
- the extent to which the evidence in the application demonstrates that it will contribute to meeting the outcomes/objectives
- opportunities for economic benefits to the community.

The NADC Board will decide which applications to approve taking into account recommendations from the NADC assessors and the availability of grant funds for the purposes of the Program. The NADC Board's decision is final in all matters. There is no appeal mechanism for decisions to approve or not approve a grant.

The NADC will advise applicants of the outcome of applications in writing.

The Grant Agreement

Successful applicants will be required to enter into a short form agreement with the NADC. This will be sent to successful applicants electronically via email at the time that an applicant is notified that is application for a grant has been successful. There is no binding agreement between NADC and a successful applicant unless and until a grant agreement, if any, is entered into by the parties.

A sample grant agreement is available at Annexure A to this document.

Some aspects of the sample grant agreement include:

- a requirement that the Australia Day event utilise the message of 'Reflect, Respect, Celebrate. We're all part of the story'
- a requirement that the applicant acknowledges the NADC's support through use of the NADC's logo or signage (subject to approval by the NADC)
- acknowledge that the NADC may list the successful applicant's Australia Day event/s on the NADC event register website
- a requirement that the applicant provide the following by 28 February 2021:

- a declaration verifying the grant funds have been spent in accordance with the grant agreement
- photographs of the applicant's materials, showing the Australia Day Designs in the public place or at the Australia Day event or activity.

Privacy

The information an applicant provides in their application form will be handled in accordance with the *Privacy Act 1988* (Cth). For more information see the [NADC's Privacy Policy](#).

In submitting an application, the applicant agrees to the NADC collecting their personal information, including name, contact details and role in order to assess the application and for the purpose of grants administration.

The NADC's online portal is powered by SmartyGrants, an enterprise of Our Community Pty Ltd. To use the portal, applicants will be asked to register and agree to Our Community's [Privacy Policy](#) and [Terms of Use](#).

Complaints

Applicants should address any complaints regarding this grant opportunity in writing to the NADC through the Contact Officer.

Conflicts of interest

Applicants will be asked to declare, as part of their application, any perceived or existing conflicts of interests.

There may be a conflict of interest, or perceived conflict of interest, if the NADC's personnel, any member of a committee or advisor and/or the applicant or any of their personnel:

- has a professional, commercial or personal relationship with a party who is able to influence the application selection process, such as an Australian Government officer
- has a relationship with or interest in, an organisation, which is likely to interfere with or restrict the applicant from carrying out the proposed activities fairly and independently
- has a relationship with, or interest in, an organisation from which they will receive personal gain because the organisation receives a grant under the Program.

If an applicant later identifies an actual, apparent, or perceived conflict of interest, they must inform the NADC in writing immediately.

Assessment Criteria

Applicants that meet the eligibility criteria will be assessed against the assessment criteria. An application must meet a minimum benchmark against each of the criteria to be considered for funding by the NADC Board.

1. Benefits and Beneficiaries

The applicant must demonstrate that COVID-19 has had a substantial economic impact³ on:

- an identified community, region or industry sector, such as the Australian industries (for example, creative, cultural, hospitality and related industries) that will be involved in the planned Australia Day event
- the Australian communities in which the planned event will be held.

The applicant must also demonstrate the provision of the grant funds would provide economic support for the relevant community, region or industry sector, i.e. that the planned Australia Day event will provide economic support to those communities, regions and industries, including:

- whether the event would otherwise be substantially reduced in size or scope, or cancelled if the grant funds are not received, so that there would be no revenue for relevant businesses
- the level of importance of the event from a community perspective
- likely attendance / participation
- whether the event is face to face
- the way the grant funds will help address the economic impacts of COVID-19 on the region, local community and businesses (e.g. by engaging local businesses, organisations and individuals to provide goods and services for the event)
- how the grant funds might support the community to create or retain local employment.

2. Ability to Deliver

The applicant's capability to successfully deliver the planned Australia Day event as demonstrated by

- the nature and scale of the planned event
- the viability of how the planned event is proposed to be delivered in a COVID safe environment
- the applicant's background and experience (including previously delivered events) relevant to the planned event
- the applicant's previous participation in the NADC Australia Day Ambassador Program and /or Australia Day Activities.

³ Economic impacts may include:

- substantial increased costs for event planners in delivering events because of safety requirements in the COVID environment
- substantial loss of revenue for the event due to COVID-19 factors, This includes (without limitation), where the event may not go ahead due to the economic impacts of COVID-19 without financial assistance
- substantial impacts on industry sectors involved in delivering Australia Day events. For example, where it can be demonstrated that one or more of these industry sectors have been substantially economically affected by COVID-19.

3. Project Quality and Risk

The extent to which the applicant, planned event and proposed use of the grant funds demonstrate overall quality and value for money. In relation to this criterion, the NADC may consider, without limitation:

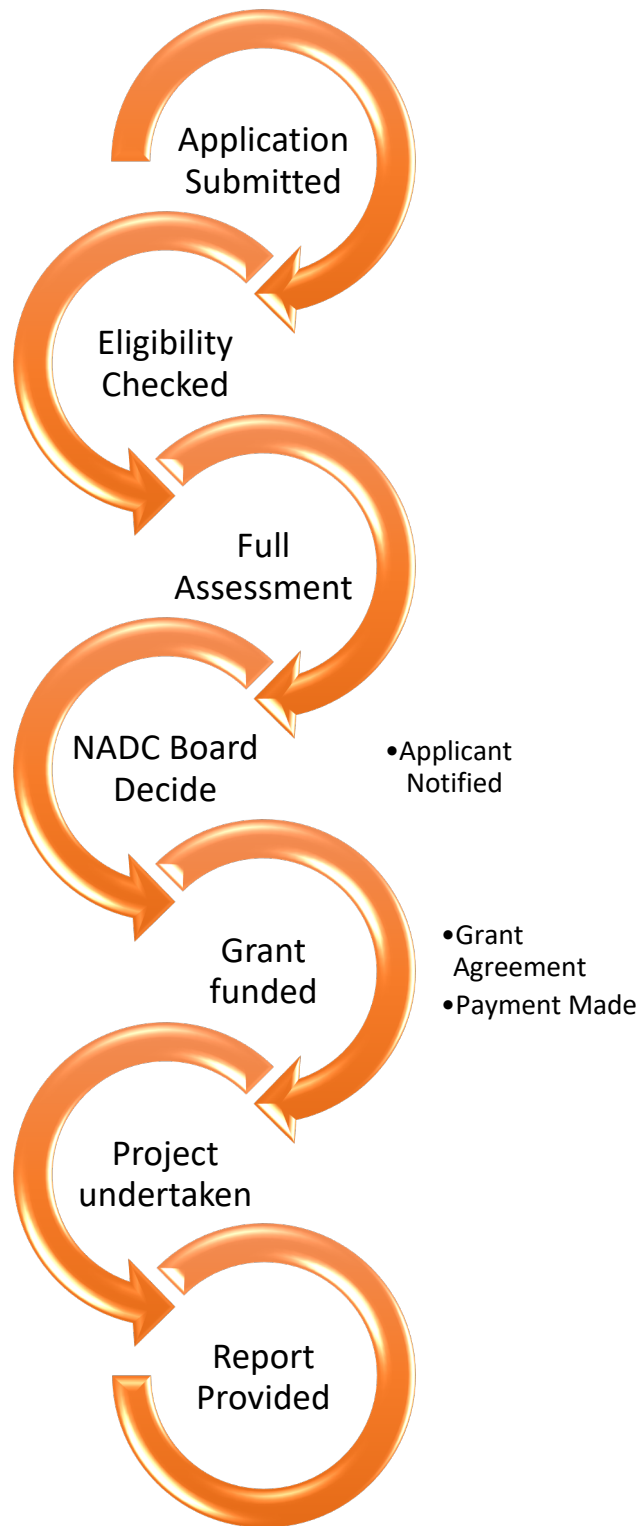
- whether applicable state or territory COVID safe guidelines have been considered by the applicant
- the level of public liability insurance held by the applicant. In general, public liability insurance should be a minimum of \$10 million, and preferably not less than \$20 million
- whether the budget for the planned event is realistic and reasonable
- whether the project represents efficient, effective, economic and ethical use of funds
- expected impact and public benefit.

4. Australia Day Messaging

The extent to which the event will acknowledge Australia Day in a COVID safe environment, including with reference to:

- how the message '*Reflect, Respect, Celebrate. We're all part of the story*' will be incorporated into the planned event
- the items of promotional collateral that will be used to stage and promote the event.

The Process



Grant Agreement: Australia Day 2021 COVID Safe Grants Program


Date

Background

- A The NADC has agreed to provide the Funds to the Grantee for the purpose of the Activity, subject to the terms and conditions of this Agreement.
- B The Grantee accepts and agrees to use the Funds for the purpose of the Activity, subject to the terms and conditions of this Agreement.
- C Once completed and signed by the Parties, the Agreement Details and the Terms and Conditions form an Agreement between NADC and the Grantee.

Agreement Details

Item number	Description	Clause Reference	Details
1.	NADC	1.1	National Australia Day Council Limited ABN 76 050 300 626 NADC representative: Karlie Brand, Chief Executive Officer Old Parliament House King George Terrace Parkes ACT 2600 Grants@australiaday.org.au
2.	Grantee	1.1	[insert name and ACN (where applicable)] ABN [insert] Grantee representative: [insert name and position of person to receive notices] [insert physical and postal address] [insert email]
3.	Commencement Date	1.1	The date this Agreement is executed by the last party to do so.
4.	Purpose	1.1 and 2	The purpose of the grant is to help the Grantee deliver Australia Day 2021 events in a COVID safe environment, while supporting local communities and industries.
5.	Activity	1.1 and 2	Any activity to reduce the spread and lower the risk of COVID at the Grantee's Australia Day event/s. These may include, without limitation: <ul style="list-style-type: none"> • additional cleaners; • additional cleaning supplies, including soap and hand sanitiser; • safety clean office (COVID Marshall); • physical barriers and guides; • food services (ie. touchless payment options, limit sharing items); • modified layouts, seating set up; • event ticketing systems; • contact identifying staff and/or technology; • staff COVID safe training; • additional public restrooms; • fencing to control attendee numbers; • increased transport options; • increased food and water distribution areas; • Personal Protective Equipment; • COVID-19 signage; and • Australia Day Designs.
6.	Funds	4	\$20,000 (GST exclusive).

Item number	Description	Clause Reference	Details
			The Grantee's bank account for payment is specified in item 7 of the Agreement Details
7.	Grantee's Bank Account	4	The Grantee's nominated bank account into which the Funds are to be paid is: Account Name: <i>[insert]</i> Account Number: <i>[insert]</i> BSB Number: <i>[insert]</i> Bank Name: <i>[insert]</i>
8.	Other Contributions		[Note: Other Contributions are only relevant where the Grantee is a government entity and the Australia Day event (or a substantially similar event) was held in a previous year. To be populated as applicable.] <i>[Not applicable]</i> OR <i>[insert amount to be contributed by the Grantee to the Australia Day event]</i>
9.	Reporting	9	By no later than 28 February 2021, the Grantee must complete and submit the online reporting form available on the applicant portal which: <ul style="list-style-type: none"> • includes a declaration verifying the Funds have been spent in accordance with this Agreement; and • requires the Grantee to provide copies of promotional material and photographs of the Activity, including the Australia Day Designs in a public place or at the Grantee's Australia Day 2021 event/s.
10.	Insurance	15	Public Liability Insurance \$20,000,000 or more per claim and in the aggregate. Workers Compensation Amount as required by the relevant state or territory legislation.
11.	Acknowledgment of support	5	The Grantee must acknowledge the support received from the NADC by including the following statement: <i>'Assisted by the Australian Government through the National Australia Day Council',</i> and using the Australia Day Logo in accordance with the branding guidelines set out in Annexures 1 and 2 to this Agreement, as updated by notice from the NADC to the Grantee.  Australia Day Reflect. Respect. Celebrate.

Terms and Conditions

1. Defined terms & interpretation

1.1 Defined terms

In this Agreement:

Activity means the Activity described in item 5 of the Agreement Details.

Agreement means this Agreement between the NADC and the Grantee, including any attachments.

Agreement Material means any Material created by, for and on behalf of the Grantee on or following the Commencement Date, for the purpose of or as a result of performing its obligations under this Agreement.

Australia Day Designs means the branding and design assets for Australia Day 2021 that follow the message of *Reflect. Respect. Celebrate. We're all part of the story* as approved by the NADC.

Australia Day Logo means the 'Australia Day logo' set out in item 11 of the Agreement Details.

Commencement Date means the date specified in item 3 of the Agreement Details.

Existing Material means Material developed independently of this Agreement that is incorporated in or supplied as part of the Agreement Material, but excludes the Australia Day Designs and the Australia Day Logo.

Funds means the money, or any part of it, paid by the NADC to the Grantee under this Agreement in the amount specified in item 6 of the Agreement Details.

Grantee means the legal entity specified in item 2 of the Agreement Details.

Intellectual Property Rights means all intellectual property rights, including:

- (a) copyright, patents, trademarks (including goodwill in those marks), designs, trade secrets, know how, rights in circuit layouts, domain names and any right to have confidential information kept confidential;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere,

whether or not such rights are registered or capable of being registered.

Material includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.

Other Contribution means the financial or in-kind contributions other than the Funds to be provided by the Grantee as set out in item 8 of the Agreement Details.

Party means the Grantee or the NADC.

Personal Information has the same meaning as in the *Privacy Act 1988* (Cth).

Program means the COVID Safe Australia Day Grants Program.

Purpose means the purpose as described in item 4 of the Agreement Details.

Reports means the reports that the Grantee is required to produce and provide to the NADC in accordance with clause 9.

Terms and Conditions means clauses 1 to 22 of this Agreement.

WHS Law means all applicable Laws relating to work health and safety, including the *Work Health and Safety Act 2011* (Cth) and any corresponding WHS law as defined in that Act.

1.2 Interpretation

- (a) In this Agreement, unless the context requires otherwise: a reference to **A\$, \$A, dollar** or **\$** is to Australian currency, a reference to time is to Canberra, Australia time, and the

meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions.

- (b) If there is any inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of the inconsistency:

- (i) Terms and Conditions;
- (ii) Agreement Details; and
- (iii) any documents incorporated by reference in this Agreement.

2. Program and Purpose

- (a) The Funds are made available under the Program for the Purpose.

- (b) For clarity:

- (i) any holding of an Australia Day event by the Grantee is at its own risk; and
- (ii) any and all decisions relating to the delivery, management or otherwise of any Australia Day event or the Activity are the sole responsibility of the Grantee.

3. Activity

- (a) The Grantee agrees to:

- (i) ensure that it undertakes the Activity and spends the Funds in a manner that is consistent with the objectives of the Program including the Purpose;
- (ii) ensure that the Activity is carried out in accordance with all applicable laws (including the WHS Law and COVID-19 public health restrictions and rules (however described));
- (iii) promote the message of *Reflect. Respect. Celebrate. We're all part of the story* through NADC available collateral and use of the Australia Day Designs; including displaying the Australia Day Designs at an event or in a public place, and using the Australia Day Designs up to and on Australia Day 2021;
- (iv) provide and use the Other Contribution for the Grantee's Australia Day event/s relating to the Activity; and
- (v) obtain the NADC's prior written approval before undertaking the Activity or spending the Funds in a manner other than as set out in item 5 of the Agreement Details.

- (b) The Grantee represents and warrants that in performing the Activity, it will comply with all applicable laws (including the WHS Law, child safety and working with vulnerable persons laws and regulations).

- (c) The Grantee acknowledges that the NADC may list the Grantee's Australia Day event on the NADC's event register website <https://www.australiaday.org.au/events/>.

4. Payment of Funds

- (a) Subject to this Agreement, the NADC agrees to pay the Funds to the Grantee in accordance with item 6 of the Agreement Details.
- (b) Notwithstanding any other provision of this Agreement, the NADC may by notice withhold payment of any amount of the Funds if it reasonably believes that:
 - (i) the Grantee has not complied with this Agreement;
 - (ii) the Grantee is unlikely to be able to perform the Activity or manage the Funds in accordance with this Agreement; or
 - (iii) there is a serious concern relating to the Grantee or this Agreement that requires investigation.

- (c) Payment will be made following submission by the Grantee of an invoice. The invoice must meet the requirements of a tax invoice as set out in the GST Law and be in a form approved by the NADC which sets out:
- (i) the amount of the Funds to be paid by the NADC together with any substantiating material required; and
 - (ii) such other information as the NADC requires.
- (d) Invoices should be submitted to the address specified in item 1 of the Agreement Details.

5. Acknowledgements

The Grantee agrees to acknowledge the NADC's support in all Material, publications, promotional and advertising materials published in connection with the Activity or this Agreement, using the form of acknowledgment specified in item 11 of the Agreement Details.

6. GST

- (a) In this clause 6, words and expressions which are not defined in this Agreement but which have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Law**) have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all amounts set out in this Agreement are exclusive of GST.
- (c) If GST is payable by a supplier (**Supplier**) on any supply made under this Agreement, except where the amount is expressly stated to include GST, the payment for that supply will be increased by, and the recipient of the supply (**Recipient**), will pay to the Supplier, an amount equal to the GST payable on the supply (**GST Amount**), provided that no GST Amount is payable under this clause until the Supplier has issued a valid tax invoice to the Recipient for that supply.
- (d) If a payment to a Party under this Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that Party, then the payment will be reduced by the amount of any input tax credit to which that Party, or the representative member of the GST group that Party is a member of (as the case may be), is entitled for that loss, cost or expense.

7. Spending the Funds

- (a) The Grantee agrees to spend the Funds (and any interest the Grantee earns on the Funds) only for the purpose of performing the Activity and otherwise in accordance with this Agreement.
- (b) If any of the Funds have been spent other than in accordance with this Agreement, or any amount of the Funds is additional to the requirements of the Activity (including where the Grantee is unable to hold or deliver an Australia Day event due to COVID restrictions), the Grantee must repay that amount to the NADC unless the NADC agrees otherwise.
- (c) If the NADC issues a notice under this Agreement requiring the Grantee to repay any of the Funds:
- (i) the Grantee must do so within the time period specified in the notice;
 - (ii) the Grantee must pay interest on any part of the amount that is outstanding at the end of the time period specified in the notice until the outstanding amount is repaid in full; and
 - (iii) the NADC may recover the amount and any interest under this Agreement as a debt due to the NADC without further proof of the debt being required.

8. Record keeping

- (a) The Grantee agrees to maintain records of expenditure of the Funds and any Other Contributions.
- (b) The Grantee agrees to exercise and maintain proper accounting standards and controls in respect of the Funds.
- (c) If requested by the NADC, the Grantee agrees to provide the NADC or any persons authorised by the NADC, with access

to the Grantee's premises, personnel, documents and other records, and all assistance reasonably requested, to enable the NADC or those persons to verify that Funds have been spent only for the purposes of undertaking the Activity.

9. Reporting

The Grantee agrees to provide the reports and other material specified in item 9 of the Agreement Details to the NADC.

10. Relationship between the Parties

A Party is not by virtue of this Agreement the employee, agent or partner of the other Party and is not authorised to bind or represent the other Party.

11. Subcontracting

The Grantee is responsible for the performance of its obligations under this Agreement, including in relation to any tasks undertaken by subcontractors.

12. Intellectual Property

- (a) This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material, the Australia Day Logo, or the Australia Day Designs.
- (b) Intellectual Property Rights in the Agreement Material vest in the Grantee on creation.
- (c) The Grantee grants to, and must ensure all third parties holding Intellectual Property Rights in the Reports grant to the NADC, a perpetual, non-exclusive, irrevocable, royalty-free and licence fee-free licence (including a right of sub-license) to use, reproduce, adapt, modify, communicate, broadcast, distribute, publish and disseminate the Reports for the purposes of the NADC or Commonwealth purposes.
- (d) The Grantee grants to, and must ensure all third parties holding Intellectual Property Rights in the Agreement Material (other than the Reports) grant to the NADC, a perpetual, non-exclusive, irrevocable, royalty-free and licence fee-free licence (including a right of sub-license) to use, reproduce, adapt, modify, communicate, broadcast, distribute, publish and disseminate that Agreement Material for the purpose of the Program and any other purpose connected with the operation of this Agreement.
- (e) The NADC grants to the Grantee a non-exclusive, royalty-free licence to use, reproduce and distribute the Australia Day Designs and the Australia Day Logo for the purpose of the Grantee's Australia Day 2021 event/s.

13. Privacy

- (a) When dealing with Personal Information in carrying out the Activity, the Grantee agrees:
- (i) to comply with the requirements of the *Privacy Act 1988* (Cth); and
 - (ii) not to do anything which, if done by the NADC, would be a breach of an Australian Privacy Principle under the *Privacy Act 1988* (Cth).
- (b) The Grantee must notify the NADC in writing of any breach or possible breach of this clause 13.

14. Confidentiality

- (a) Confidential Information means:
- (i) information that the Grantee knows, or ought to know is confidential; or
 - (ii) is notified by the NADC to the Grantee in writing.
- (b) The Grantee agrees not to disclose the Confidential Information without prior written consent from the NADC unless required by law or Parliament.

15. Conflict of interest

Other than those which have already been disclosed to the NADC, the Grantee warrants that, to the best of its knowledge, at the date of this Agreement neither it nor its officers have any actual, perceived or potential conflicts of interest in relation the Activity.

16. Insurance

The Grantee agrees to have and maintain:

- (a) the insurances specified in item 10 of the Agreement Details for the duration of this Agreement and to provide the NADC with proof, to the satisfaction of the NADC, on request; and
- (b) public liability insurance, in the amount set out at item 10 of the Agreement Details for a period of at least 7 years following the Grantee's Australia Day 2021 event/s.

17. Indemnities

The Grantee indemnifies the NADC, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.

18. Notices

- (a) A notice under this Agreement must be in writing and addressed to the other Party's representative as specified in item 1 or 2 (as applicable) of the Agreement Details or as most recently updated by notice given in accordance with this clause.
- (b) A notice is deemed to be effected:
 - (i) if delivered by hand - upon delivery to the relevant address;
 - (ii) if sent by post - upon delivery to the relevant address; or
 - (iii) if transmitted electronically - upon actual receipt by the addressee.
- (c) A notice received after 5.00 pm, or on a day that is a Saturday, Sunday or public holiday, in the place of receipt, is deemed to be effected on the next day that is not a Saturday, Sunday or public holiday in that place.

19. Dispute Resolution

- (a) The Parties agree not to initiate legal proceedings in relation to a dispute unless they have tried and failed to resolve the dispute by negotiation.
- (b) The Grantee agrees to continue to perform its obligations under this Agreement where a dispute exists.
- (c) The procedure for dispute resolution does not apply to action relating to termination or urgent interlocutory relief.

20. Termination for default

- (a) The NADC may terminate this Agreement by notice where the Grantee has:
 - (i) breached this Agreement and the NADC considers the breach cannot be rectified;

- (ii) breached this Agreement and the Grantee does not rectify the breach within 10 business days after the NADC gives notice;
 - (iii) provided false or misleading statements in relation to the Funds; or
 - (iv) becomes bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration.
- (b) The Grantee agrees, on receipt of a notice under this clause to report on, and return any part of, the Funds to the NADC, or otherwise deal with the Funds, as directed by the NADC.

21. Termination for convenience

- (a) Without limiting the NADC's rights or remedies under or in connection with this Agreement, the NADC may terminate or reduce the scope of this Agreement by written notice.
- (b) The Grantee agrees on receipt of a notice of termination or reduction under this clause to:
 - (i) take all available steps to minimise loss resulting from that termination or reduction; and
 - (ii) in the case of a reduction in scope, continue to undertake any part of the Activity not affected by the notice.
- (c) If this Agreement is terminated under this clause 21, the NADC is liable only for:
 - (i) payment of any part of the Funds due and owing to the Grantee under this Agreement at the date of the notice; and
 - (ii) reimbursement of reasonable expenses the Grantee unavoidably incurs that relate directly to the termination and are not covered by clause 21(c)(i), provided the Grantee has otherwise complied with this Agreement.
- (d) The NADC is not liable to pay any amount under this clause 21 which would, in addition to any amounts paid or due, or becoming due, exceed the total amount of the Funds specified in item 6 of the Agreement Details.

22. Variation

This Agreement may only be varied in writing, signed by both Parties.

Signing page

EXECUTED as an agreement.

Signed for and on behalf of the **National Australia Day Council Limited** by its duly authorised delegate in the presence of

Signature of witness

Signature of delegate

Name of witness (print)

Name of delegate (print)

Date

Position of delegate (print)

Signed for and on behalf of [*insert full name of relevant entity, including ABN*] by its duly authorised representative/delegate in the presence of

Signature of witness

Signature of delegate

Name of witness (print)

Name of delegate (print)

Date

Position of delegate (print)

Annexure 1 – Australia Day Branding Guidelines

Sample

Annexure 2 – Australia Day Event Kit Brand Guide

Sample