Australian Government
Department of Employment and Workplace Relations

FEG Recovery Funding

FAIR ENTITLEMENTS GUARANTEE (FEG) RECOVERY PROGRAM - FUNDING APPLICATION

The purpose of this application form is to assist the Department of Employment and Workplace Relations in making funding decisions under the FEG Recovery Program.

Important

- The Commonwealth will rely on the information provided in this application in deciding whether to fund the proposed recovery action.
- Before submitting the application, please consider the *Key Terms of the Funding Agreement Fact Sheet*, and the *FEG Recovery Fact Sheet*, both of which can be found at www.dewr.gov.au/fair-entitlements-guarantee/recovery-program
- Importantly, please note the costs of preparing this application will not form part of any future funding agreement that the Commonwealth may enter into with the Insolvency Practitioner ("IP").
- Any legal advice, or confidential or sensitive information you disclose to the Commonwealth as part of this application is provided on the basis the common interest privilege, legal professional privilege and confidentiality is preserved.

1. Matters of interest for the Fair Entitlements Guarantee Recovery Program

1.1. Please indicate whether any of the following matters are present in the proposed funding opportunity.

Matters of Interest	Yes/No
Commercial return for the Commonwealth*	Choose an item.
Suspected phoenix activity, transfer of business and/or assets to defeat creditors	Choose an item.
Dishonesty or unconscionable conduct	Choose an item.
Other matters of public interest (please specify below):	

**Guidance note: To determine if there is a commercial return for the Commonwealth, consideration should be given to the likely return and the total costs that are likely to be incurred in connection with the proposed action. These considerations should be compared to the admitted value of the Commonwealth's claim as creditor.*

1.2. Are there any confidentiality concerns?

Confidential discussions required?	Choose an item.
Confidentiality deed required?	Choose an item.

2. Contact Details

Insolvency Practitioner's details	
Name(s)	
Firm name	
Email address	
Contact number	
Date of appointment	
Appointment Type	
Relation back day	

Solicitors / Counsel engaged (if any)	
Name(s)	
Firm	
Email address	
Contact number	
Counsel (Senior)	
Counsel (Junior)	

3. Company background and appointment details

General Information			
Company name		A.C.N.	
Group name if any			
Director(s)			
Cause(s) of failure			
Industry and general operations			
Has the IP lodged a supplementary s533 ASIC report?	Choose an item.		

Guidance note: If applicable, please replicate the above table for each company subject to this application.

3.1. Please provide the dates of all relevant appointments below:

Appointment type	Firm	Appointee	Start date	End date

Guidance note: If applicable, please replicate the above table for each company subject to this application.

3.2. Which of the following liabilities remain outstanding?

Creditor	Estimated outstanding ($)	Proof of debt lodged?	Admitted?
FEG employee entitlements paid		[date]/No	Choose an item.
Priority SGC (total of the individual super guarantee shortfall, nominal interest component, and administration component)		[date]/No *If no: source of estimate*	Choose an item.
Non priority SGC (shortfall GIC, Part 7 penalties and Part 7 GIC)			
Other employee wages entitlements (unpaid wages, underpaid wages & commission) not advanced by FEG		[date]/No	Choose an item.
Other employee leave entitlements (annual leave, leave loading & long service leave) not advanced by FEG		[date]/No	Choose an item.
Other employee pay in lieu of notice & redundancy not advanced by FEG		[date]/No	Choose an item.
AllPAAP (all present and after-acquired property – no exceptions) creditors (please include the name of each secured party and the amount outstanding)		[date]/No	Choose an item.
Petitioning creditor cost		[date]/No	Choose an item.
Unsecured creditors		[date]/No	Choose an item.
Other (please specify)		[date]/No	Choose an item.
Total			

Guidance note: If applicable, please complete a separate table for each company in the corporate group. For SGC, please identify the source of the estimated outstanding amount and provide any relevant PODs.

SGC information (if known)	
Date of last superannuation payment:	
Period covered by last lodged superannuation return:	
Does the IP expect the SGC priority amount to materially change?	
If the ATO's SGC POD is disputed, please provide the Liquidator's best estimate for priority SGC based on available records.	

3.3. Please provide details of all company cash positions as at the date of this application, net of any paid IP/legal remuneration and disbursements.

Company	Cash Position ($)

Guidance note: Does this amount reconcile to the net cash position outlined in the attached receipts and payments? This would include IP bank accounts, term deposits and cash held in hand. Please complete a separate row for each company in the corporate group.

4. Costs of Liquidation

4.1. What expenses have been incurred to preserve, realise or get in assets for the liquidation per section **s556(1)(a)** of the *Corporations Act 2001* (Cth) ("the Act")?

Type	Amount inc. GST ($)
Expenses paid as at date of application	
Expenses incurred, but unpaid at the date of this application	
Total	

4.2. What other expenses have been incurred in the liquidation per section **556(1)(dd)** of the Act (including legal fees, administration disbursements, printing, external room hire etc.)?

Type	Amount inc. GST ($)
Other expenses paid at the date of this application	
Other expenses unpaid at the date of this application	
Total	

4.3. What deferred expenses have been incurred in the liquidation per section **556(1)(de)** of the Act?

Type	Amount inc. GST ($)
IP's deferred expenses paid at the date of this application	
IP's deferred expenses unpaid, but approved at the date of this application	
IP's deferred expenses unapproved, but incurred at the date of this application	
Total	

4.4. Are there any other costs unpaid by the IP or relating to another appointment not captured by the above questions?

Type	Amount inc. GST ($)
(Description)	
(Description)	
Total	

Guidance note: Any other costs or unpaid costs would include the costs relating to a voluntary administration period preceding the liquidation.

4.5. What further steps will the IP take to finalise the winding up of the Company? Please provide your best estimate for the **future** remuneration and expenses likely to be incurred to complete this work.

Guidance note: Please note that this question relates to remuneration and expenses relating to the finalisation of the liquidation. When formulating your estimate please exclude any remuneration or expenses that relate to investigations, litigation, and any other activities that you will be seeking funding for as part of this application.

Unfunded - IP Deferred Expenses (i.e. remuneration)	Amount inc. GST ($)
e.g. Debtor recovery, ATO unfair preference claim	
e.g. Administration and statutory requirements	
e.g. Administration and statutory requirements	
e.g. Declare / Pay final dividend	
Total	
Unfunded – Recovery and Realisation Expenses	**Amount inc. GST ($)**
e.g. Legal fees associated with Debtor Recovery	
e.g. Legal fees associated with ATO unfair preference claim	
Total	
Unfunded – Other Expenses	**Amount inc. GST ($)**
e.g. Storage Costs	
Total	

5. Funding Request

5.1. As part of this application, it will be necessary for you to estimate all potential funding that may be required. To assist you in calculating your estimate please complete the Budget Tool Excel workbook and provide a summary of the estimate in the table below.

Guidance on completing the Budget Tool is provided within the Budget Tool Excel workbook.

	Current Estimate (inc GST)			Future Estimate (subsequent funding) (inc GST)
Stages	Necessary ($)	Likely ($)	Possible ($)	Estimate ($)
e.g. Stage 1: Investigations / Public Examinations / Legal Prospects Advice				
e.g. Stage 2: Commence Litigation / Informal Settlement / Complete Mediation				
e.g. Stage 3: Continue Litigation / Complete Trial				
Total				

6. Funding request and strategy

The FEG Recovery Funding Program provides funding for work related to, but not limited to:

- seed funding (including for legal advice, securing books and records)
- investigations (including public examinations)
- early settlement negotiations (including demand letters) and mediation
- litigation (including pleadings, interlocutory applications and expert reports)
- trial (including adverse costs indemnity)
- judgment enforcement

Please provide details of your funding request and strategy. It is encouraged you consider and detail the below points:

- the known facts and circumstances of claims identified in the liquidation/s
- identify the claim/s and the legal basis for each proposed cause of action you seek FEG recovery funding for
- state the claim quantum and any factors or sensitivities that may affect the claim quantum
- for the claims where you seek funding, explain steps taken to date and any defences raised
- step out what you see the next steps to be including what additional evidence, investigations, legal advice (if applicable) are required

7. Claim Details

7.1. Please provide details of the claim/s:

Cause of action	Date of expiry of limitation period	Proposed defendant	Recovery estimate ($)	
			High	Low
Total			**$0**	**$0**

7.2. Do you seek an indemnity in relation to the proposed recovery effort?

Indemnity required	Choose an item.	Type of indemnity	Choose an item.

7.3. Please detail the asset position of the proposed defendants:

Proposed defendant	Bankruptcy search attached?	Known asset position	Has a DPN been issued?
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.
	Choose an item.		Choose an item.

Guidance note: Please attach all asset search results such as property title searches, statutory declaration of defendant's statement of financial position (if obtained), valuation reports, or internal file note of asset searches/investigations.

7.4. Please detail any applicable insurance policies which may respond to the proposed recovery action/s:

Insurance Provider	Type of policy	Insured parties	Limits of coverage ($)	Claim notified to insurer?
				Choose an item.
				Choose an item.

Guidance note: Please provide a copy of the insurance policy, if available and any demands and/or correspondence with the insurer.

7.5. Please provide any other relevant details that may assist in consideration of the proposed recovery effort (eg. details of other private or government funding/indemnity arrangements or any other material recoveries expected)?

8. Other potential proceedings and funding outside this funding application

8.1. Please provide details of any other proceedings the IP has commenced, and / or is likely to commence with respect to the liquidation (including any proceedings considered at section 4.5 as part of your future estimate for remuneration and costs to finalisation that falls outside the funding requested in this application).

8.2. What is the likely dividend regarding FEG?

Item	Estimate (cents in the dollar)
If the proposed recovery effort is funded by the Commonwealth and successfully litigated to conclusion	
If not funded by the Commonwealth and yet is successfully litigated to conclusion using available cash	
If not funded by the Commonwealth and is successfully litigated to conclusion using another litigation funder	
If not funded and litigation does not proceed	

8.3. Please provide all relevant supporting documentation including, for example:

Item	Included	Previously Provided
• **FEG Recovery Funding Budget Tool** (Excel workbook). *We are unable to progress this application without an accompanying Budget Tool.*	☐	☐
• Any legal advice on prospects that you have obtained in respect of the proposal or in relation to the recovery of assets in the winding up of the Company generally.	☐	☐
• The facts and circumstances giving rise to the claim(s) • An evaluation of the merits of the claim(s) • An evaluation of the quality and quantity of favourable evidence that is (presently) available to the IP; • An evaluation of the prospects of success; and • Any peculiarity or complexities associated with the claim(s).	☐	☐
• Any relevant legal documents, including court orders, statements of claim and transcripts of public examinations.	☐	☐
• If the defendant(s) are individuals, the results of any bankruptcy searches (for example, NPII Search, Real Property Search, Directorship search, PPSR search).	☐	☐
• Copies of the terms of any insurance policy relating to the Company, its director(s) or proposed defendant(s).	☐	☐
• A copy of the receipts and payments reconciliation as at the date of the application indicating the net cash position held in the appointment.	☐	☐
• A copy of the ATO POD – if received	☐	☐

9. Declarations, warranties and acknowledgments

I declare that:

- I have read and understood the Key Terms of the Funding Agreement Fact Sheet of the FEG Recovery Program (available www.dewr.gov.au/fair-entitlements-guarantee/recovery-program); and
- The information provided in this application is true and correct to the best of my knowledge and belief.

I warrant that I:

- Have not been convicted, in the 10 years prior to making this application, of an offence involving fraud or dishonesty; and
- Am not now, nor have I been in the 10 years prior to making this application, an insolvent under administration; and
- Am not disqualified from managing corporations under Part 2D.6 of the Corporations Act 2001, or under a law of an external Territory or a law of a foreign country; and
- Have never been refused membership of a relevant professional body; and
- Have never been subject to any legal or disciplinary action from a relevant professional body; and
- Have not withheld any information that would be considered material to the Commonwealth's decision to fund the proposal.

I acknowledge that:

- The Commonwealth will rely on the information provided in this application in deciding whether to enter into any funding agreement with the IP in respect of the proposal; and
- If, at any time prior to entering into a funding agreement with the Commonwealth, I become aware of information that would reasonably be considered material to the Commonwealth's decision to enter into any funding agreement, I will disclose that information to the Commonwealth by re-submitting an updated application.

Signed:

Full name:

Position:

Dated:

Once completed and signed, please submit this Funding Application Form (together with all supporting documents) to the Department of Employment and Workplace Relations by email to FEGRecoveryapplications@dewr.gov.au.

Once submitted, the department will review the application and be in touch to discuss the funding request.