Discretion and taxpayers’ money make dangerous bedfellows

Pork barrelling

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Pork barrelling has been much in the news recently. The election campaigns of both major parties produced a steady stream of promised expenditure items for marginal seats. No party leader in campaign mode can visit a pivotal seat without offering a new sports arena or an extension to the local hospital. This time, however, the gift-giving has not stopped with the election. The hung Parliament and the need to attract the support of Independent MPs has brought on a whole new round of localised inducements.

Targeting promises to attract key groups of voters is an essential tactic in modern democratic politics. Yet the practice, if widespread, remains somewhat disreputable. When announcing their electoral inducements, politicians never say publicly that they are making a special grant of funds in the hope of swaying votes in a marginal seat. Everyone knows that the marginal seat is getting the goodies while the neighbouring safer seats are being overlooked and taken from granted. But the politicians never say so. Instead, they talk in more morally uplifting terms of local needs and community benefit. The desire to attract votes is the base motive that dare not speak its name.

Similarly, the Independent MPs seeking concessions from the major parties have mostly preferred to talk of the national interest and the generalised needs of regional Australia. But their local constituents, when interviewed, have been less mealy-mouthed. They see a unique chance to force the government into directing largesse in their direction after decades of perceived neglect. When these voters evaluate the performance of their Independent MPs at the next election, we can be sure they will be looking primarily for concrete benefits delivered solely to their electorates.

Public servants are well-versed in the realities of electoral politics. They know that pork barrelling is rife but they also know that it is not to be publicly acknowledged. Public servants are expected to be responsive to the government’s political agenda but they frame their advice within the non-partisan language of the public interest. They leave the more partisan aspects of party-political activity to ministers and their political advisers. If a decision is to be made for unequivocally partisan reasons, they will make sure that responsibility is clearly sheeted home to the minister and the minister’s office.

Occasionally, however, public servants may find themselves uncomfortably drawn into issues of partisan pork barrelling. One area of continuing contention has been the succession of discretionary grants programs, in which governments allocate grants to local communities. The most recent example is the Regional and Local Community Infrastructure Program which received a large injection of government funds as part of the economic stimulus program.

In July this year, on the eve of the election campaign, the Commonwealth Auditor-General published a report that was very critical of the administration of the “strategic projects” component of this program. The Auditor-General found a number of faults with the application process. The criteria for awarding of grants were not made available to applicants but announced only after decisions were made. The Department of Infrastructure, Transport, Regional Development and Local Government was invited to comment on general eligibility but had not been asked to assess or rank the applications against the criteria.

The grants process was handled primarily by the minister’s office after a risk assessment conducted by consultants. The minister, Anthony Albanese, had considered and approved a number of applications that clearly did not meet the formal requirements and should have been deemed ineligible. Most damningly, applications from electorates held by Labor had a significantly higher success rate (42 per cent) than applications from Coalition-held electorates (18 per cent). The implication was clear: the government was using the program to cement its electoral support.

Not for the first time, haste associated with the government’s stimulus spending policy had en-
couraged corner-cutting in terms of due process. Under cover of the need to spend money quickly, Albanese’s advisers were able to take effective control of the spending decisions and were free to apply partisan political judgments in the allocation of grants. By doing so, they effectively bypassed both the department and the government’s own newly-minted policy on awarding discretionary grants.

In 2009, in response to a strategic review of the administration of grants, the government introduced a new set of guidelines that required ministers to obtain departmental advice on the merits of each proposed grant before making any decision. In the understated language of the Australian National Office Office, the subsequent decision not to involve the department in the assessment of strategic projects applications against the assessment criteria did “not sit well with this requirement”.

The new guidelines were a reaction against long-standing disquiet over the former Howard government’s handling of the Regional Partnerships Program, the predecessor to the current Regional and Local Community Infrastructure Program. In opposition, the ALP had joined public criticism of the Coalition government for abusing the program for partisan purposes, for skewing the distribution of grants to its supporters in the regions. At the request of the Senate Finance and Public Administration References Committee, the ANAO had also criticised the administration of another grants program, the Volunteer Small Equipment Grants, by the Department of Families, Community Services and Indigenous Affairs, for similar reasons.

Before the previous election in 2004, the then minister, Larry Anthony, had not only rejected a number of departmental recommendations but had required his departmental officials to change their original recommendations to be in line with the minister’s, thus giving the false appearance that the final decisions proposals had the department’s approval. As the Auditor-General commented, such compromising of due process was “below the standard expected of Australian Government agencies in administering grant programs”.

The incoming Rudd government, as part of its commitment to improving the integrity of government processes, tackled the partisan use of discretionary grants. It established the new guidelines which required ministers to seek departmental advice on the merits of each proposal and, implicitly, to follow such advice unless good reason could be provided to the contrary. However, like the ban on political advertising, the new guidelines did not last even one electoral cycle. When facing the pressures of re-election, the Labor government proved to be no more scrupulous than its predecessor.

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The legal framework that covers discretionary grants requires ministers to undertake “reasonable inquiries that demonstrate that the proposed expenditure will make efficient and effective use of public money”. In practice, ministers should always act on departmental advice about whether applications for grants meet the official criteria established for the program.

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Politicians, perhaps, cannot be expected to resist the pork-barrelling opportunities offered by discretionary grants programs. Those with longer memories will recall the “sports rorts” affair of the early 1990s and the downfall of a minister in the Keating government, Ros Kelly, famously undone by disclosure of her whiteboard. The incident has a familiar ring. Once again, it was sparked by a critical report from the then auditor-general, who complained about the lack of documents and justification given for the minister’s decisions in allocating sporting facilities. Once again, government-held electorates, particularly marginal seats, had been much more successful than opposition-held electorates. Again, too, the partisan factor was not part of the official criteria and couldn’t be openly acknowledged, thus forcing the minister and her officials into implausible hypocrisy.

The ANAO remains the standard-bearer for a more honest approach to discretionary grants. If party political considerations are not formally listed in the criteria (which they never are), such considerations should be irrelevant to the allocation decisions. Or the other hand, discretionary grants programs under ministerial control offer an overwhelming temptation to incumbent governments. Moreover, voters in government-held marginal seats expect their share of spoils and are not too fussy about the process involved. Public servants can be awkwardly caught in the middle owing loyalty to their political masters and yet called on to act as guardians of public integrity.

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