

# GUIDELINES FOR ASSESSMENT OF UNSOLICITED PROPOSALS



Government of South Australia  
Department of the Premier  
and Cabinet

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*South Australia acknowledges the input from other jurisdictions in the compilation of these Guidelines.*

## Premier's Statement

The South Australian Government has a Vision for the State to be *The Place Where People and Business Thrive*.

At the heart of our economic development strategy is a partnership between government, business, research and educational institutions and the community sector.

Government does not have all the ideas, and we want to work together with the private sector (businesses and not-for-profit bodies) to identify innovative approaches that will promote the economic development of the State, create jobs and deliver high quality services to the community.

In many cases traditional Government procurement processes will support the best value for money solutions to meet our objectives.

But we also wish to work in partnership with the private sector and encourage good ideas to be brought forward.

The South Australian Government welcomes unsolicited proposals from the private and community sector.

We have heard that proponents want this to be supported by an updated, clear and transparent process which gives them certainty that their intellectual property will be protected. This guideline formalises the Government's framework for unsolicited proposals to achieve the certainty and transparency that both proponents and the community need.

A streamlined, easily navigable process will be achieved by:

- Published criteria that will inform the assessment of proposals
- Published process steps
- A template which guides the information required to initially assess a proposal
- A single portal for all lodgements – [unsolicitedproposals@sa.gov.au](mailto:unsolicitedproposals@sa.gov.au)

The Government is committed to delivering on its economic, social and environmental priorities and maximising job creation opportunities for South Australians. It looks forward to receiving innovative ideas to meet our collective goals.

## **1. What is an Unsolicited Proposal?**

An unsolicited proposal originates from a private entity (either for profit or not-for-profit) which is submitted without formally being requested by the Government.

The nature of the proposal can cover a wide range of areas and may include:

- Delivery of goods and services to or on behalf of Government;
- Provision of infrastructure;
- Access to Government assets;
- Seeking Government support (financial, regulatory or other support) to undertake a specific activity; or
- Financing arrangements

There is an applicable minimum financial threshold in the application of these Guidelines. This will ensure low cost, low risk unsolicited proposals are handled directly by agencies and remove the requirement for State Coordinator-General involvement.

The minimum financial thresholds for an unsolicited proposal under these Guidelines are:

1. A \$3 million threshold for unsolicited proposals with an investment construction value of \$3 million or greater, or
2. A \$1 million threshold for non-infrastructure unsolicited proposals.

While dollar limits will apply the State Coordinator General can elect to review any proposal that is below these thresholds. These thresholds do not preclude a proponent making an application through this process.

## **2. Objectives**

The following objectives will guide the Government's process for considering unsolicited proposals:

- Promoting the development of innovative ideas by the private and community sector to support economic development, job creation and meeting community needs;
- Ensuring an open, transparent and fair process that involves a high standard of probity and public accountability;
- Ensuring value for money for Government is achieved;
- Ensuring the benefits of the project for South Australians are maximised; and
- Ensuring that the private party's Intellectual Property (IP) is respected.

## **3. Exclusive Negotiations**

The Government's default position is to request a proposal via a tender process to ensure that the best value for money solution can be competitively identified.

However, the Government recognises that circumstances arise where it may be beneficial in dealing exclusively with one party.

The Government may, in its absolute discretion, negotiate with a party that presents an unsolicited proposal where the Government considers circumstances warrant such an approach (in accordance with the criteria contained in this guideline)

An exclusive negotiation with a proponent will be solely limited to the proponent for the purposes of developing the specific unsolicited proposal. Moreover, exclusivity will only be granted by the State for a specified period.

During a period of exclusive negotiation, the Government will not grant similar rights to the proponent of another proposal relating to substantially the same subject matter of the negotiations. The Government may do so, however, if it has received multiple unsolicited proposals before engaging in any negotiations and wishes to negotiate on two or more such proposals.

Where the Government enters into an exclusive negotiation with a proponent, it retains the right to withdraw its interest or offer at any stage with suitable notice.

Key features of an exclusive negotiation may include:

- It being granted at the Government's sole discretion, subject to specific terms and conditions, having regard to the particular characteristics of the proposal;
- Maximising value for money and minimising risk will always be prioritised when assessing and dealing with such proposals;
- The proponent will be responsible for its own costs in developing and lodging the proposal;
- All correspondence and communication with the respondent will be kept confidential, subject to freedom of information or public accountability requirements;
- Exclusivity may be given on a stage by stage basis. Government may enter into exclusive negotiations with the proponent to develop a proposal for the following stage.

During the assessment process the Government will not be precluded from engaging with other parties during the stage one assessment of initial proposals. This will enable the Government to ascertain whether there are competing proposals and the potential for alternative value for money propositions.

These Guidelines do not negate or vary the need for proposals to comply with other relevant government policies including the Government's Industry Participation Policy.

#### **4. Criteria for Assessing Whether to Enter Into Exclusive Negotiations for an Unsolicited Proposal**

In order for the Government to enter into exclusive negotiations, the proponent's proposal must satisfactorily meet the following criteria.

## **1. No Competing Proposals**

The Government will assess the unsolicited proposal against any existing proposals or procurement processes to ensure the same or similar issues are not already under consideration by the Government or under active and advanced consideration by another proponent.

If these conditions are not satisfied, the proponent should clearly demonstrate that their proposal has a distinct advantage over any other similar proposal and why the proponent's proposal was not submitted as part of that process.

In these circumstances it is likely that the Government will not accept an unsolicited proposal.

## **2. Community Need/Government Priority**

The unsolicited proposal must promote economic, social and/or environmental outcomes for the South Australians and be consistent with the achievement of the Government's strategic priorities.

Proponents should demonstrate how their proposal will create additional economic activity and jobs, or meet unmet community needs, and how it assists with the achievement of the Government's strategic priorities.

## **3. Uniqueness of the proposal**

Uniqueness may be established by the proponent possessing strategic assets, innovative ideas or other unique attributes that meet government priorities and could not be delivered by another party within acceptable timeframes.

The proponent will need to demonstrate the unique aspects of their proposal – for example:

- Can this proposal be readily delivered by competitors? – if so, what advantage is to be gained from the government entering into exclusive negotiations with the proponent?
- Are there genuine intellectual property rights, without which the proposal could not proceed to implementation (e.g. software or technology)?
- Does the proponent have ownership of strategic assets such as contractual rights or real property that would place it in a unique position to deliver the aims of the proposal, and which other parties could not deliver?
- Are there unique financial arrangements that support the delivery of the project?
- Does the proponent have a unique ability to deliver outcomes which support the achievement of the Government's strategic priorities; or
- Does the proponent's proposal have other demonstrably unique elements or innovative ideas that are not able to be delivered by another party within acceptable timeframes?

## **4. Value for money**

The Government will seek to assess whether the proposal represents value for money when the proponent is seeking any form of financial contribution or risk sharing from government.

The proponent should:

- Identify what is being sought from government to facilitate the project (which may include financial support, assets, legislative/regulatory amendments or other support);
- Demonstrate that the proposal is fairly and sustainably priced relative to comparable projects;
- Demonstrate that the proposal involves an acceptable and optimal sharing of costs and risks between the Government and the proponent.
- Demonstrate that the proposal will meet acceptable commercial and industry standards.

The Government will also consider whether the benefits of the proposal will outweigh the costs of any government support. The proponent should articulate what they consider to be the benefits to South Australians of the proposal.

#### **5. Capacity and Capability of proponent**

The Government must ensure that the proponent has the skills and experience required to deliver the project as specified in the proposal.

The proponent will need to demonstrate it has the capacity and capability to deliver the proposal. Information will need to be provided regarding the proponents' relevant commercial and trading history, financial capacity, prior dealing with Government and its experience in delivering similar projects. The proponent must also demonstrate that it has the financial and technical competencies to successfully deliver the project. The proponent should provide information regarding any reliance on third parties.

### **5. Process for Consideration of Unsolicited Proposals**

#### **Pre-Lodgement Meeting**

Before the process commences, proponents may seek a pre-lodgement meeting with the State Coordinator-General. This is not a compulsory requirement but may assist the proponent to identify whether their proposal has the attributes which may potentially meet the criteria, including its unique attributes, prior to committing significant resources to the development of the proposal.

It is advised that the proponent bring a draft version of the template at Appendix 1 to ensure the pre-lodgement meeting is beneficial to both parties.

The Department may provide feedback as to whether the proposal, as presented, is consistent with the criteria. Notwithstanding any feedback provided at, or following, the pre-lodgement meeting, the proponent may proceed to the formal stages of the process.

#### **Three Stage Process**

The process involves three stages:

1. Initial Proposal
2. Detailed Proposal
3. Contract Negotiation

Where the Government assesses that a proposal does not meet the criteria at any stage of the process, it reserves the right to go to market, end the proposal consideration process or withdraw from exclusive negotiations.

The proponent will be given the opportunity to participate in any subsequent procurement process. If the Government does go to market it will respect any intellectual property owned by the proponent.

### **Stage 1: Initial Proposal**

The initial proposal stage allows a proponent to provide Government with a high level outline, which enables the Government to form a preliminary view as to whether to further consider the unsolicited proposal. A proposal should contain details of how it addresses the criteria outlined in section 4 of this guideline, and must be presented using the template at Appendix 1 (which can be downloaded from [sa.gov.au](http://sa.gov.au)). The initial proposal should be lodged electronically to: [unsolicitedproposals@sa.gov.au](mailto:unsolicitedproposals@sa.gov.au).

Stage 1 will not involve negotiation of the proposal. That opportunity will arise at later stages.

Once the State Coordinator General has determined that sufficient information has been provided to assess the proposal, it is submitted to the Unsolicited Proposals Steering Committee, which is chaired by the State Coordinator General and comprised of senior Government representatives of the following Departments (with additional attendees as required):

- The Department of the Premier and Cabinet
- The Department of Treasury and Finance
- The Department of State Development
- The Department of Transport, Planning and Infrastructure
- Renewal SA (for land transactions);
- The Crown Solicitor's Office; and
- Any other relevant agencies as required.

The Unsolicited Proposals Steering Committee will determine whether the proposal meets the criteria based on the outline submitted by the proponent. In making their determination, the Steering Committee may consult with other Government agencies, seeking their input on the assessment of the proposal.

If the Steering Committee recommends that the proposal should proceed to the next stage of the process, this advice will be prepared for Cabinet's consideration and endorsement.

If the Steering Committee recommends the proposal not be accepted, the proponent will be notified of this outcome in writing, by the Chair. This may include advice that



the proposal is not suitable for further consideration on an exclusive basis, however may instead form the basis of a competitive bidding process.

Proposals that have merit, do not conflict with any other existing government process, are consistent with other government policies, and involve low risk and minor resource commitment by Government, may be referred to a relevant agency for further consideration.

Where Cabinet endorses projects to advance to Stage 2, proponents will be provided with:

- A summary of the Committee's assessment findings;
- The proposed process for further development and consideration of the policy proposal, including governance arrangements;
- Advice regarding any requirements, additional matters or limitations the Government requires to be included or further developed as part of the proposal, including in relation to price, scope, quality and risk factors.

Brief details of all unsolicited proposals that progress to Stage 2 will be published on the Government website. Generally, the Government seeks to disclose all proposals at this stage. In some cases, proponents may request that proposals are not listed, if this would pose significant risks to commercial confidentiality, commercial negotiations or intellectual property.

The Government will seek to ensure that the Stage 1 process takes no more than 45 days (commencing from when the State Coordinator General has determined that sufficient information has been provided by the proponent and has referred the proposal to the Steering Committee for assessment).

## **Stage 2: Detailed Proposal**

Stage 2 involves further consideration of the feasibility of the proposal, how it will be delivered and whether it represents value for money for government. Confidentiality, communication and probity protocols will be established and probity advisers appointed.

The Government will manage an interactive process with the proponent.

The Government will establish the terms of participation for Stage 2 which may contain:

- Acknowledgement that for the project to proceed it must deliver value for money and a net benefit to South Australians;
- The stage 2 assessment criteria and other relevant Government requirements;
- Communication protocols, including a prohibition on lobbying;
- Conflict of interest management arrangements;
- Confidentiality arrangements;
- Timeframes;
- Commitments for open sharing of information;
- Approval requirements.

Stage 2 will involve a detailed examination of:

- The nature and terms of the arrangement, including time frames and the nature of any exclusivity arrangements;
- Whether the project represents value for money for government – which may require benchmarking to be undertaken, and require that the proponent to provide information on project costs and/or revenues on an open book basis;
- The costs and risks to government and the benefits to South Australians;
- Whether the proposal is technically and financially feasible.

The Government will seek to consider the following issues:

- Does the project represent value for money for government?
- Is the proposal affordable?
- Is the proposal technically and financially feasible?
- What is the optimal scope of the proposal to meet Government needs?
- Do the benefits of the proposal to South Australians outweigh the costs?
- Should the proposal or parts of it be open to competition?
- What is the appropriate risk allocation?
- What is the appropriate return for the private sector party given their risk exposure?
- What is the appropriate delivery method?

The relevant Industry Participation Plan (IPP) for the contract value should be submitted and scored by the Office of the Industry Advocate at this stage to assist determining the economic benefit to the State.

During this stage the Government will:

- Convene an assessment panel which will include representatives from relevant agencies including:
  - The Department of the Premier and Cabinet;
  - The Department of Treasury and Finance;
  - The Department of State Development;
  - The Department of Transport, Planning and Infrastructure;
  - Renewal SA (for land transactions);
  - The Crown Solicitor's Office; and
  - Any other relevant agencies as required.
- Request further information and arrange meetings with proponents with an aim to better understand the requirements and obligations of the proposal;
- Prepare a detailed report to the relevant Minister(s) and Cabinet advising of key outcomes of the assessment process and decisions on next steps.

During this stage it is expected that the proponent will:

- Develop a detailed proposal, consistent with requirements outlined following the Stage 1 process;
- Provide any additional information as required and to make themselves available to participate in meetings to respond to or clarify any further requests by Government.

During Stage 2 independent assessments may be required.

Once the assessment process of Stage 2 is complete, advice will be prepared for Cabinet and the government will provide a response to the proponent, outlining;

- The outcome of the assessment stage;
- Whether the proposal is suitable to proceed to Stage 3 (Contract Negotiation) and the appropriate justification;
- Whether the proposal is not suitable for further consideration on an exclusive basis however may still warrant a competitive bidding process;
- That the proposal is not suitable for further consideration and is now closed.

### **Stage 3: Contract Negotiation**

The contract negotiation stage allows the Government and the proponent to negotiate final legal and commercial terms then prepare and execute formal project documentation.

Key steps of this stage include:

1. Advise the proponent of the process and protocols for the development of the final contract;
2. Government may seek legal, financial and technical advice on finalising the unsolicited proposal;
3. Final negotiations between the Government and the proponent;
4. Formal contract management documentation prepared based on the final negotiations, noting key milestones/objectives;
5. Contractual documentation and project management proposals comprehensively reviewed;
6. Proposal presented to Cabinet to seek Cabinet approval;
7. Advise proponent of the Government's final decision.

At the conclusion of the Contract Negotiation process, the Government has 4 options:

1. Agree to the terms included in the contractual documentation and approve formal documentation to be executed;
2. Agree to the contractual documentation, with specific conditions;
3. Do not agree to the contractual documentation but pursue the unsolicited proposal through an alternative arrangement, for example a competitive process. (Should this occur, Government agencies must take appropriate steps not to disclose or use any intellectual property provided by the proponent);

4. Do not agree to the contractual documentation and conclude the unsolicited proposal assessment process.

Where an unsolicited proposal has been accepted by the Government, the relevant agency should take appropriate steps to ensure that the Governments obligations and relevant steps under the terms of the agreement are met. This may include collaboration with other agencies where necessary.

## **6. Probity Framework**

Probity principles and protocols will be established when dealing with proponents to ensure:

- That decisions are made through the approved frameworks and are capable of withstanding objective and independent scrutiny;
- That decisions deliver the best outcomes for Government;
- That public service integrity is maintained;
- Commercially sensitive and confidential information is protected;
- That any perceived conflict of interest, bias and/or misconduct is eliminated.

## **7. General Terms and Conditions**

The Government may take into account any other factors or considerations that it considers relevant to the assessment of an unsolicited proposal, including any that may arise as a consequence of the nature and content of the proposal, of applicable government policy or strategy and of pertaining economic, social, legal or other events or states of affairs.

### **No Legal Relationship**

By making an unsolicited proposal, a proponent acknowledges as follows.

- No contract exists or will be implied between the State and a proponent unless and until suitable documentation is executed with the State;
- The State has no contractual or other legal obligation to the proponent with respect to the consideration, the evaluation, the acceptance or the rejection of any submission or the failure to consider, evaluate or accept any submission.

### **Freedom of Information**

The Freedom of Information Act 1991 (FOI Act) applies to the information provided by a proponent in its submission. Proponents should note that the FOI Act allows members of the public rights of access to documents of the State and any State participants. Any information that is commercially sensitive or confidential must be marked "commercial and confidential". This special notation must not be used unless the information is genuinely confidential.

### **Probity**

A proponent must not offer any incentive to, or otherwise attempt to, influence any person who is either directly or indirectly involved in an assessment or negotiation process. If the State determines that a proponent has violated this condition, the

State may, in its sole and absolute discretion, disqualify the relevant proponent's submission from further consideration.

### **Change in Circumstance**

Proponents must inform the State promptly in writing of any material change to any of the information contained in the proponent's submission, and of any material change in circumstance that may affect the truth, completeness or accuracy of any information provided in, or in connection with, the submission.

### **Costs**

All risk and costs of preparing, lodging, developing and negotiating a proposal are to be borne by the proponent.

No proponent will have any recourse against the State in relation to the State's decision to not proceed with a proposal under these Guidelines.

### **Reliance on Information**

By lodging a submission, the proponent warrants and represents to the State that the information contained in its submission is true, accurate and complete as at the date on which it is lodged, and may be relied upon by the State in its assessment.

### **Conflict of Interest**

The proponents shall:

- Declare any actual or potential conflict of interest of any proponent participant;
- Comply with all laws in force in South Australia, including the *Australian Competition and Consumer Act 2010*;
- Not make any news releases or responses to media enquiries and questions pertaining to this process without the State's written approval.

### **Other Rights**

The State reserves the right, in its sole and absolute discretion, at any time during the process to:

- Require additional information from a proponent;
- Perform security and/or financial checks and procedures in relation to each proponent and each party with an interest in the proponent;
- Change its requirements, including, at any stage, adding to or amending the information, terms, procedures, evaluation process and protocols set out in these Guidelines;
- Change the basis on which proponents may, or are required to, participate in the process;
- Publish the names of proponents;
- Clarify any aspect of a proposal;
- Discontinue negotiations at any time with any proponent;

- Subsequently initiate any other procurement process for the same or similar requirements;
- Seek the advice of external consultants to assist the State in the evaluation or review of responses;
- Make enquiries of any person, company, organisation or consortium to ascertain information about the proposal, the proponent and any matter related to the response;
- Revert to public sector delivery of the project; or
- Allow a proponent to change its submission.

### **Acceptance of a Proposal**

The State is not obliged to accept any proposal.

No acceptance of a response nor any invitation to negotiate or to make an offer will be effective to constitute a contract or to create any legitimate expectation on the part of the proponent unless a formal written contract is executed by both parties.

### **No Contract or Estoppel**

No contracts, contractual rights, estoppels or expectations, express or implied, shall arise, or be deemed to arise, out of the process set out in these Guidelines.

## Appendix 1 - Schedule of Information Requirements

This form must be completed by organisations/consortiums when initially presenting an unsolicited proposal to government. Please ensure all sections of this form are adequately addressed. An initial version of this schedule should be prepared prior to the any "Pre-Lodgement" meeting with the State Coordinator General.

<b>Organisation/ Consortium Name:</b>		<b>Address:</b>	
<b>Identity:</b>	[individual, sole trader, company, etc.]	<b>Type of Organisation/ Consortium:</b>	[profit / non-profit, educational, small business, etc.]
<b>Contact person(s) details for evaluation purposes:</b>		<b>Date of Submission:</b>	
<b>Concise title and abstract of proposal</b> (approx.200 words)			
<b>Short Title</b>			
Abstract			
<b>Proposal Details</b>			
Provide information on the:			
<ul style="list-style-type: none"> <li>i. Objectives of the proposal</li> <li>ii. Method of approach</li> <li>iii. Nature and extent of anticipated outcomes</li> <li>iv. Benefits the proposal will bring to the State</li> </ul>			
<b>Assessment Criteria</b>			
Please provide a brief description of how the proposal would meet each of the assessment criteria. <u>Refer to section 4 of the guidelines for a detailed description of each criteria to be addressed.</u>			
1. Competing Proposals			
If the proponent is aware of any existing proposals or procurement processes currently under			

consideration by the Government or under active and advanced consideration by another proponent, then the proponent should clearly demonstrate that their proposal has a distinct advantage over any other similar proposal.

## 2. Community Need/Government Priority

The unsolicited proposal must promote economic, social and/or environmental outcomes for the South Australian community and be consistent with the achievement of the Government's strategic priorities.

Provide information regarding the benefits of the proposal in terms of:

- additional economic activity and jobs,
- meeting unmet community needs, or
- how it assists with the achievement of the Government's strategic priorities.

## 3. Uniqueness of the proposal

Provide information as to how the proposal has unique characteristics which could support the government's decision to provide an exclusive mandate – for example:

- Can this proposal be readily delivered by competitors? – if so, what advantage is to be gained from the government granting an exclusive mandate to deal with the proponent?
- Are there intellectual property rights, without which the proposal could not proceed to implementation (e.g. software or technology)?
- Does the proponent have ownership of strategic assets such as contractual rights or real property that would place it in a unique position to deliver the aims of the proposal, and which other parties could not deliver?
- Are there unique financial arrangements that support the delivery of the project?
- Does the proponent have a unique ability to deliver outcomes which support the achievement of the Government's strategic priorities or
- Does the proponent's proposal have other demonstrably unique elements or innovative ideas that are not able to be delivered by another party?

## 4. Value for money

Provide information on:

- how the proposal is priced relative to comparable projects;
- the sharing of costs and risks between the Government and the proponent.
- how the proposal will meet acceptable commercial and industry standards.
- the benefits to South Australians of the proposal.

## 5. Organisational Capacity and Capability

Provide a brief description of:

- your organisation/consortium



- previous experience in delivery of similar project
- past performance operating similar project
- relevant commercial and trading history, financial capacity and prior dealing with Government.
- skills, experience and competencies required to deliver the project.
- any reliance on third parties.

### **Financial and commercial details**

Please provide a brief description of the financial and commercial details of the proposal and the proponent's financial capacity to deliver the proposal. Clearly explain what the proposed commercial proposition is.

### **Costs and requirements of government**

Please provide details of costs to government.

Clearly explain the requirements of government emerging from the proposal (what you are seeking from government?).

This may include legislative/regulatory amendments, finance or the use of government assets, facilities, equipment, materials, personnel, resources and land. What would be the cost of government providing this? (eg. What would be the value of the government land?)

### **Risks**

Please provide a list of proponent and government risks.

### **Intellectual Property details**

If applicable, please provide a description of the following:

- i. Inventory of each item of intellectual property
- ii. Nature of the intellectual property claimed (eg. copyright, patent, etc.)
- iii. The owner(s) of the intellectual property claimed
- iv. Registration details (where applicable)
- v. Details of any items for which confidentiality is wholly or partly claimed

### **Other Statements**

For example, please detail any applicable organisational conflict of interest and environmental impacts.

**Preferred Contractual Arrangements**

**Agency Points of Contact**

If applicable, please provide names and contact information of any other agency and government points of contact **already** contacted regarding this proposal.

<b>Period of time for which the proposal is valid</b>	Minimum six months	<b>Proposed duration of the arrangement</b>	
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This proposal is to be signed by a representative of the proponent authorised to represent and contractually bind the proponent.

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2 - Unsolicited Proposal Process Flowchart

### Stage One - Initial Proposal

#### Actions

##### Proponent

- Submit proposal electronically to: [unsolicitedproposals@sa.gov.au](mailto:unsolicitedproposals@sa.gov.au) using the template at Appendix 1.

##### Government

- Determine if sufficient information has been provided by the proponent.
- Unsolicited Proposals Steering Committee (Steering Committee) to evaluate proposal against the Assessment Criteria.
- Steering Committee to engage relevant agencies where necessary.
- Advise Cabinet whether the proposal meets the assessment criteria and whether to proceed to the next stage.
- Advise proponent of decision.

#### Outcomes

- Proceed with proposal and enter into exclusive negotiation.  
OR
- Not suitable for further consideration and is now closed.  
OR
- Proposal may form the basis of a competitive bidding process.  
OR
- Low risk proposals may be referred to relevant agencies

### Stage Two - Detailed Proposal

#### Actions

##### Proponent

- Submit detailed proposal including business case.
- Provide additional information as requested.
- Be available to meet and liaise with the Government.

##### Government

- Brief details of the proposal published on website.
- Develop key terms and information requirements of the arrangement.
- Advise proponent of process, governance arrangements, limitations (price, scope, risk) for strategic negotiations.
- Form an assessment panel that will assess the business case and feasibility.
- Request any additional information from the proponent.
- Prepare a detailed report to Cabinet advising of the detailed proposal.
- Advise proponent of outcome.

#### Outcomes

- Proceed with proposal and enter into exclusive negotiation to negotiate final legal and commercial terms.  
OR
- Not suitable for further consideration and is now closed.  
OR
- Proposal may form the basis of a competitive bidding process.

### Stage Three - Contract Negotiation

#### Actions

##### Proponent

- Negotiate legal and commercial terms.

##### Government

- Develop process and protocols with proponent for negotiations.
- Complete comprehensive assessment of the final binding offer and execute formal project documentation.
- Proposal presented to Cabinet for approval.
- Advise proponent of Government's final decision.

#### Outcomes

- Parties accept the final binding offer.  
OR
- Parties accept the final binding offer with specific conditions.  
OR
- Do not accept the final binding offer but pursue the unsolicited proposal through an alternative arrangement, e.g. competitive tender process.  
OR
- Do not accept the final binding offer and conclude the assessment.

\*Note: The Government retains the right to terminate exclusive negotiations in order to either go to market, or to withdraw its interest or offer at any stage with notice.