

**From:** s47F  
**To:** Bartholomew, Ian; s47F  
**Cc:** Huey, Andrew  
**Subject:** Australian Indigenous Governance Institute [SEC=OFFICIAL]  
**Date:** Friday, 25 February 2022 7:56:44 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)

---

OFFICIAL

Hi Ian and s47F

FYI. AIGI are a member of the advisory group that informed the Strengthening Organisational Governance (SOG) Policy evaluation. They made contact with me this week (they have a new Head – s47F ). As well as discussing the SOG evaluation they talked to their broader priorities and are interested in developments (common ground/opportunities) on the CtG and CATSI fronts.

Regards

s47F

PS Nice folk keen to establish/re-establish productive relationships

---

**From:** s47F  
**Sent:** Thursday, 24 February 2022 4:57 PM  
**To:** s47F ; AIGI ; s47F  
**Subject:** RE: Catch-up and connections [SEC=OFFICIAL]

Hi s47F

Thank you for coming back to us so quickly, and for sharing the final report. We will keep this confidential until it is published.

Thank you also for those other contacts in your department. We will reach out to them.

Kind regards,

s47F

**Executive Manager (Research and Advocacy)**

Australian Indigenous Governance Institute

M : s47F | E: s47F [@aigi.com.au](mailto:s47F@aigi.com.au) | W: [www.aigi.com.au](http://www.aigi.com.au)

Address: 8/107 Miles Platting Road, Eight Mile Plains, QLD, 4113

Postal: PO BOX 4788, Eight Mile Plains, QLD, 4113



The Australian Indigenous Governance Institute acknowledges the Traditional Owners of all lands for which we live and work. We honour and celebrate their Elders past and present. This message is intended for the addressee and may contain confidential or legally privileged information. If you are not the intended recipient, any use, disclosure or copying of this email is unauthorised. Please delete it and notify the sender.

---

**From:** s47F [@niaa.gov.au](mailto:s47F@niaa.gov.au)>  
**Sent:** Thursday, 24 February 2022 2:18 PM  
**To:** AIGI <[AIGITeam@aigi.com.au](mailto:AIGITeam@aigi.com.au)>; s47F [@aigi.com.au](mailto:s47F@aigi.com.au)>; s47F [@aigi.com.au](mailto:s47F@aigi.com.au)>  
**Subject:** Catch-up and connections [SEC=OFFICIAL]

OFFICIAL

Released under the FOI Act  
 by the National Indigenous Australians Agency

Hi Folks

Great to catch-up to discuss progress with the SOG Policy evaluation and broader NIAA/AIGI priorities and common ground.

1. Please see attached the draft final SOG evaluation (not for distribution outside AIGI until NIAA has finalised its management response and approved a publication date).
2. Closing the Gap Branch – Branch Manager, Ian Bartholomew  
[ian.Bartholomew@niaa.gov.au](mailto:ian.Bartholomew@niaa.gov.au)
3. CATSI Act – review and changes – s47F [redacted] [@niaa.gov.au](mailto:[redacted]@niaa.gov.au)

Regards

s47F  
[redacted]

Grant Design Team | Grant Design Branch | Program Performance Delivery Group  
National Indigenous Australians Agency

p. s47F [redacted] m. s47F [redacted]

Charles Perkins House 16 Bowes Place Phillip ACT 2606 | PO Box 6500 CANBERRA ACT 2600

w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



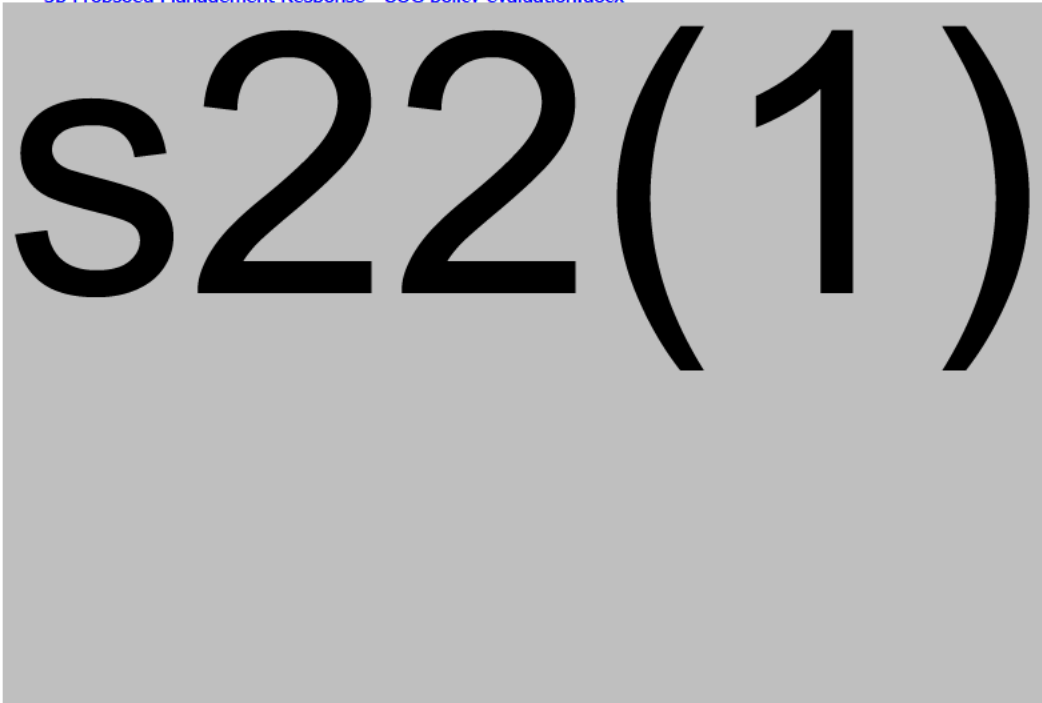
---

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

Released under the FOI Act  
by the National Indigenous Australians Agency

**From:** NIAA Secretariat and Coordination (Protected)  
**To:** Khan, Vance (Protected); Jackson, Rachael (Protected); Hartmann, Jessica (Protected); Alcantara, Lauren (Protected); s47F (Protected); Huey, Andrew (Protected); s47F (Protected); Elliott, Kate (Protected); Hievez, Justine (Protected); White, Sam (Protected); Creagh, Nicholas (Protected); Clough, Sarah (Protected); s47F (Protected); s47F (Protected)  
**Cc:** NIAA Secretariat and Coordination (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected); s47F (Protected)  
**Subject:** Program Performance Committee 10 March papers [SEC=OFFICIAL]  
**Date:** Thursday, 3 March 2022 2:31:35 PM  
**Attachments:** [image002.png](#)  
[image004.png](#)  
[image006.png](#)  
[image008.png](#)  
[image010.png](#)  
[3a SOG Evaluation Report.pdf](#)  
[3b Propsoed Management Response - SOG policv evaluation.docx](#)



---

**OFFICIAL**

Hi all,

Please find attached the papers for the 10 March 2022 Program Performance Committee meeting.

Please note, I have attached a full PDF pack for those that wish to use it electronically in that format.

Regards

s47F

Secretariat and Coordination | Governance and Business Services Branch | Corporate Group  
National Indigenous Australians Agency  
p. s47F m. s47F  
Charles Perkins House 16 Bowes Place Phillip ACT 2606  
PO Box 2191 ACT 2601  
w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)

Released under the FOI Act  
by the National Indigenous Australians Agency

**From:** [NIAA Secretariat and Coordination \(Protected\)](#)

**To:** [Khan, Vance \(Protected\); Hartmann, Jessica \(Protected\); Alcantara, Lauren \(Protected\); s47F \(Protected\); Huey, Andrew \(Protected\); s47F \(Protected\); Elliott, Kate \(Protected\); Hevez, Justine \(Protected\); White, Sam \(Protected\); Creagh, Nicholas \(Protected\); Clough, Sarah \(Protected\)](#)

**Cc:** [s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); s47F \(Protected\); NIAA Secretariat and Coordination \(Protected\)](#)

**Subject:** PPC OOS Item: Management Response to the evaluation of the Strengthening Organisational Governance policy [SEC=OFFICIAL]

**Date:** Monday, 28 March 2022 2:55:56 PM

**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[OOS - Mgt Response to the evaluation of the Strengthening Organisational Governance policy.pdf](#)  
[OOS - Attachment A - SOG Evaluation Report.pdf](#)  
[OOS - Attachment B - SOG Policy Evaluation - Propsoed Management Response.pdf](#)

**OFFICIAL**

Dear Committee Members,

Please find attached for your consideration out-of-session the following PPC item: **Management Response to the evaluation of the Strengthening Organisational Governance policy.**

It is requested that the Program Performance Committee:

- a. **Note** the evaluation of the SOG policy
- b. **Endorse** the Management Response to the evaluation report recommendations and agree to refer the report and response to the Program Delivery Committee.

Can you please email through your response to the Secretariat **by Tuesday, 5 April 2022.**

Kind regards,

s47F

s47F | Adviser

NIAA Secretariat & Coordination | Governance & Business Services  
National Indigenous Australians Agency

 s47F | ex s47F | m. s47F

 s47F | [@niaa.gov.au](mailto:s47F@niaa.gov.au) | [niaa.gov.au](http://niaa.gov.au) | [indigenous.gov.au](http://indigenous.gov.au)

Charles Perkins House 16 Bowes Place Phillip ACT 2606 | CANBERRA ACT

s47F



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



Released under the FOI Act by the National Indigenous Australians Agency



OFFICIAL

## Out-of-session | Management Response to the evaluation of the Strengthening Organisational Governance policy

### Program Performance Delivery Group

#### Purpose of Discussion:

To note the findings of the evaluation of the Strengthening Organisational Governance (SOG) policy and endorse the Agency's Management Response.

#### Committee Action Required:

That the Program Performance Committee:

- a. Note the evaluation of the SOG policy
- b. Endorse the Management Response to the evaluation report recommendations and agree to refer the report and response to the Program Delivery Committee.

#### Key Issues:

1. In 2020 the Agency engaged PricewaterhouseCoopers Indigenous Consulting to conduct an evaluation of the SOG policy. The final report was accepted by the Agency in December 2021 ([Attachment A](#)) and a Management Response has been prepared ([Attachment B](#)).
2. The SOG policy mandates that grantees receiving over \$500,000 (GST exclusive) from the Agency in a single financial year must incorporate under Commonwealth legislation. Indigenous organisations must incorporate under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, with all other organisations required to incorporate under the *Corporations Act 2001*.
  - a. Exemptions to the policy may be approved by the Minister. The criteria for exemption are that the organisation demonstrates that IAS funding is a small proportion of total revenue (meaning that changing statute would be disproportionately burdensome); or that the organisation must maintain current incorporation to meet licensing requirements or conditions from other funding agencies.
3. The SOG policy has been in place since the inception of the Indigenous Advancement Strategy (IAS) in 2014 and was not previously evaluated.

#### Evaluation findings

4. The evaluation was undertaken to examine to what extent the SOG policy had achieved its stated objective to safeguard against service delivery and/or organisational failure. This involved assessing the appropriateness, effectiveness and efficiency of the SOG policy.
5. At a high level, the evaluation found that:
  - a. The policy in its current form has been limited in its effectiveness, with little evidence that organisations affected by the SOG policy have improved governance or capacity.
  - b. There are cultural appropriateness issues around the lack of self-determination afforded to Indigenous organisations in choosing their incorporation statute.

Released under the FOI Act by the National Indigenous Australians Agency

- c. "Good governance" is more complex than is currently recognised in the design of the policy, including how to reflect Indigenous cultural governance practices.

**Evaluation recommendations**

- 6. The evaluation report contains three recommendations, as well as three broader opportunities (outside the direct scope of the evaluation). The recommendations and the Agency's proposed response are as follows:

**Recommendation 1:** Consider amending the SOG policy to take a more targeted approach, including undertaking a co-design process with IAS funded organisations.

s47C, s47E(d)

**Recommendation 2:** Narrow the exemption framework to only retain the exemption for organisations that are able to identify and demonstrate that the SOG policy unfairly imposes additional requirements on its business model.

s47C, s47E(d)

**Recommendation 3:** Fund additional governance and compliance costs incurred by in-scope organisations.

s47C, s47E(d)

Released under the FOI Act  
by the National Indigenous Australians Agency

**Sensitivities:**

- 7. A failure to publically release and respond to the evaluation within a reasonable timeframe may raise concerns from stakeholders about the findings of the evaluation, especially those who participated in the process.

**Risks:**

- 8. The report's finding that the SOG policy in its current form has been limited in its effectiveness, with little evidence that organisations affected by the SOG policy have improved governance or capacity may present reputational risks for the Agency. The evaluation's inability to unequivocally answer the key question of the extent to which the SOG policy had achieved its stated objective to safeguard against service delivery and/or organisational failure may raise concerns around the use of public resources to complete the evaluation and continued value of implementing the policy. s47C, s47E(d)

# s47C, s47E(d)

## Next steps:

- Following PPC endorsement, the management response will be reviewed by the Policy and Delivery Committee. The Minister will be briefed on the evaluation and management response prior to its public release.

## Attachments:

- Attachment A – Evaluation of the Strengthening Organisational Governance Policy – Final Evaluation Report
- Attachment B – Management Response to the Strengthening Organisational Governance Policy Evaluation

## Cascade Note:

### s47C, s47E(d)

s47C, s47E(d) The evaluation recommendations will be considered by the Agency to ensure the SOG policy is fit for purpose and aligns with actions being progressed as part of implementing the National Agreement on Closing the Gap.

## Contact Officer:

Name: Andrew Huey  
 Branch: Grant Design  
 Email: andrew.huey@niaa.gov.au  
 Phone: 02 6152 3269

## Consultation Record:

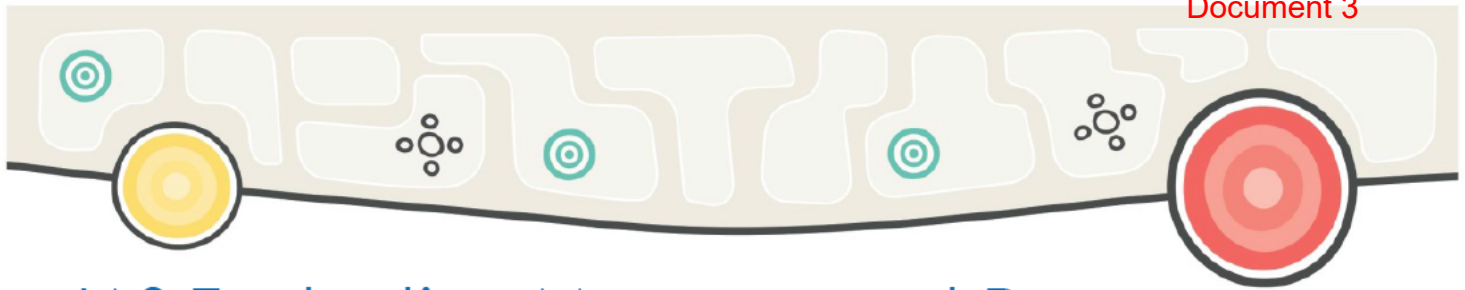
Details of who was consulted (Name/Group/position/level)	Date	Comments received
The brief, management response and final evaluation report was endorsed by the Branch Manager, Policy Analysis and Evaluation and approved by the Group Manager, PPDG in February 2022.	February 2022	Endorsed by the Policy Analysis and Evaluation Branch.
The evaluation was guided by an Evaluation Strategy that was developed in consultation with PIC and the Evaluation Advisory Group (EAG) and the Indigenous Evaluation Committee (IEC).	Ongoing input from EAG over the life of the project	EAG and IEC provided ongoing input into the evaluation report, including advice to PIC on draft findings and recommendations.
Issues/feedback raised and response: The purpose of this section is threefold – (i) to demonstrate this advice has been contested; (ii) to provide visibility of the issues/risks and alternate options proposed as a result of the consultation process; and (iii) to show how these have been considered in the development of the advice.		
Please refer to Attachment B – IAS Evaluation Management Response Strengthening Organisational Governance Policy Evaluation.		

Released under the FOI Act by the National Indigenous Australians Agency

There were varied levels of understanding of the policy among those consulted, and significant time has elapsed since the design of the policy, which limited stakeholder input and commentary. Undertaking further analysis and adopting a co-design process with key stakeholders to develop proposed options for amendments to the SOG policy would clarify policy intent and scope for change.

The evaluation findings are timely and will inform the future direction of the SOG policy and assist in determining whether the Indigenous grants sector is sufficiently supported to respond to the increasing demand for the services of Indigenous organisations, especially in responding to the National Agreement on Closing the Gap – Priority Reforms.





# IAS Evaluation Management Response Strengthening Organisational Governance Policy Evaluation

<b>Program Name</b>	<b>Program Performance Delivery Group</b>
<b>Responsible Branch</b>	<b>Grant Design</b>
<b>Contact name</b>	<b>Andrew Huey</b>

## Program/policy Summary

The Strengthening Organisational Governance (SOG) policy has applied since the inception of the Indigenous Advancement Strategy (IAS) in 2014. The stated objective of the SOG policy is to mitigate against service loss or gaps, caused by the mismanagement of public funds or by organisational failure. The policy aims to achieve this objective by mandating incorporation requirements on IAS funded organisations receiving a higher value of funding (defined as over \$500,000 excluding GST) in IAS funding in any single financial year (noting that grants for capital works projects are not counted towards the funding threshold).

Under the SOG policy, Indigenous organisations must incorporate under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). This requirement reflects the high level of support available to these organisations through the Office of the Registrar of Indigenous Corporations (ORIC). All other organisations must incorporate under the *Corporations Act 2001* (Corporations Act).

Exemptions to the SOG policy are automatically applied to organisations already incorporated under Commonwealth legislation. Exemptions can also be applied where IAS funding represents a small proportion of an organisations total revenue or where entities are required to maintain incorporation under State/Territory legislation to comply with licensing or other funding requirements.

The SOG policy is based on the assumption that organisations that are regulated by Commonwealth legislation are better governed, resulting in the delivery of high-quality services that improve outcomes for Indigenous Australians.

## Evaluation summary

In February 2020 the National Indigenous Australians Agency (the Agency) commissioned PricewaterhouseCoopers Indigenous Consulting (PIC) to conduct an evaluation of the SOG policy (the evaluation). The purpose of the Evaluation was to assess to what extent the SOG policy is achieving its stated objective to safeguard against service delivery and organisational failure. Specifically, the:

- extent to which incorporation under Commonwealth legislation improves organisations' capacity for service delivery and mitigates the risk of service failure

- appropriateness of the parameters of the SOG policy in determining which organisations are required to comply for achieving the objectives of mitigating against service loss or gaps
- appropriateness of measures to support transition for organisations that are required to change their incorporation statute under the SOG policy.

Conditional ethics approval for the evaluation was received in May 2020 from the Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS) Human Research Ethics Committee. Full ethics approval was granted on 8 June 2021.

The evaluation was overseen by an Evaluation Advisory Group (EAG) which consisted of members from the Agency, the Office of the Registrar of Indigenous Corporations and the Australian Indigenous Governance Institute. It was guided by an Evaluation Strategy (including evaluation domains, questions, approaches, policy logic and data collection methods) developed by the Agency and PIC in collaboration with the EAG and the Indigenous Evaluation Committee.

The evaluation focused on the experience of organisations who have been directly impacted by the SOG policy including organisations: required to transition their incorporation statute; granted an exemption; or who were applying from an exemption. It also examined, at a high level, the potential unintended impacts of the SOG policy on all IAS grant recipients.

A combination of quantitative and qualitative methods were used to gather evidence, including:

- Desktop review / literature scan: This included Australian National Audit Office performance audits, Joint Committee of Public Accounts and Audit reports; policy briefings to relevant Ministers, Senate Inquiry submissions; independent analyses (Australian Human Rights Commission) and good governance literature.
- Data analysis: Agency administrative and grants data.
- Online survey: Distributed (by the Agency) to 433 IAS grantees identified as receiving \$500,000 or more of IAS funding. A total of 121 consented responses were received.
- Regulator consultations: Phone interviews and/or written submissions from ORIC, Australian Securities and Investments Commission (ASIC), Australian Indigenous Governance Institute (AIGI) and state and territory regulators in New South Wales (NSW Fair Trading) and the Northern Territory (Licensing NT).
- Agency consultations: Video conference interviews with three staff focus groups – regional offices, program areas, and policy staff.
- SOG impacted organisation consultations: Video conference interviews with four IAS funded organisations nationally, two of whom have transferred incorporation to Commonwealth legislation and two that have had exemptions granted.

The evaluation covers the period since the policy was formally introduced in July 2014 to June 2021.

Draft reports were provided in August, October and November with the Final Evaluation Report accepted by the Agency in December 2021. The full report is expected to be publically released.

### Summary of Key Findings

At a high level, the evaluation found that:

- a. The policy in its current form has been limited in its effectiveness, with little evidence that organisations affected by SOG have improved governance or capacity.
- b. There are cultural appropriateness issues around the lack of self-determination afforded to Indigenous organisations in choosing their incorporation statute.
- c. "Good governance" is more complex than is currently recognised in the design of the SOG policy, including how to reflect Indigenous cultural governance practices.

### Evaluation Recommendations

The evaluation report contains three recommendations. Any proposed changes to the SOG policy would require the consideration of Government. The recommendations and the Agency's proposed approach are outlined in the following.

#### **Recommendation 1: Consider amending the SOG policy to take a more targeted approach, including undertaking a co-design process with IAS funded organisations.**

The NIAA should amend the SOG policy to take a targeted approach to determining in-scope organisations, which moves beyond a funding threshold and considers more holistic factors, where known, such as:

- organisation's NIAA reporting history and its Organisational Risk Profile rating;
- organisation's governance history; and/or
- proportion of the organisation's total revenue that IAS funding accounts for.

To balance the targeted approach, the NIAA may consider applying a risk-based approach by reducing the funding threshold for the SOG policy where an organisation is unable to demonstrate sound governance and financial management.

s47C, s47E(d)

The Agency recognises the importance of good governance in ensuring the delivery of high quality services that improve outcomes for Indigenous Australians. Good governance is about:

- performance – how governance arrangements are used to contribute to overall performance and the delivery of goods, services or programs, and
- conformance – how governance arrangements are used to ensure requirements of the law, regulations, published standards and community expectations of probity, accountability and openness are met.



Funded organisations should show good governance by demonstrating they are answerable for their plans, decisions, actions and results. This should include demonstrating the organisation has policies and procedures in place that support effective and efficient governance and accountability.

# s47C, s47E(d)

**Recommendation 2: Narrow the exemption framework**

On the basis that Recommendation 1 is implemented in full, it is recommended the exemption framework is narrowed to only retain the exemption for organisations that are able to identify and demonstrate that the SOG policy unfairly imposes additional requirements on its business model.

s47C, s47E(d)

Incorporation under Commonwealth legislation may impose some additional requirements on funded organisations. However, where additional requirements may exist these are designed to be for the benefit of the corporation and members. For example, the CATSI Act supports corporations by promoting high standards of corporate governance and financial management. The CATSI Act also provides regulatory tools for assisting corporations in distress, such as special administration provisions. Such arrangements do not exist under the Corporations Act or State and Territory regulatory frameworks.

Another unique requirement to the CATSI Act is that CATSI corporations must have constitutions (known as rule books) that form part of the internal governance rules for how they should operate. Rule books are designed to support the successful operations of a corporation by guiding how a corporation works. Rule books in effect are a contract between the members and directors of a corporation.

The CATSI Act also outlines governance standards designed to meet the needs of Aboriginal and Torres Strait Islander people. For example, requiring that the majority of a corporation's directors and members are Aboriginal and Torres Strait Islander people to ensure that corporations are Indigenous controlled.

Released under the FOI Act by the National Indigenous Australians Agency

### Recommendation 3: Fund additional governance and compliance costs incurred by in-scope organisations.

In addition to the \$10,000 transition funding made available to organisations who are required to transition to a Commonwealth incorporation statute, IAS funded organisations incorporated under the Corporations Act or the CATSI Act may incur additional ongoing compliance expenses. s47C, s47E(d)

s47C, s47E(d)

Building the community-controlled sector is a Priority Reform under the National Agreement on Closing the Gap.

s47C, s47E(d)

The Partnership on Closing the Gap, which includes all jurisdictions and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations, has also nominated sectors for dedicated effort through Sector Strengthening Plans. The Sector Strengthening Plans include four elements: workforce; capital infrastructure; service provision; and governance. To date, the Closing the Gap Partnership has been developing Sector Strengthening Plans for the early childhood care and development; housing; health; and disability sectors.

The Closing the Gap Priority Reforms require the Commonwealth to change 'business as usual' and create systemic changes. In the context of the Priority Reforms, this will require reviewing and implementing policies that will support capability for community-controlled organisations.

s47C, s47E(d)

### Summary of strengths and limitations of the Evaluation

#### Strengths

The Evaluation findings are timely and will inform a future review of the SOG policy.

#### Limitations of the Evaluation

The following limitations affected the findings of the Evaluation:

- the array of factors that contribute to an organisation's governance means that it was challenging to attribute changes that occurred as a result of the SOG policy
- there were varied levels of understanding of the policy among those consulted
- significant time has elapsed since the design of the policy, which limited stakeholder input and commentary.



**Summary of delegate response to evaluation recommendations**

- The Evaluation findings and recommendations are timely and will inform the future direction of the SOG policy.

- A key consideration going forward is determining whether the sector more broadly is sufficiently supported to respond to the increasing demand for services.
- s47C, s47E(d)

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

Released under the FOI Act  
by the National Indigenous Australians Agency

Agency response to the recommendations made in the Final Evaluation Report

Recommendations	Delegate agreement	Actions	Who is Responsible	Target completion date	Status	Status comments	Likelihood of not being implemented on time*	Consequence of not being implemented on time*	Overall risk of not being implemented on time
<p><b>Recommendation 1:</b> Consider amending the SOG policy to take a more targeted approach, including undertaking a co-design process with IAS funded organisations</p>	<p>s47C, s47E(d)</p>								
<p><b>Recommendation 2:</b> Narrow the exemption framework to only retain the exemption for organisations that are able to identify and demonstrate that the SOG policy unfairly imposes additional requirements on its business model</p>									
<p><b>Recommendation 3:</b> Fund additional governance and compliance costs incurred by in-scope organisations</p>									

Released under the FOI Act by the National Indigenous Australians Agency

**From:** [NIAA Secretariat and Coordination \(Protected\)](#)

**To:** [Hope, Letitia \(Protected\)](#); [Willmet, Robert](#); [Khan, Vance \(Protected\)](#); [Jeffries, Sam \(Protected\)](#); [Collard, Jennifer \(Protected\)](#); [Burdon, Ben \(Protected\)](#); [Brahim, Kevin \(Protected\)](#); [Jackson, Rachael \(Protected\)](#); [Guivarra, Julie-Ann \(Protected\)](#); [Creagh, Nicholas \(Protected\)](#); [Walker, John \(Protected\)](#); [Kelly, Andrea \(Protected\)](#); [Exell, Blair \(Protected\)](#); [Fulton, Deborah \(Protected\)](#)

**Cc:** [NIAA Secretariat and Coordination \(Protected\)](#); [s47F \(Protected\)](#); [s47F](#) ; [s47F](#) ; [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#); [s47F \(Protected\)](#)

**Subject:** Policy and Delivery Committee 28 April papers [SEC=OFFICIAL]

**Date:** Friday, 22 April 2022 3:03:23 PM

**Attachments:** [image011.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.png](#)  
[00.PDC 28 April 2022 Full Pack.pdf](#)

**OFFICIAL**

Hi all,

Apologies, a duplication error was found in the full pack previously sent. Please disregard that pack if you are using it electronically and use the updated pack attached.

Regards

s47F

Secretariat and Coordination | Governance and Business Services Branch | Corporate Group  
 National Indigenous Australians Agency  
 p. s47F m. s47F  
 Charles Perkins House 16 Bowes Place Phillip ACT 2606  
 PO Box 2191 ACT 2601  
 w. [niaa.gov.au](#) w. [indigenous.gov.au](#)



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



Released under the FOI Act  
by the National Indigenous Australians Agency



From: [NIAA Secretariat and Coordination \(Protected\)](#)  
 To: s47F (Protected); s47F ; s47F ; s47F s47F (Protected);  
 s47F (Protected); s47F ; s47F (Protected); s47F  
 (Protected); s47F (Protected) s47F (Protected); s47F (Protected) s47F  
 s47F (Protected); s47F (Protected); s47F (Protected); s47F ; s47F  
 (Protected); s47F (Protected); s47F (Protected); s47F (Protected)  
 Cc: [NIAA Secretariat and Coordination \(Protected\)](#)  
 Subject: Individual papers - Policy and Delivery Committee 3 May 2022 [SEC=OFFICIAL:Sensitive]  
 Date: Friday, 29 April 2022 2:12:26 PM  
 Attachments: [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)

s22(1)

[2 Management Response to the evaluation of the Strengthening Organisational Governance policy.pdf](#)  
[2\(a\) Attachment A - SOG Evaluation Report - Final 15 Dec 2021.pdf](#)  
[2\(b\) Attachment B - SOG Policy Evaluation - Proposed Management Response.pdf](#)

s22(1)

**OFFICIAL: Sensitive**

Hi all,

Please find attached the individual papers for those using OneNote for the PDC mtg on Tuesday.

s22(1)

- 2 - Management Response to the evaluation of the Strengthening Organisational Governance (SOG) policy
- 2a – Attachment A – SOG Evaluation Report – Final 15 Dec 2021
- 2b – Attachment B – SOG Policy Evaluation – Proposed Management Response

s22(1)

Released under the FOI Act  
by the National Indigenous Australians Agency

# s22(1)

Thanks,

s47F

s47F | Adviser

NIAA Secretariat & Coordination | Governance & Business Services  
National Indigenous Australians Agency

☎ s47F | ex s47F | m s47F

✉ s47F @niaa.gov.au | 🌐 niaa.gov.au | indigenous.gov.au

Charles Perkins House 16 Bowes Place Phillip ACT 2606 | CANBERRA ACT

s47F



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



Released under the FOI Act  
by the National Indigenous Australians Agency



OFFICIAL

## 2 | Management Response to the evaluation of the Strengthening Organisational Governance policy

### Vance Khan | Program Performance Delivery Group

#### Purpose of Discussion:

To note the findings of the evaluation of the Strengthening Organisational Governance (SOG) policy and endorse the Agency's Management Response.

#### Action Required:

That the Policy and Delivery Committee:

- a. NOTE the evaluation of the SOG policy
- b. ENDORSE the Management Response to the evaluation report recommendations and agree to refer the report and response to the Program Delivery Committee.

#### Key Issues:

1. In 2020 the Agency engaged PricewaterhouseCoopers Indigenous Consulting to conduct an evaluation of the SOG policy. The final report was accepted by the Agency in December 2021 ([Attachment A](#)) and a Management Response has been prepared ([Attachment B](#)).
2. The SOG policy mandates that grantees receiving over \$500,000 (GST exclusive) from the Agency in a single financial year must incorporate under Commonwealth legislation. Indigenous organisations must incorporate under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, with all other organisations required to incorporate under the *Corporations Act 2001*.
  - a. Exemptions to the policy may be approved by the Minister. The criteria for exemption are that the organisation demonstrates that IAS funding is a small proportion of total revenue (meaning that changing statute would be disproportionately burdensome); or that the organisation must maintain current incorporation to meet licensing requirements or conditions from other funding agencies.
3. The SOG policy has been in place since the inception of the Indigenous Advancement Strategy (IAS) in 2014 and was not previously evaluated.

#### Evaluation findings

4. The evaluation was undertaken to examine to what extent the SOG policy had achieved its stated objective to safeguard against service delivery and/or organisational failure. This involved assessing the appropriateness, effectiveness and efficiency of the SOG policy.
5. At a high level, the evaluation found that:
  - a. The policy in its current form has been limited in its effectiveness, with little evidence that organisations affected by the SOG policy have improved governance or capacity.
  - b. There are cultural appropriateness issues around the lack of self-determination afforded to Indigenous organisations in choosing their incorporation statute.

Released under the FOI Act  
by the National Indigenous Australians Agency

- c. "Good governance" is more complex than is currently recognised in the design of the policy, including how to reflect Indigenous cultural governance practices.

**Evaluation recommendations**

- 6. The evaluation report contains three recommendations, as well as three broader opportunities (outside the direct scope of the evaluation). The recommendations and the Agency's proposed response are as follows:

**Recommendation 1:** Consider amending the SOG policy to take a more targeted approach, including undertaking a co-design process with IAS funded organisations.

s47C, s47E(d)

**Recommendation 2:** Narrow the exemption framework to only retain the exemption for organisations that are able to identify and demonstrate that the SOG policy unfairly imposes additional requirements on its business model.

s47C, s47E(d)

**Recommendation 3:** Fund additional governance and compliance costs incurred by in-scope organisations.

s47C, s47E(d)

Released under the FOI Act by the National Indigenous Australians Agency

**Sensitivities:**

- 7. A failure to publically release and respond to the evaluation within a reasonable timeframe may raise concerns from stakeholders about the findings of the evaluation, especially those who participated in the process.

**Risks and Mitigations:**

- 8. The report's finding that the SOG policy in its current form has been limited in its effectiveness, with little evidence that organisations affected by the SOG policy have improved governance or capacity may present reputational risks for the Agency. The evaluation's inability to unequivocally answer the key question of the extent to which the SOG policy had achieved its stated objective to safeguard against service delivery and/or organisational failure may raise concerns around the use of public resources to complete the evaluation and continued value of implementing the policy. s47C, s47E(d)

# s47C, s47E(d)

## Next steps:

- Following the endorsement of the Policy and Delivery Committee, the Minister will be briefed on the evaluation and management response prior to its public release.

## Attachments:

Attachment A – Evaluation of the Strengthening Organisational Governance Policy – Final Evaluation Report

Attachment B – Management Response to the Strengthening Organisational Governance Policy Evaluation

## Brief Narrative for Publication on the Intranet:

s47C, s47E(d)

s47C, s47E(d) The evaluation recommendations will be considered by the Agency to ensure the SOG policy is fit for purpose and aligns with actions being progressed as part of implementing the National Agreement on Closing the Gap.

## Contact Officer:

Name: Andrew Huey  
 Branch: Grant Design  
 Email: andrew.huey@niaa.gov.au  
 Phone: 02 6152 3269

## Consultation Record:

Details of who was consulted (Name/Group/position/level)	Date	Comments received
The Program Performance Committee noted the SOG policy evaluation final report and endorsed the management response out of session.	5 April 2022	No changes requested.
The brief, management response and final evaluation report was endorsed by the Branch Manager, Policy Analysis and Evaluation and approved by the Group Manager, PPDG in February 2022.  The evaluation was guided by an Evaluation Strategy that was developed in consultation with PIC and the Evaluation Advisory Group (EAG) and the Indigenous Evaluation Committee (IEC).	February 2022  Ongoing input from EAG over the like of the project	Endorsed by the Policy Analysis and Evaluation Branch.  EAG and IEC provided ongoing input into the evaluation report, including advice to PIC on draft findings and recommendations.
Issues/feedback raised and response: The purpose of this section is threefold – (i) to demonstrate this advice has been contested; (ii) to provide visibility of the issues/risks and alternate options proposed as a result of the consultation process; and (iii) to show how these have been considered in the development of the advice.		

Released under the FOI Act by the National Indigenous Australians Agency

Please refer to Attachment B – **IAS Evaluation Management Response Strengthening Organisational Governance Policy Evaluation.**

There were varied levels of understanding of the policy among those consulted, and significant time has elapsed since the design of the policy, which limited stakeholder input and commentary. Undertaking further analysis and adopting a co-design process with key stakeholders to develop proposed options for amendments to the SOG policy would clarify policy intent and scope for change.

The evaluation findings are timely and will inform the future direction of the SOG policy and assist in determining whether the Indigenous grants sector is sufficiently supported to respond to the increasing demand for the services of Indigenous organisations, especially in responding to the National Agreement on Closing the Gap – Priority Reforms.

**From:** [Huey, Andrew](#)  
**To:** [Guivarra, Julie-Ann](#)  
**Cc:** [Khan, Vance](#); s47F ; s47F ; [Bartholomew, Ian](#); s47F ; [Hartmann, Jessica](#)  
**Subject:** Input being sought by COB Wednesday 15 June 2022 - SOG Policy Evaluation [SEC=OFFICIAL]  
**Date:** Friday, 10 June 2022 1:58:45 PM  
**Attachments:** [MS22-000210 SOG Brief.docx](#)  
[Attach A - SOG Policy Evaluation Report.pdf](#)  
[Attach B - SOG Policy Evaluation Management Response.docx](#)

OFFICIAL

Good afternoon Julie-Ann

I am writing to touch base about the Strengthening Organisational Governance Policy evaluation response which was discussed at April’s PDC meeting (action item and details below).

I understand the Strategic Policy Group committed to provide additional feedback on the paper within the context of the broader work being done under Closing the Gap.

Please find attached a draft of the Ministerial brief and relevant attachments. If your team would like to discuss the brief or the SOG Evaluation please ask them to contact me or Mariya Vorona.

As we are intending to put the brief forward next week, if your area would like to provide additional input, could they send through any comments by **COB Wednesday 15 June 2022**.

Action Number	Date	Agenda Item	Action	Owner	Due Date	Status	Status update
PDC-2022-09	3/5	Management Response to the evaluation of the Strengthening Organisational Governance (SOG) policy	Prior to the Management response to the evaluation of the SOG policy being released, Members are asked to provide further feedback offline to the Branch Manager Grant Design and Group Manager Program Performance Delivery.	Committee Members / Vance Khan / Andrew Huey	30 May 2022	In progress	Additional feedback being sought from the Strategic Policy Group. Once received the formal response will be progressed to the Executive for clearance as part of briefing the Minister.

Kind regards, Andrew

Released under the FOI Act by the National Indigenous Australians Agency

From: s47F  
 To: [Khan, Vance](#)  
 Cc: [Clough, Sarah](#); [Huey, Andrew](#); s47F ; s47F ; s47F ; s47F ; s47F  
 Subject: FW: Draft email to Blair - s47C  
 EC=PROTECTED]  
 Date: Wednesday, 3 August 2022 10:10:02 AM  
 Attachments: [B14-1324 - Strengthening Organisational Governance \(Minister signed\).pdf](#)  
[C14-69516 Attachment A.pdf](#)  
[MS22-000210 - SFB - Strengthening Organisational Governance -SOG- Policy Evaluation.pdf](#)

**PROTECTED**

Hi Vance

Andrew Huey asked us to prepare advice for Blair on the Government’s Strengthening Organisational Governance (SOG) Policy. We understand that key individuals/orgs have raised concerns recently re the policy’s different incorporation requirements for First Nations and Non-First Nations orgs, so Blair s47C

Below is detailed advice for Blair s47C

This has been cleared through Sarah Clough. Happy to discuss if you have any questions.

Thanks

s47F

We are seeking your views on the proposed approach below, in relation to the Strengthening Organisational Governance (SOG) Policy.

Background

In 2014, then Prime Minister Tony Abbott approved implementation of the Strengthening Organisational Governance (SOG) Policy across the Indigenous Affairs, Attorney-General and Arts portfolios (with the Health portfolio given the option to implement at a later date), noting the Policy’s intent for First Nations organisations to be incorporated under CATSI Act (see attached).

The SOG policy continues to attract criticism from providers who feel First Nations organisations should not be required to incorporate under the CATSI Act, when non-First Nations organisations can incorporate under the Corporations Act.

The recent evaluation raised concerns regarding the SOG Policy’s effectiveness (it only impacts 1.5% of organisations receiving IAS funding since 2014) and the perceived lack of self-determination afforded to First Nations organisations to choose their incorporation status.

On 21 July 2022, Minister Burney noted the findings of the evaluation and the s47C, s47E(d)

Released under the FOI Act  
 by the National Indigenous Australians Agency



s47C, s47E(d) to review the evaluation findings and ensure the SOG Policy is fit for purpose (MS22-000210 refers). The Minister also noted that the NIAA would come back to her with options to revise the SOG Policy following this review and that the evaluation report would be publicly released in accordance with the NIAA IAS Evaluation Framework.

Recent analysis of IAS Grant Funding has identified 9 organisations (6 Indigenous, 3 non-Indigenous) that are currently required to incorporate under Commonwealth legislation under the SOG policy due to IAS funding.

Proposed approach

s47C, s47E(d)

Released under the FOI Act  
by the National Indigenous Australians Agency

From: [Khan, Vance](#)  
 To: [Exell, Blair](#)  
 Cc: s47F ; s47F ; [Clough, Sarah](#); [Huey, Andrew](#); s47F  
 Subject: s47C  
 [SEC=PROTECTED]  
 Date: Thursday, 4 August 2022 6:06:56 PM  
 Attachments: [image001.png](#)  
[image002.png](#)  
[B14-1324 - Strengthening Organisational Governance \(Minister signed\).pdf](#)  
[C14-69516 Attachment A.pdf](#)  
[MS22-000210 - SFB - Strengthening Organisational Governance -SOG- Policy Evaluation.pdf](#)

PROTECTED

Hi Blair

You were seeking advice on s47C

We understand that key individuals/orgs have raised concerns recently re the policy's different incorporation requirements for First Nations and Non-First Nations orgs. s47C

For distinction: the Corporations Act is more hands off while CATSI Act is more hands on.

- The CATSI Act provides additional regulatory assistance (e.g training, support to write rule book) but the key difference is that the ORIC Registrar can appoint examiners (to check books) and/or special administrators to prevent corporate failure – but this is often seen as more invasive.
- Other points of concern are that ORIC's reporting regime is seen as more onerous (but both the Corps Act and CATSI Act have different levels of reporting depending on size/nature of the company) and that ORIC has stronger powers to step in to protect members' interests.

We would appreciate your views on the proposed approach below, in relation to the SOG Policy.

Background

In 2014, then Prime Minister Tony Abbott approved implementation of the SOG Policy across the Indigenous Affairs, Attorney-General and Arts portfolios (with the Health portfolio given the option to implement at a later date), noting the Policy's intent for First Nations organisations to be incorporated under CATSI Act (C14-69516 refers).

The SOG policy continues to attract criticism from providers who feel First Nations organisations should not be required to incorporate under the CATSI Act, when non-First Nations organisations can incorporate under the Corporations Act.

The recent evaluation raised concerns regarding the SOG Policy's effectiveness (it only impacts 1.5% of organisations receiving IAS funding since 2014) and the perceived lack of self-determination afforded to First Nations organisations to choose their incorporation status.

Released under the FOI Act by the National Indigenous Australians Agency

On 21 July 2022, Minister Burney noted the findings of the evaluation and the s47C, s47E(d) [redacted] to review the evaluation findings and ensure the SOG Policy is fit for purpose (MS22-000210 refers). The Minister also noted that the NIAA would come back to her with options to revise the SOG Policy following this review and that the evaluation report would be publicly released in accordance with the NIAA IAS Evaluation Framework.

Recent analysis of IAS Grant Funding has identified 9 organisations (6 Indigenous, 3 non-Indigenous) that are currently required to incorporate under Commonwealth legislation under the SOG policy due to IAS funding.

Proposed approach

s47C, s47E(d)

Released under the FOI Act  
by the National Indigenous Australians Agency

s47C, s47E(d)

Regards

Vance

**Vance Khan** | Group Manager

PPDG, NIAA

p: (02) 6152 3771 m: s47F

EO: s47F @niaa.gov.au | s47F | s47F

EA: s47F @niaa.gov.au | s47F |

**LGBTIQ+ Ally**

Released under the FOI Act  
by the National Indigenous Australians Agency

~~Protected: Sensitive Cabinet~~

## MINISTER FOR INDIGENOUS AFFAIRS

Reference: B14/1324

The Hon Tony Abbott MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

Dear Prime Minister

I am writing to seek your agreement to implement new requirements which will strengthen the governance of organisations that receive significant levels of grant funding under the new Indigenous Advancement Strategy.

The Government has a strong interest in the security and delivery of programmes it funds by requiring high standards of governance and accountability in organisations receiving that funding. Poor governance not only affects individual organisations delivering services for Indigenous Australians, it also affects quality of services and outcomes achieved.

State and territory incorporation legislation is intended for small organisations and often does not provide the regulatory structure or resources to respond to governance issues in organisations. Commonwealth legislation, the *Corporations Act 2001* and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, provides best practice governance standards.

I propose that all organisations (other than statutory authorities) receiving \$500,000 (GST exclusive) or more in any single financial year through the Indigenous Advancement Strategy will be required to be incorporated under Commonwealth legislation within six months of entering into a new funding agreement. Subject to the exemption provisions outlined below, Indigenous organisations would be required to be incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, with other organisations required to incorporate under the *Corporations Act 2001*. Affected organisations would then be expected to adhere to these arrangements while they continue to receive any level of such funding.

I intend to implement these requirements to have effect from 1 January 2015. The Department is currently progressing work to embed the requirements into the Indigenous Advancement Strategy programme guidelines and funding agreements which will be released shortly.

There will be financial costs (for example, legal and accounting fees) incurred by organisations transferring their incorporation status, which could have an additional impact on smaller organisations. These costs will be offset through a one-off payment of \$10,000 from the granting activity upon receipt of evidence that the transfer has occurred.

It is anticipated that most organisations would seek to comply, however concerns about the implications of the requirements may be raised by some organisations. To mitigate this, organisations would be able to apply to be exempted where they can demonstrate that the

Released under the FOI Act  
by the National Indigenous Australians Agency

~~Protected: Sensitive Cabinet~~

~~Protected: Sensitive Cabinet~~

requirements would excessively disadvantage the operation of the organisation, or where well-governed high-performing Indigenous organisations already incorporated under the *Corporations Act 2001* would not benefit from transferring their incorporation.

The *Public Governance, Performance and Accountability Act 2013* commenced on 1 July 2014. This required consequential amendments to Commonwealth legislation, including the *Corporations Act 2001* and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*. The implementation of these requirements is consistent with the *Public Governance, Performance and Accountability Act 2013*, and the principles of proportionality, and governance and accountability identified under the *Commonwealth Grants Rule and Guidelines*.

The Department has considered the requirements against the 19 June 2014 *Ronald Williams v the Commonwealth of Australia & ORS* decision. No impact is anticipated as the requirements will not change the nature of what is being funded, or the constitutional head of power (or legislative authority) required to enter into and administer funding agreements.

The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required as the regulatory impact of the requirement is minor, noting that ongoing reporting requirements are comparable to those already required under State and Territory incorporation and grants administration processes.

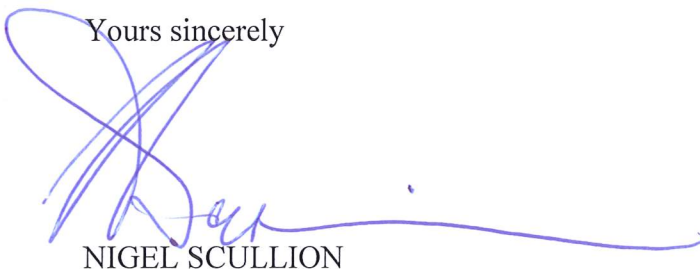
In 2013-14, 51 organisations incorporated under State or Territory legislation were identified as receiving grants of greater than \$500,000. The regulatory compliance cost of transitioning incorporation status has been estimated at \$10,206 per organisation. Using this information, the initiative would result in an estimated regulatory compliance cost of \$520,506 in 2014-15. This will be offset against the portfolio's overall regulatory compliance savings, noting the \$10 million red tape reduction target.

The Attorney-General and the Minister for the Arts, Senator the Hon George Brandis QC, has agreed to implement equivalent requirements in his portfolio upon your approval. The Assistant Minister for Health, Senator the Hon Fiona Nash, has indicated these requirements need further consideration before they can be implemented in the Health portfolio where they already have specific contractual controls comparable to measured found under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, and where Commonwealth Indigenous programme funding may be only a minor component of the overall funding of an individual organisation.

I have announced these requirements across Indigenous Affairs programmes within my portfolio as administered by the Department of the Prime Minister and the Cabinet, including the Indigenous Advancement Strategy. Pending your agreement, the Attorney General and I will announce the application of the requirements more broadly across the Indigenous Affairs, Arts and Attorney-General's portfolios.

I have copied this letter to the Attorney-General.

Yours sincerely



NIGEL SCULLION

14/08/14 August 2014

Released under the FOI Act  
by the National Indigenous Australians Agency

~~Protected: Sensitive Cabinet~~

Reference: C14/69516

Senator the Hon Nigel Scullion  
Minister for Indigenous Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Minister

Thank you for your letter of 14 August 2014, seeking my agreement to implement measures that strengthen the governance of organisations receiving significant Indigenous specific grant funding.

As you know, the Government is committed to ensuring the highest quality of services for Indigenous Australians. Strong governance and accountability arrangements in granting activities ensures that individuals and organisations are answerable for their plans, decisions, actions, results, and the achievement of Government objectives.

I agree with the implementation of requirements for organisations (other than statutory authorities) receiving \$500,000 (GST exclusive) or more in any single financial year from Indigenous grant funding to incorporate under Commonwealth legislation across the Indigenous Affairs, Attorney-General, and Arts portfolios.

Subject to the application of an exemptions process, this will require Indigenous organisations to be incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*, and all other organisations to incorporate under the *Corporations Act 2001*. Affected organisations will be expected to adhere to these arrangements while they continue to receive this funding.

I understand that the Assistant Minister for Health, Senator the Hon Fiona Nash, has indicated that these requirements need further consideration before they can be implemented in the Health portfolio. This needs to be further explored so that we provide a consistent approach across Australian Government Indigenous specific grant programmes.

The application of these requirements should be consistent with our Government's new approach to Indigenous Affairs, in particular our emphasis on ensuring that Indigenous organisations are capable of delivering high quality services to their clients. I agree that the exemption provisions in the new policy will be assessed and, where appropriate, applied on a case by case basis.

Released under the FOI Act  
by the National Indigenous Australians Agency

I understand that you have announced these requirements across your portfolio. I would like you to progress the announcement of these requirements across the Indigenous Affairs, Attorney-General and Arts portfolios. This should include consultation with the Indigenous Advisory Council as part of the announcement process.

I have copied this letter to the Attorney-General, the Assistant Minister for Health and my Parliamentary Secretary for Indigenous Affairs.

Yours sincerely

TONY ABBOTT

Released under the FOI Act  
by the National Indigenous Australians Agency



**From:** s47F  
**To:** [Clough, Sarah](#)  
**Cc:** s47F; [Grant Design](#)  
**Subject:** SOG management response [SEC=OFFICIAL]  
**Date:** Thursday, 15 September 2022 1:55:10 PM  
**Attachments:** [image008.png](#)  
[image009.png](#)  
[image010.png](#)  
[image011.png](#)  
[image012.png](#)  
[image014.png](#)  
[image015.png](#)  
[image016.png](#)  
[image017.png](#)  
[image018.png](#)

OFFICIAL

TO: BM Grant Design  
 FROM: Evaluation Advice Team – Evaluation management response coordinator  
 SUBJECT: SOG management response – final version  
 ACTION: Nominate reporting contact to provide final copy of SOG management response  
 DUE DATE: COB Monday 19 September

Hi Sarah

I am seeking a copy of the final PDC-endorsed Strengthening Organisational Governance (SOG) evaluation management response so that the NIAA can start tracking implementation of the agreed actions for Program Performance Committee.

Grateful if you could direct me to who in your Branch would have incorporated the final input (when Andrew Huey was BM) as per PDC 2022-09. I need the final version to incorporate into our upcoming management response report (September/October for discussion at November PPC and PDC).

**Action Arising:**

**PDC-2022-09:** Prior to the Management Response to the evaluation of the SOG policy being released, Members are asked to provide further feedback offline to the Branch Manager Grant Design and Group Manager Program Performance Delivery.

Regards

s47F

Evaluation Advice | Data and Evaluation Branch | Program Performance Delivery Group  
 National Indigenous Australians Agency  
 p. s47F  
 Charles Perkins House 16 Bowes Place Phillip ACT 2606 | PO Box 2191 CANBERRA ACT 2600  
 w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)

Released under the FOI Act by the National Indigenous Australians Agency



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



**From:** Huey, Andrew <Andrew.Huey@niaa.gov.au>  
**Sent:** Thursday, 7 July 2022 5:38 PM  
**To:** s47F [redacted]@niaa.gov.au; NIAA Secretariat and Coordination <NIAASecretariatandCoordination@niaa.gov.au>  
**Subject:** RE: SOG management response status update [SEC=OFFICIAL]

OFFICIAL

Hi s47F [redacted]

I will leave it with s47F [redacted] to advise, but for information a brief to the Min has been submitted to the Exec. for clearance advising of the status of the evaluation and seeking agreement to release the report.

Regards, Andrew

**From:** s47F [redacted]@niaa.gov.au>  
**Sent:** Thursday, 7 July 2022 9:23 AM  
**To:** NIAA Secretariat and Coordination s47E(d) [redacted]@niaa.gov.au>  
**Cc:** Huey, Andrew <Andrew.Huey@niaa.gov.au>  
**Subject:** SOG management response status update [SEC=OFFICIAL]

OFFICIAL

Hello s47F [redacted]

Andrew FYI

**SOG management response - endorsed by PPC out of session?**

Released under the FOI Act  
by the National Indigenous Australians Agency

As part of finalising 2021-22 annual performance reporting I just wanted to check if the SOG management response has been endorsed out of session by PDC.

I track/record summaries of the NIAA management responses as part of our corporate reporting data assurance for activity 6.2. I expect this will fall in to 2022-23 due to Caretaker and PPC consideration of the recs. My last update from s47F is below. Appreciate if you can confirm status of endorsement and provide a copy if PPC has provided final OOS endorsement.

**Item 2: Management Response to the evaluation of the Strengthening Organisational Governance (SOG) policy | Vance Khan and Andrew Huey (Paper)**

The Branch Manager for Grant Design noted the evaluation of the SOG policy contains three recommendations aimed at refining the SOG policy and better supporting organisations that have been required to change their incorporation status.

s47C, s47E(d)

Following the endorsement of the Committee, the Minister will be briefed on the Evaluation Report and Management Response prior to them being publicly released.

The Committee **noted**:

- **Noted** the evaluation of the SOG.
- **Endorsed (in-principle)**, pending further input from Members, the Management Response to the Evaluation Report recommendations.

**Action Arising:**

**PDC-2022-09:** Prior to the Management Response to the evaluation of the SOG policy being released, Members are asked to provide further feedback offline to the Branch Manager Grant Design and Group Manager Program Performance Delivery.

Update from Andrew today on the Action:

Additional feedback being sought from the Strategic Policy Group. Once received the formal response will be progressed to the Executive for clearance as part of briefing the Minister. The brief has been prepared and the team are seeking final input from Strategic Policy before submission. It is excepted the brief to be submitted to the Executive for clearance around mid-June.

Regards

s47F

Evaluation Governance Section | Data and Evaluation Branch | Program Performance Delivery Group  
National Indigenous Australians Agency

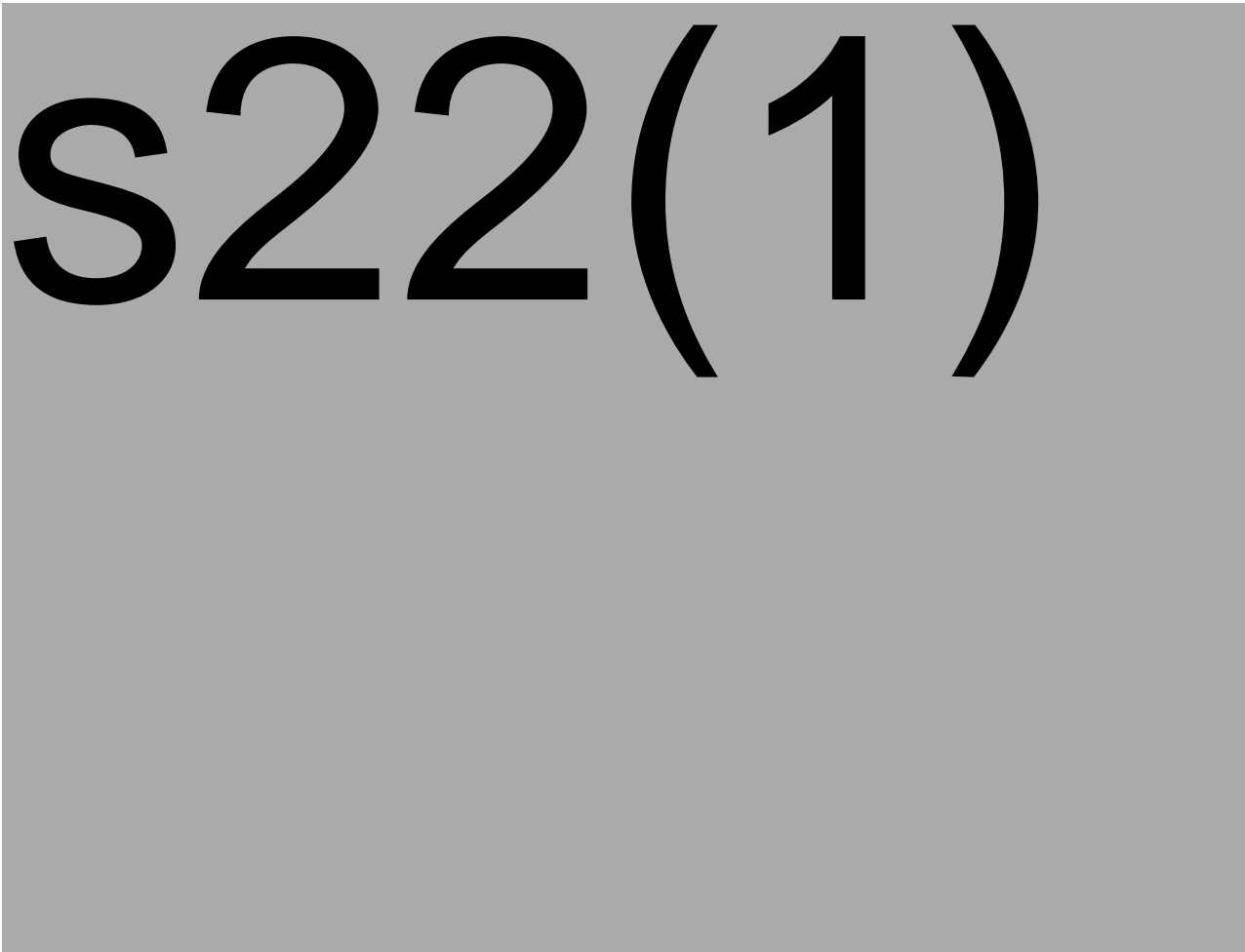
p. s47F

Charles Perkins House 16 Bowes Place Phillip ACT 2606 | PO Box 2191 CANBERRA ACT 2600

Released under the FOI Act  
by the National Indigenous Australians Agency

From: s47F  
To: [Hartmann, Jessica](#)  
Subject: Evaluation status Update @ 10 October 2022 [SEC-OFFICIAL]  
Date: Monday, 10 October 2022 2:23:44 PM  
Importance: High

OFFICIAL



Publication pipeline

- *Strengthening Organisational Governance Policy Evaluation* Final Report accepted December 2021 PDC endorsed management response – May 2022 Minister Briefing signed – July 2022. [s47C, s47E](#)

s22(1)

s47F

Evaluation Advice | Data and Evaluation Branch | Program Performance and Delivery Group  
National Indigenous Australians Agency

p s47F

m s47F

Charles Perkins House 16 Bowes Place Phillip ACT 2606 | PO Box 2191 CANBERRA ACT 2601

w [niaa.gov.au](http://niaa.gov.au) w [indigenous.gov.au](http://indigenous.gov.au)



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.

Released under the FOI Act  
by the National Indigenous Australians Agency

**From:** s47F  
**To:** [Clough, Sarah](#)  
**Cc:** s47F  
**Subject:** SOG Evaluation - Management Response [SEC=OFFICIAL]  
**Date:** Sunday, 23 October 2022 2:50:34 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[MS22-000210 - Signed.pdf](#)

---

**OFFICIAL**

Hi Sarah

s47C, s47E(d)

*Key Issue*

- In the NIAA's Management Response to the [2021 SOG Evaluation](#) (the Evaluation), NIAA committed to establishing a working group to consult on changes to the Strengthening Organisational Governance (SOG) policy.
  - This was noted by PPC and agreed PDC before the Minister was briefed on the SOG Evaluation and on the NIAA's Management Response (MS22-000210 attached).
- s47C, s47E(d), the SOG policy remains active. This is despite the SOG Evaluation finding it ineffective and feedback from stakeholders including NACHO, peak bodies and First Nations organisations raising concerns about it being discriminatory.

s47C, s47E(d)

- There has been a significant delay in the publication of the SOG Evaluation which was accepted by the Government on December 2022.

s47C, s47E(d)

*Key Question*

s47C, s47E(d)

Released under the FOI Act  
by the National Indigenous Australians Agency

s47C, s47E(d)

*Risks and Benefits*

s47C, s47E(d)

Released under the FOI Act  
by the National Indigenous Australians Agency

# s47C, s47E(d)

## Key Information

- Since the SOG policy came into effect in 2014, IAS grant administration has been strengthened to safeguard IAS funding through introduction of:
  - Grant design principles in line with Commonwealth Grant Rules and Guidelines
  - NIAA Grant Risk Management Guidelines
  - NIAA Standardised Controls Framework
  - IAS Grant Performance Framework
  - NIAA Integrated Program Compliance and Fraud Management Framework
  - IAS Probity Framework
  - NIAA Grant Assurance Framework.
- The SOG policy has been criticised by First Nations organisations, peak bodies and individuals as being discriminatory and paternalistic for requiring First Nations organisations to incorporate under the CATSI Act.
- The SOG Evaluation found that the SOG policy has a limited impact: 1.5% of all IAS funded organisations were impacted by the SOG policy.
- As at 29 September 2022, since 1 July 2014, 80 organisations receiving IAS funding have been identified as in scope for the SOG policy. Of these 80 organisations, 56 have transferred their incorporation from State to Commonwealth legislation:
  - 38 under the CATSI Act
  - 18 under the Corporations Act.
- Of the remaining 24 organisations, 18 have received an exemption under the SOG policy, 2 organisations no longer receive IAS funding and remain in scope for transition.
- These changes to grant administration policies and processes have significantly increased the controls available to IAS in order to mitigate risks of mismanagement of IAS funding.

## Background

- The SOG policy came into effect on 1 July 2014 and mandates incorporation under Commonwealth legislation (Corporations Act or the CATSI Act) when an organisation receives over \$500 000 of IAS funding in any single financial year. First

- Nations organisations are required to incorporate under the CATSI Act.
- Under the SOG policy, organisations:
    - have 6 months from execution of the funding agreement to transition to incorporation under Commonwealth legislation.
    - are eligible for a one-off \$10,000 payment to recoup costs of transferring incorporation.
  - The SOG Policy evaluation was finalised in December 2021, and the Agency is required publish the evaluation report under the IAS Evaluation Framework.
    - The evaluation identified that:
      - The policy in its current form has been limited in its effectiveness, with little evidence that organisations affected by the SOG policy have improved governance or capacity.
      - There are cultural appropriateness issues around the lack of self-determination afforded to Indigenous organisations in choosing their incorporation status.
      - “Good governance” is more complex than is currently recognised in the design of the SOG policy, including how to reflect Indigenous cultural governance practices.
    - Based on these findings, the evaluation recommended the Agency:
      - consider amending the SOG policy to be more targeted, including undertaking a co-design process with IAS funded organisations;
      - narrow the SOG policy exemption framework to only retain exemptions for organisations that are able to demonstrate that the SOG policy unfairly imposes additional requirements on their business model; and
      - fund additional governance and compliance costs incurred by in-scope organisations
  - The Management response outlined the following actions based on the evaluation findings and recommendations:

s47C, s47E(d)

Kind regards,

s47F

s47F

| Senior Adviser

Design and Indigenous Funding Policy Section

Grant Design Branch | Program Performance Delivery

National Indigenous Australians Agency | p. s47F m. s47F

Released under the FOI Act  
by the National Indigenous Australians Agency



From: s47F  
To: [Lia Martin, Jessica](#)  
Subject: Publication pipeline [SEC-OFFICIAL]  
Date: Tuesday, 8 November 2022 4:20:37 PM

OFFICIAL

Hi Jess

All four evaluations in the publication pipeline have made incredibly slow progress

- *Strengthening Organisational Governance Policy Evaluation*: Final Report accepted December 2021, PDC endorsed management response – May 2022, Minister Briefing signed – July 2022
- s47C, s47E(d)

s22(1)

Cheers

s47F

s47F

Evaluation Advice | Data and Evaluation Branch | Program Performance and Delivery Group  
National Indigenous Australians Agency

p s47F m s47F  
Charles Perkins House 16 Bowes Place Phillip ACT 2606 | PO Box 2191 CANBERRA ACT 2601  
w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.

Released under the FOI Act  
by the National Indigenous Australians Agency

**From:** [Grant Design](#)  
**To:** [Clough, Sarah](#)  
**Cc:** [Grant Design](#)  
**Subject:** FW: SOG - Management Response update - Due 3 Feb [SEC=PROTECTED]  
**Date:** Wednesday, 1 February 2023 11:25:46 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[15\\_11QMR\\_SOG management response reporting June to September 2022 GDIFP Input CLEAN.docx](#)  
[15\\_11QMR\\_SOG management response reporting June to September 2022 GDIFP Input.docx](#)

~~PROTECTED~~

Hi Sarah,

Can you please clear the Strengthening Organisational Governance (SOG) evaluation management response (CLEAN), attached?

Mark has reviewed and cleared.

Once cleared, pending changes, I will progress to Evaluation Advice Section – due COB Friday 3 February.

Thank you.

Kind regards,

s47F

**From:** s47F @niaa.gov.au  
**Sent:** Tuesday, 31 January 2023 6:47 PM  
**To:** Grant Design <GrantDesign@niaa.gov.au>  
**Subject:** RE: SOG - Management Response update - Due 3 Feb [SEC=PROTECTED]

~~PROTECTED~~

Thanks s47F. I've made minor edits.

**From:** Grant Design <GrantDesign@niaa.gov.au>  
**Sent:** Monday, 30 January 2023 9:11 AM  
**To:** Kusters, Mark <Mark.Kusters@niaa.gov.au>  
**Subject:** FW: SOG - Management Response update - Due 3 Feb [SEC=PROTECTED]

~~PROTECTED~~

Hi s47F

Minor changes for consideration, prior to Sarah's approval.

Please note completion date change, to 'Second half of 2023'?

Thanks

Released under the FOI Act  
by the National Indigenous Australians Agency

Regards

s47F

---

**From:** Indigenous Evaluation s47E(d) [redacted] <[redacted]@niaa.gov.au>  
**Sent:** Tuesday, 24 January 2023 11:49 AM  
**To:** s47F [redacted] <[redacted]@niaa.gov.au>  
**Cc:** Indigenous Evaluation s47E(d) [redacted] <[redacted]@niaa.gov.au>; s47F [redacted] <[redacted]@niaa.gov.au>; s47F [redacted] <[redacted]@niaa.gov.au>; s47F [redacted] <[redacted]@niaa.gov.au>  
**Subject:** SOG - Management Response update - Due 3 Feb [SEC=PROTECTED]

~~PROTECTED~~

Dear s47F

### **Strengthening Organisational Governance (SOG) evaluation management response update by COB Friday 3 February**

I'm contacting you to request an update on the SOG evaluation management response by **COB Friday 3 February**.

The reporting period is for October to December 2022. We are looking for status updates such as completion of your agreed actions and potential delays to your implementation schedule.

#### **Background**

The update is for the next quarterly report on evaluation management responses for the Program Performance Committee (PPC) – the report also go to the Policy Delivery Committee (PDC). This reporting is a key input to our corporate performance measures around the NIAA's use of evaluations and our internal commitment to implementing evaluation findings and recommendations.

#### **Action/s**

1. Please confirm if reporting contacts have changed.
2. Using the enclosed template from your last reporting update could you **please make any changes in red and using 'track changes'** based on the latest implementation of your agreed actions such as 'underway' to 'completed'. If you have completed your agreed action/s the status comments are your assurance that the recommendation has been addressed and the NIAA has done what we said we would do.
3. If the agreed action completion date needs to be revised you will need to provide an explanation for this (you will see a new column has been added to allow for this). This template change is in response to a PPC request that program areas provide an assessment of the risk delivery if the agreed actions are further delayed (as the previous columns used to assess risk ratings were ineffective).
4. The reporting update requires Branch Manager clearance as the status updates are reviewed by the PPC and PDC as part of their executive oversight for management response implementation.
5. Extensions to due dates or changes to agreed actions need to be approved by your Branch Manager and endorsed by PPC with a rationale for changes to the implementation schedule – this can be done via the reporting process. The PPC Chair may request for your Branch Manager to attend the meeting to discuss changes to the implementation schedule or concerns about repeated slippage in due dates.

Released under the FOI Act  
by the National Indigenous Australians Agency

After Data and Evaluation Branch (DEB) receives your cleared update we may need to get back in touch to clarify/QA your status updates.

Please contact me if you have any questions.

s47F

Evaluation Advice Section | Data and Evaluation Branch | Program Performance Delivery Group  
National Indigenous Australians Agency

p. s47F

Charles Perkins House 16 Bowes Place Phillip ACT 2606 | PO Box 2191 CANBERRA ACT 2601  
w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)

\*Please note that I don't work on Fridays



The National Indigenous Australians Agency acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.



Released under the FOI Act  
by the National Indigenous Australians Agency

Evaluation management response overview

Strengthening Organisational Governance (SOG) Policy Evaluation

Date evaluation completed

19 November 2021

Management response submitted to Program Performance Committee

Endorsed out of session 21 February 2022

Management response endorsed by Policy Delivery Committee

Endorsed 21 March 2022

Total agreed actions

2

Agreed actions completed

0

Agreed actions remaining

2

<b>Status of agreed actions</b>  Not started Underway Complete	<b>Recommendation/Finding</b>	<b>Agreed actions</b>	<b>Agreed action completion date</b>	<b>New agreed action completion date.</b>  NOTE: If implementation dates are changed program areas will need to explain in their status update the impact on NIAA program beneficiaries from not proceeding with the agreed program improvements.	<b>Who is responsible for the agreed action.</b>	<b>Status comments</b>
Not started	<b>Recommendation 1:</b> Consider amending the SOG policy to take a more targeted approach, including undertaking a co-design process with IAS funded organisations	s47E(d), s47C	Second half of 2022	Second half of 2023	Grant Design Branch	s47E(d), s47C

Released under the FOI Act by the National Indigenous Australians Agency

<b>Status of agreed actions</b>  Not started Underway Complete	<b>Recommendation/Finding</b>	<b>Agreed actions</b>	<b>Agreed action completion date</b>	<b>New agreed action completion date.</b>  NOTE: If implementation dates are changed program areas will need to explain in their status update the impact on NIAA program beneficiaries from not proceeding with the agreed program improvements.	<b>Who is responsible for the agreed action.</b>	<b>Status comments</b>
						s47E(d)
Not started	<b>Recommendation 3:</b> Fund additional governance and compliance costs incurred by in-scope organisations	s47C, s47E(d)	Second half of 2022		Grant Design Branch	

Released under the FOI Act by the National Indigenous Australians Agency

**From:** s47F  
**To:** [Clough, Sarah](#)  
**Cc:** s47F  
**Subject:** Briefing for meeting with Registrar [SEC=OFFICIAL]  
**Date:** Monday, 6 March 2023 9:03:48 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[211103 - FINAL PIC draft 2 SOG Policy Evaluation Report \(0045\).pdf](#)  
[SEB - SOG Policy.pdf](#)  
[MS22-000210 - SFB - Strengthening Organisational Governance -SOG- Policy Evaluation.pdf](#)

---

OFFICIAL

Hi Sarah

Below are some dot points for discussion at today's meeting. Attached is the SEB and the Brief to the Minister

Context

- As you are aware, the Strengthening Organisational Governance (SOG) Policy was agreed by the then Prime Minister Tony Abbott on the recommendation of then Minister

## s47C, s47E(d)

- The policy (publicly available online) states that Commonwealth legislation provides a more robust regulatory framework than state and territory incorporation regimes.
- Since implementation, the policy has been criticised as being discriminatory due to its requirement that Indigenous organisations must incorporate under the Corporations (Aboriginal and Torres Strait Islander Act) 2016 (CATSI Act).
- Since the policy was introduced in 2014, **56 organisations have moved from incorporation under State/Territory legislation to incorporate under Commonwealth legislation.**

Review

- In February 2020, the Agency engaged PriceWaterhouse Coopers Indigenous Consulting to evaluate the impacts and appropriateness of the SOG policy.
- The evaluation found that:
  - the policy had limited effectiveness and there was no evidence that it had improved governance
  - the requirement for First Nations organisations to incorporate under the CATSI Act arguably was inconsistent with the principle of self-determination, and
  - good governance is more complex than the legislation an organisation incorporates under.
- The review recommended:
  - (a) undertaking a co-design process to ensure the SOG is better targeted
  - (b) narrow the exemption policy
  - (c) fund additional governance and compliance costs

NIAA response

## s47C, s47E(d)

Proposal

## s47C, s47E(d)

Released under the FOI Act  
by the National Indigenous Australians Agency

to support effective governance.

Urgency

s47C, s47E(d)

Potential impacts

s47C, s47E(d)

Consultation

s47C

s47F (he/him) | Senior Adviser (a/g)  
Design & Indigenous Funding Policy | Grant Design Branch  
Program Performance Delivery Group  
National Indigenous Australians Agency  
m s47F | e. s47F @niaa.gov.au  
Kaurna Country, Level 13, 26 Franklin Street, Adelaide, SA 5001  
w. [niaa.gov.au](http://niaa.gov.au) w. [indigenous.gov.au](http://indigenous.gov.au)



Grant related query?

All grant-related queries should now be logged through the [Front Door Portal](#) or check out the new [Grant Administration Manual](#)

Released under the FOI Act  
by the National Indigenous Australians Agency



# Program Performance Delivery Group

## 1. Strengthening Organisational Governance

*Appropriate SES to come forward to support response:*

- Vance Khan, General Manager, Program Performance Delivery Group

### Key Talking Points

- The Strengthening Organisational Governance (SOG) policy aims to promote high standards of governance and accountability for Indigenous Advancement Strategy (IAS) grantees.
- The policy requires grantees that receive over \$500,000 of IAS funding in a single financial year (excluding funding for capital works projects) to incorporate under Commonwealth legislation.
- The Agency has briefed the Government on an evaluation of the SOG Policy (completed in December 2021) and is preparing advice on possible options.
- The evaluation report is expected to be published shortly.

### Background

#### *Incorporation process*

- The policy requires eligible First Nations organisations to incorporate under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (CATSI Act). Other eligible organisations must incorporate under the *Corporations Act 2001* (Corporations Act).
  - First Nations organisations already incorporated under the Corporations Act do not have to change to the CATSI Act.
- Organisations have six months from execution of the funding agreement to incorporate under Commonwealth legislation. Organisations that do not comply are in breach of their agreement.
- Organisations are eligible for a one-off \$10,000 payment as a contribution to the financial costs of transferring incorporation. (Payment is only paid upon evidence of incorporation).

#### *Benefits of incorporation under Corporations or CATSI Act*

- Members can choose not to be liable for the debts of the organisation.
- The organisation can operate nationally without further registration.
- Incorporation offers greater protections and rights for members and creditors.

### CATSI Act only

- Access to governance training, technical support and advice on how to become incorporated (including how to create a rule book).
- Assistance with handling complaints, including mediation and dispute resolution services.
- Ability to appoint a special administrator if an organisation is experiencing financial or governance issues to reduce risk of corporate collapse.

### *Exemptions*

- Organisations may apply to the Minister for Indigenous Australians for an exemption to the incorporation requirement on two grounds:
  - IAS funding represents a small proportion of the organisation's revenue and changing incorporation status would unfairly impose additional requirements on its operation or business model.
  - The organisation is required to incorporate under specific non-Commonwealth legislation.

### *Evaluation*

- In February 2020, the Agency engaged PriceWaterhouse Coopers Indigenous Consulting to evaluate the impacts and appropriateness of the SOG policy.
  - The value of the contract was \$271,574.09 (GST-exclusive)
  - The evaluation was delayed due to COVID-19 restricting consultation.
- The evaluation found that:
  - the policy had limited effectiveness and there was no evidence that it had improved organisations' governance or capacity
  - the requirement for First Nations organisations to incorporate under the CATSI Act arguably was inconsistent with the principle of self-determination, and
  - good governance is more complex than the legislation an organisation incorporates under.
- Four organisations were interviewed:
  - two organisations that were exempted, and
  - two organisations that incorporated – Winnunga Nimmityjah Aboriginal Health and Community Services Ltd (Canberra) and Drug and Alcohol Services (Alice Springs) – both incorporated under the SOG policy in 2017.

Released under the FOI Act  
by the National Indigenous Australians Agency

*Next steps*

- In July 2022, NIAA briefed the Minister for Indigenous Affairs, the Hon Linda Burney MP, on the evaluation outcomes and options for the SOG Policy.
- The matter is currently under consideration.

**Facts and figures**

- Since the policy was introduced in 2014, 56 organisations have moved from incorporation under State/Territory legislation to incorporate under Commonwealth legislation.
- See **Attachment A** for an overview of organisations required to meet the SOG policy.

**Key Dates**

- Dec 2022 to Jan 2023 – Consultation with other impacted agencies
- Sept to Nov 2022 – Internal review of existing controls and ongoing need for SOG Policy
- July 2022 – Minister briefed on evaluation and options for SOG Policy
- December 2021 – SOG policy evaluation finalised.
- February 2020 – SOG policy evaluation commenced.
- 1 July 2014 – SOG policy came into effect.

Vance Khan	Program Performance Delivery Group	s47F
Sarah Clough	Grant Design	s47F
s47F	Grants Guidance	s47F

## Attachment A

- As at 23 January 2023, 81 organisations receiving IAS funding have been identified as in scope for the SOG policy since 1 July 2014.
- Of these 81 organisations, 56 have transferred from State legislation.
  - 38 to the CATSI Act
  - 18 to the Corporations Act.
- Of the remaining 25 organisations:
  - 19 received an exemption under the SOG policy, largely due to IAS funding being a small portion of their total revenue (i.e. 25 per cent or less).
  - Two organisations no longer receive IAS funding.
  - Four remain in scope for transition as at 18 January 2023:
    - two of these organisations are Indigenous organisations and therefore required to incorporate under the CATSI Act.
- One organisation incorporated in 2021-22:
  - Ngarrindjeri Lands and Progress Aboriginal Corporation incorporated under the CATSI Act on 8 November 2021.
- As at 23 January 2023, zero organisations have incorporated in 2022-23.

### Definition on Indigenous organisation

- The SOG Policy uses the same definition as the CATSI Act (Section 29-5) which defines an Indigenous organisation as an organisation where the majority of members are First Nations.

*A corporation must have the required number or percentage of members who are Aboriginal and/or Torres Strait Islander people. The requirements for different size corporations are:*

- *in a corporation with five or more members, 51 per cent of the members have to be Aboriginal or Torres Strait Islander people*
  - *in a corporation with fewer than five members but more than one member, all of the members, or all but one of the members, have to be Aboriginal or Torres Strait Islander people*
  - *in a corporation with only one member, that member has to be an Aboriginal or Torres Strait Islander person.*
- The CATSI Act also requires that Indigenous Corporations have a majority of members who “must be individuals who are Aboriginal and Torres Strait Islander persons” (Section 246-5(1)) of the CATSI Act.