

Premier and Cabinet Circular

PC 038 – UNSOLICITED PROPOSALS



Effective from September 2018

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1 Scope

- 1.1 This Circular explains the *Guidelines for the Assessment Unsolicited Proposals* (Guidelines). The Guidelines are applicable to all Government agencies and all public authorities under the *Public Finance and Audit Act 1997*.
- 1.2 The Guidelines and this Circular do not affect the application of other Circulars and Treasurer's Instructions. Further, the Guidelines do not override statutory powers or legislated processes, such as for Crown Lands under the *Crown Lands Management Act 2009*.

2 Objective

- 2.1 The Guidelines formalise the government's process for assessing unsolicited proposals to ensure a clear and transparent process which gives proponents certainty that their intellectual property will be protected.
- 2.2 Unsolicited proposals are proposals that do not fit into existing procurement processes and are submitted by a private entity (either for profit or not-for-profit) without formally being requested by the government.
- 2.3 This Circular summarises the assessment process for unsolicited proposals across government and must be read in conjunction with the Guidelines.

3 Process

- 3.1 The Department of Treasury and Finance (DTF) coordinates consideration of all unsolicited proposals.
- 3.2 Unsolicited proposals need to be lodged online with DTF at: www.treasury.sa.gov.au/Growing-South-Australia/unsolicited-proposals
- 3.3 Unsolicited proposals are then assessed by the Unsolicited Proposals Committee (the Committee).
- 3.4 The Committee will engage agencies for support in assessing proposals as necessary to assist decision making.
- 3.5 The process for assessing unsolicited proposals set out in the Guidelines includes three steps as follows:
 1. Application and investigations;
 2. Exclusive negotiations and business case;
 3. Contract negotiations.
- 3.6 Under the Guidelines, Cabinet is informed of the progress of submissions and will give final approval for any proposals moving to either Step 2

(Exclusive Negotiations and Business Case) or Step 3 (Contract Negotiation).

- 3.7 Under the Guidelines, there are five assessment criteria applied by the Committee when assessing unsolicited proposals:
1. Community need/government priority;
 2. Uniqueness of the proposal;
 3. No competing proposals;
 4. Value for money;
 5. Capacity and capability of the proponent.
- 3.8 Proposals that are not recommended to progress by the Committee or by Cabinet may form the basis of a competitive bidding process or be referred to a relevant agency for further consideration through standard procurement processes.
- 3.9 To protect the integrity of the formal assessment process, Government agency employees, Ministers and Ministerial Office staff members, who are not involved in the formal assessment process, should not enter into any communications with other persons about a proposal that they know to be an unsolicited proposal (particularly if the unsolicited proposal involves matters within another agency's or Minister's area of responsibility).
- 3.10 Any party indicating a wish to discuss an unsolicited proposal (whether formally submitted or not) should be referred to DTF and to the unsolicited proposals process.

4 Application of the Guidelines for the *Assessment Unsolicited Proposals to Agencies*

- 4.1 Agencies are required to:
- Read and understand the Guidelines, particularly the minimum financial thresholds for consideration of an unsolicited proposal by the Committee.
 - Direct potential proponents to the Guidelines on the www.treasury.sa.gov.au website and request that proponents contact DTF at DTFunsolicitedproposals@sa.gov.au to submit an unsolicited proposal where appropriate.
 - Provide ongoing support to the Committee during the assessment process, including liaising with stakeholders as required.
 - Work with DTF to prepare documents for Cabinet consideration.
 - At the conclusion of the Contract Negotiation and acceptance by Cabinet, take appropriate actions to ensure that the government's obligations under the terms of the agreement are met. This may include collaboration with other agencies where necessary.

- Use existing approved agency processes for all standard procurement proposals and unsolicited proposals that do not meet the minimum financial thresholds outlined in the Guidelines.

5 Review

- 5.1 This policy should be reviewed every three years but may be reviewed at any time as required.

Document Control

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For more information

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