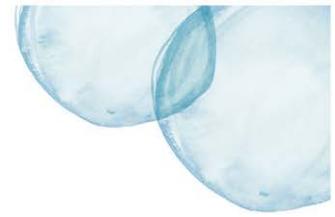


# Guidelines for Unsolicited Proposals

December 2015

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## 1.0 Introduction

The Corporation is keen to pursue value adding partnering opportunities with any Proponent as a means of improving the efficiency and effectiveness of the services it delivers to its stakeholders including its Customers, government shareholder and regulators. A Proponent could be a private corporate, a government body, a university, a charity, etc.

The Corporation is also committed to employing a transparent, equitable, decisive, efficient and competitive process in its dealings with Proponents, which will take into account the interests of an individual Proponent against those of the broader market and the Corporation's stakeholders.

These Unsolicited Proposal Guidelines (**Guidelines**) are intended to deal with any unsolicited proposal(s) (**Proposal**).

These Guidelines address the:

1. Evaluation criteria;
2. Governance; and
3. Process for dealing with a Proposal from the time of submission up to the time of implementation.

A detailed register of all Proposals currently be considered by the Corporation will be tabled at Board meetings.

All Proponent enquiries regarding Unsolicited Proposals should be directed initially to:

Russell Lamb  
Manager Infrastructure Markets  
Water Corporation

T: (+61 8) 9420 3277 | M: 0428 691 835 | F: (+61 8) 9420 2642

629 Newcastle Street, Leederville 6007

PO Box 100, Leederville, WA 6902  
[www.watercorporation.com.au](http://www.watercorporation.com.au)

Anyone considering a Proposal is strongly encouraged to contact Mr Lamb for an initial discussion before proceeding to prepare a Proposal.

## 2.0 Definition of Unsolicited Proposal

An unsolicited proposal is a proposal made to the Corporation by another party, which has not been requested by the Corporation. Such a proposal may be for, amongst other things, a combination of any of the following:

1. Construction, operations, maintenance and/or financing of public infrastructure;
2. Transfer of assets between public and private sector; and
3. Provision by the private sector of any other goods and services. Product trials to be undertaken by the Corporation at the Corporation's expense with ongoing obligations on the Corporation for the trial or for the purchase of the product



These Guidelines SHALL apply to a Proposal if adopted which would create contractual obligations on the Corporation, and which is either COMPLEX in nature, or is such that if it were to be accepted by the Corporation it could reasonably be expected to result in either aggregate receipts or aggregate payments by the Corporation which had a present value, whole of life, of greater than \$1M.

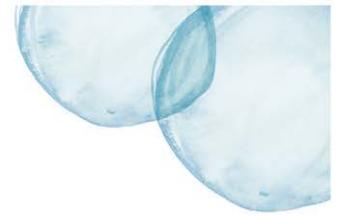
If a Proposal is not COMPLEX in nature, or does not reach \$1M value, then the application of these guidelines to such a proposal will be tailored pragmatically on a case by case basis. In any event some form of process for assessment of any Proposal against the Evaluation Criteria below is mandatory.

These Guidelines SHALL NOT apply to any Proposals which DO NOT seek for the Corporation to enter into any ongoing contractual arrangements with the proponent, or incur any legal obligations to the proponent or any third party. For example these Guidelines shall not apply to a product trial whereby a proponent wishes the Corporation to trial a product within the Corporation's operations, but otherwise the Proponent is seeking no contractual commitment from the Corporation other than the results of the trial and the cost of the trial for the Corporation is minimal. If however in this example the Corporation were to incur material cost in undertaking the trial or had an obligation to procure the product subject to the outcomes of the trial then these Guidelines would apply.

### 3.0 Evaluation Criteria

The following evaluation criteria is intended to guide the Corporation's decision to accept and implement any Proposal received by the Corporation on the basis of exclusive dealings with the proponent.

- i. **Advantage of proponent:** Does the proponent have an "unassailable advantage" to deliver the proposal compared to the rest of the market.  
**Requirement:** *The proponent must have an unassailable advantage compared to all other proponents who could reasonably be expected to offer a competing proposal to the Corporation if they were invited to do so in an open procurement process.*
- ii. **Value for money:** Does the Proposal offer a better value for money outcome for the Corporation compared to the next best option. Any value for money assessment will take into account an assessment of risks borne by the Corporation.  
**Requirement:** *The Proposal must offer Best Value for Money of all the alternative options available to the Corporation.*
- iii. **Affordability:** Is the Proposal affordable for the Corporation when assessed against all of its financial constraints (e.g. future operating budgets, capital budgets and debt positions).  
**Requirement:** *The Proposal must be affordable to the Corporation.*
- iv. **Whole of Government financial impact:** Does the Proposal deliver the Government a net positive financial impact compared to the next best option.  
**Requirement:** *The Proposal must deliver net positive financial impact to Government.*
- v. **Project feasibility:** Is the Proposal technically, commercially and financial feasible.  
**Requirement:** *The Proposal must be feasible to implement with relatively low implementation risk to the Corporation.*



- vi. **Capability and capacity to deliver:** Does the proponent have the means to implement the Proposal.  
**Requirement:** *The Proponent must have the means to implement the proposal with low risk to the Corporation if it were to be undeliverable.*
- vii. **Risk allocation:** Is the risk allocation between the Proponent and Corporation market normal given the nature of the Proposal.  
**Requirement:** *The risk allocation must be market normal or if not, any shift away from market normal must be cost effective risk re-allocation for the Corporation.*
- viii. **Return on investment:** Is the return on investment required by the proponent commensurate to the proponent's risks when benchmarked against market returns.  
**Requirement:** *The Return on Investment must be aligned with relevant market returns.*

## 4.0 Governance

A Proposal will be evaluated and approved within the context of the Corporation's current processes, accountabilities matrix and financial delegations policy.

A detailed register of all Proposals currently be considered by the Corporation will be tabled at Board meetings.

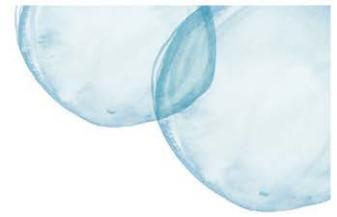
Infrastructure Markets Branch (**IMB**) will be available to support any team in the Corporation who receives a Proposal to assess them against the above evaluation criteria and then to implement the Proposal.

If a Proposal is complex or it would result in either aggregate receipts or aggregate payments by the Corporation which had a present value, whole of life, of greater than \$1M, the General Manager(s) whose Group(s) would be materially impacted by the implementation of the Proposal will request Manager Infrastructure Markets (**MIM**) to lead the assessment and implementation of the Proposal in accordance with these guidelines.

The relevant General Manager(s) will request MIM to form a working group comprising who they deem to be the relevant Corporation stakeholders for the evaluation of the Proposal. The General Manager(s) may also convene a steering group which would be expected to be comprised of representatives from the Corporation Executive and the working group leader.

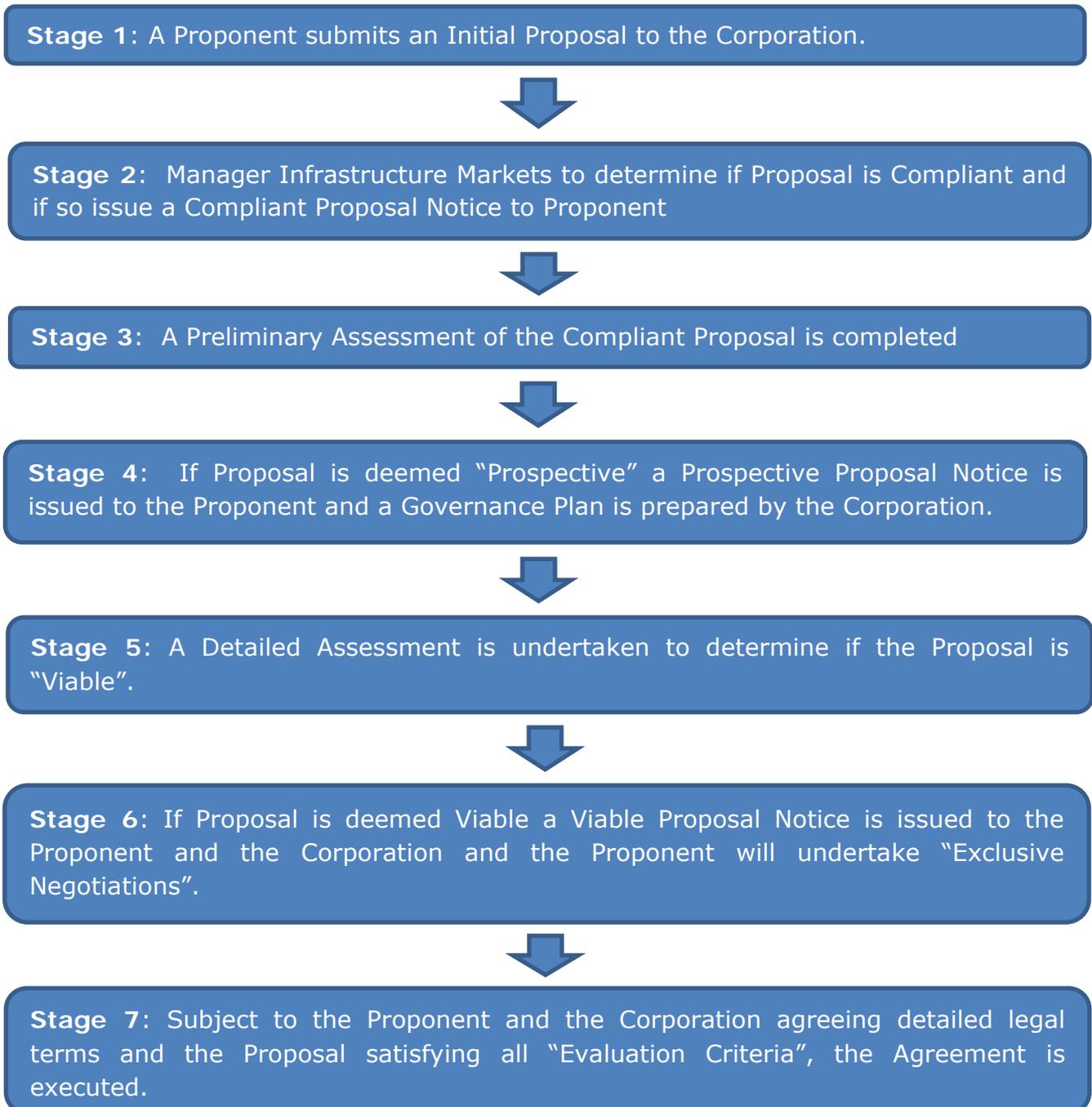
A Governance Plan for all Proposals that are complex or those with a value greater than \$1M shall be developed by IMB if preliminary evaluation against the above criteria indicates a prospective Proposal. A prospective proposal is one which based on the information provided satisfies the requirements of the above evaluation criteria. The Governance Plan will detail key roles and responsibilities within the working group and steering group, schedule for a robust evaluation and implementation, key milestones for engagement and approval from individual members of Executive, Corporation Executive, Board and Minister.

The Governance Plan will also contain a probity plan to, amongst other things; ensure that the implemented proposal stays true to the Proposal that was initially put forward by the proponent. A proponent shall not be able to submit an initial Proposal and then by negotiating changes via exclusive dealings, morph the proposal into one which would in its final form not have qualified as an unsolicited proposal. A probity plan will also protect intellectual property or other advantages disclosed by the proponent as part of the proposal.



## 5.0 Unsolicited Proposal Process

The seven stages depicted below capture the procurement of unsolicited proposals by the Corporation



### 5.1 Initial Proposal – Stage 1

Anyone in the Corporation contacted by a Proponent wishing to submit a Proposal should direct the enquiry to MIM in the first instance.



MIM will advise parties considering submitting a Proposal, of the process as per these guidelines.

MIM, if required by the Proponent, will negotiate and enter into a Confidentiality Agreement (CA) with the Proponent prior to the Proponent submitting the proposal. The Corporation will provide a draft CA to the Proponent if requested, but is equally willing to negotiate a CA starting with a proponent supplied CA.

## 5.2 Compliant Proposal – Stage 2

A Proposal must contain sufficient information to enable assessment of the Proposal as per the Corporation's Evaluation Criteria detailed earlier in these Guidelines.

The Proposal is to be addressed to MIM.

The Corporation will not evaluate any Proposal until all relevant information is provided (**Compliant Proposal**).

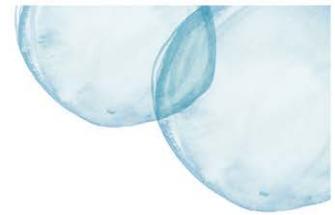
Required contents of a Compliant Proposal are as follows:

1. An executive summary of the Proposal;
2. Benefits of the Proposal to the Corporation, Government and the broader community;
3. Details proponent's advantages (e.g. cost savings, property rights, etc.) to deliver the Proposal that no other proponent will be able to match;
4. Sufficient technical detail which would include preliminary design reports and independent technical expert reports to assess the technical achievability of the Proposal;
5. Detailed term sheet for the Proposal;
6. A financial model which contains a detailed project cash flow including debt and equity funding and financial statements. The model should be such that it will allow the Corporation to validate the project and equity internal rates of return and also undertake a sensitivity of these;
7. Cost schedules which detail the Proposal whole of life capital, operating and maintenance expenditures;
8. How the proponent will fund the proposal and evidence that the proponent has the capacity to realise the funding.

On receipt of a Proposal MIM will review contents.

If it is not a Compliant Proposal then MIM will detail what additional information is required and will engage to a reasonable extent with the Proponent to assist them to develop a Compliant Proposal. MIM will determine when a Proposal is Compliant.

The Corporation will issue a **Compliant Proposal Notice** to the proponent when such a Proposal has been received. The Corporation will aim to advise the proponent within 28 days of receiving a Proposal whether they have submitted a Compliant Proposal.



### 5.3 Preliminary Assessment – Stage 3

Once a Compliant Proposal is received, MIM will arrange for a preliminary assessment against the Evaluation Criteria. MIM will require input from relevant stakeholders within the Corporation to complete the assessment. The assessment may prompt the need for additional information to be submitted by the Proponent.

It is envisaged that the Corporation will complete its preliminary assessment within 90 days of advising a proponent that they have submitted a Compliant Proposal. The actual period required to complete the preliminary assessment will be influenced by the complexity and scale of the Proposal and the extent of the Corporation's urgency to procure the scope of the Proposal.

If the preliminary assessment satisfies the Corporations requirements against the evaluation criteria, the Proposal is deemed prospective. The Corporation will then issue to the Proponent a **Prospective Proposal Notice** once the relevant General Manager has endorsed the preliminary assessment recommendation prepared by MIM.

### 5.4 Governance Plan – Stage 4

Once a Prospective Proposal Notice is issued the Corporation will immediately thereafter prepare a Governance Plan. The Governance Plan will address the following issues:

1. General Manager Sponsor
2. Steering Committee constituency. Members drawn from Corporation Executive and Working Group.
3. Working Group Lead
4. Working Group members
5. Stakeholder accountabilities
6. Schedule to complete detailed assessment thru to implementation including key milestones and decision gateways
7. Probity Plan

A Governance Plan is expected to be finalised within 30 days of the **Prospective Proposal Notice**. The Governance Plan will require the endorsement of the relevant General Manager.

### 5.5 Detailed Assessment – Stage 5

A detailed assessment will only commence after the Governance Plan has been finalised. This assessment will build on the preliminary assessment but with additional efforts applied to:

1. Detailing of the business need
2. Development of the public sector comparator based on the Corporation's reference project
3. Due diligence of the Proposal
4. Risk analysis
5. Detailed financial model to compare Proposal against public sector comparator
6. Mark ups to Proposal Term Sheet
7. Exploration and progressing of any regulatory approvals required



The Corporation is likely to require additional information from the proponent as it progresses through the detailed assessment but the nature of the additional information required will be case specific.

Any engagement during the detailed assessment between the proponent and the Corporation will be limited to requests for additional information and requests for clarification of information provided.

During the detailed assessment the Corporation will not negotiate with the Proponent any element of the Proposal. However the Proponent is at liberty to issue addendums to the Proposal during the detailed assessment process. The Corporation on receiving an Addendum will review the Prospective status of the Proposal by evaluating the impact of the addendum against the Evaluation Criteria.

If at any stage during the Detailed Assessment the Corporation becomes aware that the Prospective status is no longer valid the Proponent will be accordingly advised and the Detailed Assessment will be terminated and the Proposal will no longer be considered by the Corporation. The Detailed Assessment will only be terminated once a recommendation from MIM has been endorsed by the relevant General Manager. A full interactive debrief regarding termination of the Detailed Assessment will be available for the Proponent.

The Probity Plan will guide all engagement between the Proponent and the Corporation during the detailed assessment.

The detailed assessment is likely to take up to 180 days from the date that the Governance Plan is finalised.

The Corporation may need to procure external advice in order to complete the detailed analysis. External advisors will be required to execute confidentiality agreements with both the Corporation and Proponent.

If the detailed assessment deems the Proposal is viable, a recommendation will be prepared by the Working Group and submitted to the Steering Group for comment. When the Steering Group is satisfied the recommendation to proceed to Exclusive Negotiation will then be submitted to the relevant General Manager for approval.

#### **5.6 Exclusive Negotiations – Stage 6**

1. Exclusive negotiations will be in accordance with the Governance Plan.
2. All negotiations will be completed on an open book basis.
3. The Working Group will represent the Corporation in the negotiations.
4. The Steering Committee will provide guidance to the Working Group through the negotiations.
5. The final Proposal as negotiated must satisfy minimum requirements of all Evaluation Criteria.

#### **5.7 Contract(s) Execution – Stage 7**

When the Corporation and the Proponent have agreed terms for the Proposal, subject to approvals being obtained in accordance with the Corporation's Policy 112 Delegated Financial and Legal Authorisation and the Water Corporation Act, contract(s) are executed.