



To be eligible for funding under the Mildura Rural City Council (MRCC) Event Funding and Support Program, applicants must be a constituted body or legal entity, such as an incorporated association or be auspiced by one.

Where an auspice arrangement is entered into, the legal entity taking on the supporting role is known as the auspicor, and the supported group or entity the auspicee.

For all auspiced funding, MRCC's primary contractual relationship is with the auspicor rather than the auspicee. The Funding Agreement is in the name of the auspicor who takes on responsibility for ensuring compliance with the Funding Agreement and for the satisfactory acquittal of the funding.

Functions and Responsibilities of an Auspicor

The role of the auspicing organisation, the auspicor, is to take responsibility for the MRCC funding, and provide project management assistance to the auspicee and keep financial records on the funded activity. This arrangement is used to ensure there is monitoring of the management of the finances and the maintenance of proper financial records. This assists MRCC in meeting audit requirements and provides a safeguard for MRCC and funding recipients.

The functions of the auspicor, as a minimum, include:

- entering into a written agreement with the auspicee before the project starts;
- paying the funding to the auspicee in accordance with the Funding Agreement;
- monitoring the use of the funding to ensure compliance with the purpose for which it was provided;
- providing the auspicee with an itemised financial statement at the end of the project, which clearly identifies the funding and how it was spent;
- ensuring that an audited financial statement for the funding acquittal is certified by a qualified Accountant in public practice, where funding exceeds \$15,000 (or as otherwise stated in the Funding Agreement); and
- ensuring the required acquittal information is provided to MRCC.

All funding recipients, including auspicors, are required to submit an acquittal report. Reporting requirements will be as specified in the Funding Agreement, and in accordance with MRCC guidelines.

Although the auspicor is not necessarily responsible for the direction or the quality of the event for which funding was granted, it is recognised that the relationship between auspicor and auspicee may be much broader than the key responsibilities listed above.

Finding an Auspicing Partner

Important considerations for both the **Auspisor** and **Auspicee**

1. Considerations for The Auspisor

Organisations may be approached to Auspice an event for a variety of reasons, including but not limited to, their legal status, resources they can offer, tax status or endorsements such as DGR or PBI, or for the expertise your organisation may have in a particular area. You should seek legal advice prior to entering into an auspicing agreement to understand its legal implications for your organisation.

What should an Auspisor be looking for?

- What are the funder's requirements for making a grant or other disbursement? Does the Auspiced Party's community event meet those requirements?
- What impact will an auspicing arrangement have on your existing operations and is the community event consistent with your objects and purpose?
- What benefits are you seeking from auspicing the community event? Are funding realities and conditions, as well as the Auspiced Party, able to meet those requirements?
- What are the possible disadvantages and risk management issues for you of an auspice arrangement? Can you accept those disadvantages and risks?
- Are there other options reasonably available to the Auspiced Party that might avoid the necessity of an auspice arrangement?
- Do you need approval of the Board or Management Committee of the Auspicing Body to proceed with such an auspicing arrangement?
- Do you need legal, financial or strategic advice to be informed of your options for the best way to proceed?

2. Considerations for The Auspicee

It is important to find the right auspisor to ensure that the objectives, goals, values and ideals of the auspicing parties align and that the parties can work together effectively to ensure the completion of the relevant project (event).

What should an Auspisor be looking for?

- What are the funder's requirements for making a grant or other disbursement for your community event? Does the prospective Auspicing Body and your community event meet those requirements?
- What will an auspicing arrangement mean to the way you operate your community event?
- What benefits are you seeking from the auspice arrangement? Is the prospective Auspicing Body able to meet those requirements?
- What are the possible disadvantages of an auspice arrangement for your community event? Can you accept those disadvantages in proceeding with an auspicing arrangement?
- Should you consider establishing your own legal entity, in preference to an auspicing arrangement?
- Do you need legal, financial or strategic advice to be informed of your options for the best way to proceed?

The Auspicing Process

The auspicator will be required to complete and submit the application for funding in Council's grant application system, SmartyGrants, in consultation with the auspicee.

In this process the auspicator should negotiate the various elements of the proposed relationship with the auspicee.

This includes:

- the breadth of involvement of the auspicator in the activity for which the funding is sought;
- the roles and responsibilities of other people involved in the project;
- whether a fee is to be charged for services, and if so, what that fee will be (the fee should be shown in the application budget as an expense); and
- what services will be provided.

Auspicators may be asked by the auspicee to undertake a range of activities including the payment of wages to personnel through the auspicator's payroll system, arrangement of insurance and other legal requirements for the event, use of office space and equipment, financial and budget advice during the project, and promotion and marketing expertise for the project. It is important that both parties ensure that insurance coverage for public liability, and for those involved in delivering the event, is in place which covers both parties.

Conduct and Ethical Practices

If the application for funding is approved, a written agreement listing the services the auspicator will provide should be drawn up and signed by the auspicee and the auspicator before the project starts. Ideally the agreement should be drawn up and the terms agreed upon before the funding application is finalised to ensure that both parties share the same subjective understandings.

This helps to avoid misunderstandings and disagreements developing during the project.

Any agreement between the auspicator and the auspicee should contain clear steps to address disputes or disagreements, including the involvement of an independent mediator.

It may be appropriate, depending upon the number of parties involved and the nature of the activity for which funding has been approved, to also outline the role of the officials and the Board of the auspicing organisation in managing disputes or disagreements.

At all times, the officials of the auspicing organisation must act ethically and meet all community expectations of probity and proper conduct.

Negotiating the Auspicing Agreement

Once you have identified the preferred Auspicing Body, then it's time to negotiate what the auspicing relationship will mean. It's a good start to simply talk with the Auspicing Body and work out issues to a point where both parties are satisfied. It's also a good idea to write a record of your meetings about the proposed auspicing arrangement, so it's clear what was discussed and agreed upon. Sometimes face-to-face negotiations don't really happen and the negotiation process is more about considering the draft Auspice Agreement, communicating what needs to be changed from your perspective, and asking the other party to consider your changes.

You will also need to work out who will be primarily responsible for drafting the Auspice Agreement. Sometimes the Auspicing Body will have access to their own documents or legal advisers that can draft an agreement. Sometimes the Auspicee may need to draft the agreement and give it to the Auspicing Body for consideration. You may need to obtain legal advice for drafting the agreement, especially if the arrangement raises complex issues.

If you don't understand aspects of any agreement given to you, ask that it be explained to you and obtain your own legal advice. It's often a good step to set aside some resources for legal expenses and obtain legal advice about a contract before you sign it or to try and secure pro bono legal advice. Some Auspice Agreements are really simple and you may be confident to proceed without obtaining legal advice. Others can be quite complex and sometimes involve considerations that are not immediately obvious to people who are not used to dealing with contracts or where English is not their first language.

The Auspice Agreement should, as a minimum, include details about;

- The principles underpinning the agreement
- Details about the parties to the agreement
- Decision making and communication procedure
- How the project will be planned, implemented, managed and monitored
- How the Board/Committee will receive and sign off on reports about the progress of the activity
- Financial management and financial decision making
- Insurance arrangements
- Timeline (Life of the agreement)
- The expected outcome
- A grievance procedure, including a mediation process
- A mechanism to end the agreement.

DISCLAIMER: This fact sheet is intended as a guide only and does not constitute legal advice, nor is it exhaustive of all of the issues that need consideration for auspicing or for the negotiation or drafting of an auspice agreement. Whether or not you should enter into an auspicing arrangement for your community project (event), whether you need an auspice agreement, and what aspects of the relationship may need to be included in a written agreement, is a complex case-by-case decision and Mildura Rural City Council strongly recommends that independent legal and/or financial advice may be required for all parties involved.