

Premier and Cabinet Circular

PC 038 – UNSOLICITED PROPOSALS

Effective from November 2023

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Purpose statement

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.

This Circular establishes the core policy approach and governance to assess and manage unsolicited proposals, and is supported by Guidelines for the Assessment of Unsolicited Proposals (Guidelines).

The circular and guidelines are applicable to all Government agencies and all public authorities under the *Public Finance and Audit Act 1997*.

Context

Usual government procurement processes are not designed to manage approaches from the private sector. Maintaining a process to manage unsolicited proposals ensures principles of good governance and financial management are applied consistently, while also supporting innovation and development in the private sector.

This Circular and the Guidelines do not affect the application of other Circulars and Treasurer's Instructions. Further, they do not override any statutory powers or legislated processes, such as for Crown Lands under the *Crown Lands Management Act 2009*.

Authority and accountability

The Unsolicited Proposal Committee (the Committee) oversees the process, considers proposals and makes recommendations to Cabinet, via the Treasurer, on whether proposals should progress.

Cabinet has the authority to approve progressing unsolicited proposals and entering contracts.

The Department of Treasury and Finance (DTF) administers the Unsolicited Proposals process and provides the Secretariat functions.

The Treasurer is responsible for maintaining and approving the Guidelines, which implement the policy and governance arrangements approved by Cabinet.

Agency Chief Executives must ensure agencies apply the Guidelines, particularly the minimum financial thresholds for consideration of an unsolicited proposal by the Committee, and direct potential proponents to the Guidelines at www.treasury.sa.gov.au/Growing-South-Australia/unsolicited-proposals.

Agencies must also remain engaged in the assessment and approval process (including supporting the Committee, liaising with stakeholders during assessment and helping prepare Cabinet submissions) and ensure Government meets its contractual obligations should the proposal be accepted and approved by Cabinet.

Application

Assessment principles

All proposals are assessed by the Committee against five criteria:

- Community need/government priority
- Uniqueness of the proposal
- No competing proposals
- Value for money, and
- Capability and capacity of the proponent.

Proposals must satisfy each criteria to progress through the process.

Multi-stage process

All unsolicited proposals are assessed through a three-stage process:

1. Application and investigation
2. Exclusive negotiations and business case
3. Contract negotiations.

Cabinet approves proposals progressing through each stage of the process, based on advice from the Committee.

Referral to agencies to investigate/progress

Proposals that are not recommended to progress either by the Committee or Cabinet may form the basis of a competitive bidding process or be referred to the relevant agency to be further considered through standard procurement or other market processes (for example, disposal of land).

Agencies are required to progress these matters (as outlined in the guidelines) and report back to the Committee.

Proposals that do not meet thresholds

Proposals that do not meet the minimum financial thresholds for the unsolicited proposals process, must be managed by agencies in line with usual procurement policies and processes¹. The Committee may elect to manage proposals below the financial thresholds in exceptional circumstances where a proposal is of strategic significance to the State.

Exemptions

There are no exemptions to this circular.

¹ Agencies are referred to the Unsolicited Proposal Schedule from Procurement Services SA for guidance of the management of Unsolicited Proposals below DPC038 thresholds.

Monitoring and compliance

The Committee reports to Cabinet, via the Treasurer, on unsolicited proposal matters, including monitoring progress on proposals that have been referred to agencies.

Where an unsolicited proposal has been approved by Cabinet and the Contract Negotiation process completed, agencies must ensure that agreement terms and obligations are met by proponents and government.

Distribution and publication

The Circular will be published on the DPC website and the lead agency (DTF) will write to all Chief Executives when the Circular is published or updated.

Document Control

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For more information

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