

## September 2010

# Intellectual Property Update: Government Grants Continue to Support SME Innovation

## Overview

Small and medium sized Australian innovators, businesses and researchers can obtain financial assistance to support their intellectual property development, under grant schemes from both the Federal and State Governments.

Currently, Austrade is accepting applications from eligible SMEs for the *Export Marketing Development Grants* (EMDG) Scheme for the 2009/2010 grant year. The EMDG Scheme encourages Australian SMEs to develop export markets, and is a key Australian Government financial assistance program for aspiring and current exporters.

Support is also available under the Victorian Government's *Smart SMEs Market Validation* \$28 million grant program, which is directly targeted at supporting SME technology innovation. Introduced in 2009, this program is currently in its second round. Shortly, the Victorian Government will invite SMEs to submit proposals for technology innovations in a range of public sector areas including, health, environment, transport, emergency services, aged care and housing. Successful applicants will be eligible for \$100,000 to undertake initial feasibility studies.

## Changes to Federal Government Export Market Development Grants (EMDG) Program

The EMDG scheme is the Federal Government's major financial assistance program for Australian exporters and is administered by Austrade. EMDG reimburses up to 50% of expenses incurred on eligible export promotion activities above a \$10,000 threshold and provides up to 8 grants to each eligible applicant. [\[1\]](#)

### 2009/2010 EMDG Applications Now Open

From **1 July 2010 to 30 November 2010**, Austrade will be accepting applications for EMDG for the 2009/2010 grant year. Austrade has released a comprehensive guide to assist businesses in applying for the grants. [\[2\]](#)

Before applying, applicants should ensure that they meet the EMDG eligibility requirements. All Australian individual partnerships, companies, associations, co-operatives, statutory corporations or trusts carrying on businesses in Australia can apply for an EMDG, provided they:

- Had an annual income less than \$50 million during 2009/2010;
- Spent at least \$10,000 on eligible export promotion activities in 2009/2010;
- Are the principal: in most cases, the applicant must own the product they are promoting; and
- Promoted a product for export which meets the relevant product requirements. [\[3\]](#)

The maximum amount initially payable for eligible expenses incurred in the 2009/2010 grant year will be \$27,500; grant recipients with entitlements above this amount will receive a second payment at the end of June 2011. [\[4\]](#)

## Recent Changes to EMDG Program

Legislation passed prior to the recent federal election saw a number of changes made to the EMDG. These amendments will affect applications lodged from **1 July 2011**, and relate to expenses incurred from **1 July 2010**.

Under the existing EMDG Scheme, applicants can obtain funding for expenses related to granting, registering or extending rights under foreign laws in relation to eligible intellectual property. Following recent amendments, SMEs can now obtain a capped maximum of \$50,000 per grant year for intellectual property expenditure from 2010/2011 onwards. [\[5\]](#)

Other relevant changes include:

- Reducing the maximum grant from \$200,000 to \$150,000;
- Increasing the minimum expenses threshold from \$10,000 to \$20,000;
- Reducing the maximum number of grants available to an individual recipient from 8 to 7 grants; and
- Increasing the income limit for members of approved joint ventures/consortia from \$30 million to \$50 million. [\[6\]](#)

## Victorian Government Smart SMEs Market Validation Program (MVP)

### MVP Overview

The MVP competitive grants program is designed to assist SMEs with innovative and commercially orientated R&D, tailored to meet the technology needs of Victorian public sector entities. [\[7\]](#)

The program runs in three stages:

1. Victorian public sector entities will identify the technology needs of their organisation, and submit a Technology Requirements Specification (TRS) for assessment by the Department of Innovation, Industry and Regional Development (DIIRD).
2. DIIRD will release the approved TRS, and call for proposals from SMEs to apply with new technology solutions.
3. Approved SMEs proposals will receive a grant of up to \$100,000 to undertake a feasibility study, and submit a Feasibility Study Report at the end of 3 months. Feasibility Study Reports will determine whether an SME is eligible for up to \$1.5 million to undertake R&D to Proof of Concept, over two years. [\[8\]](#)

The Victorian Government has recently completed Stage One of the 2010 MVP Scheme, and will be releasing approved TRS to call for SME technology proposals later this year. Interested SMEs can register their interest for the MVP, and are encouraged to attend an MVP Information Session before applying. [\[9\]](#)

### SME Eligibility & Benefits

In order to be eligible of the MVP program, an SME will:

- be a non tax-exempt company incorporated in Australia under the *Corporations Act 2001*, with at least 51% of the applicant's current business activities, employees or assets residing within Australia;
- have a combined turnover (including each related body corporate) of less than \$50,000,000 for each of the three financial years prior to lodgement of the application;
- have fewer than 200 employees;
- have access to, or the beneficial use of, any intellectual property necessary to carry out the project;
- be willing to undertake not less than 80% of the R&D work in Victoria for the duration of the Proof of Concept stage; and
- have the Principal Investigator in charge of overseeing the SME's proposal, based in Victoria for the duration of the project. [\[10\]](#)

The MVP potentially provides SMEs with the opportunity to receive sustained government support to fund R&D, create and retain intellectual property assets and a commercialisation platform from which SMEs can expand their export capabilities and customer base. [\[11\]](#)

Stephens Lawyers & Consultants have a high level of expertise in intellectual property law, undertakes intellectual property audits and develops strategies for the protection and management of intellectual property assets.

We assist clients in effectively commercialising their intellectual property and obtaining funding through government grants or the private market.

**Our** lawyers represent leading companies in both litigious and commercial matters. For further information contact:

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[1] For an overview of the EMDG Program please see Stephens Lawyers' February 2010 Newsletter: <http://www.stephens.com.au/view/22/2010020565441/> .

[2] *Austrade*, 'A Guide to Applying for EMDG: 2009-10 grant year', at <http://www.austrade.gov.au/ArticleDocuments/1356/EMDG-Apply-Guide.pdf.aspx> .

[3] For more information on EMDG eligibility, please see: *Austrade*, 'EMDG In Brief', at <http://www.austrade.gov.au/ArticleDocuments/1356/EMDG-In-Brief-ENG.pdf.aspx>.

[4] *Austrade*, 'Assessment and Payment Amounts', <http://www.austrade.gov.au/Assessment-and-payment-amounts/default.aspx>.

[5] *Austrade*, 'EMDG Scheme Changes', at <http://www.austrade.gov.au/EMDG-Scheme-Changes/default.aspx> .

[6] *Austrade*, 'EMDG Scheme Changes', at <http://www.austrade.gov.au/EMDG-Scheme-Changes/default.aspx> .

[7] *Business Victoria*, 'Smart SMEs: Market Validation Program', at <http://www.business.vic.gov.au/busvicwr/assets/main/lib60261/mvp%20brochure.pdf>.

[8] *Business Victoria*, 'MVP: FQA', at [http://www.business.vic.gov.au/BUSVIC/STANDARD/PC\\_63427.html](http://www.business.vic.gov.au/BUSVIC/STANDARD/PC_63427.html).

[9] *Business Victoria*, 'MVP: Register Your Interest', at [http://www.business.vic.gov.au/BUSVIC/STANDARD/PC\\_64075.html](http://www.business.vic.gov.au/BUSVIC/STANDARD/PC_64075.html).

[10] *Business Victoria*, 'Market Validation Program for SMEs', at [http://www.business.vic.gov.au/BUSVIC/STANDARD/PC\\_63424.html](http://www.business.vic.gov.au/BUSVIC/STANDARD/PC_63424.html).

[11] *Business Victoria*, 'Market Validation Program for SMEs', at [http://www.business.vic.gov.au/BUSVIC/STANDARD/PC\\_63424.html](http://www.business.vic.gov.au/BUSVIC/STANDARD/PC_63424.html).