

Special Notice Call for Submission Terms

1. Call for submissions

- 1.1 This is a call for submissions. Submissions received in response to this call for submissions will be assessed in accordance with these Terms, and if a submission is selected to progress, the respondent will be invited to respond to a Request for Proposal for an Innovation Contract. The Request for Proposal will be governed by its own terms.
- 1.2 Defence may amend, suspend, defer or terminate this call for submissions, and any aspect or the whole of the process (including the submission form), at any time by issuing a notice in writing via AusTender and the Innovation Hub Dashboard.
- 1.3 To the extent permitted by law, no binding contract (including a process contract) or other understanding (including any form of contractual, quasi-contractual or restitutionary rights, or rights based upon similar legal or equitable grounds) will exist between Defence and a respondent unless and until an Innovation Contract is signed by Defence and a successful respondent.

2. Preparing a submission

- 2.1 Your submission must be lodged before the Closing Time. Submissions lodged after the Closing Time may be excluded from consideration in accordance with the Defence Procurement Policy Manual.
- 2.2 Your submission, including attachments, must be in English, and measurements must be in Australian legal units of measurement.
- 2.3 Your submission must include a valid Australian Business Number (ABN) or New Zealand Business Number (NZBN) that relates to the entity lodging the submission.
- 2.4 Your submission must not contain viruses, malicious code, or other disabling features which may affect Defence's or any other Commonwealth of Australia ICT environment.
- 2.5 Do not rely on any representation, letter, document or statement, either oral or in writing, or other conduct as adding to or amending these Terms other than amendments issued by Defence in accordance with clause 1.2 of these Terms.
- 2.6 Do not include security classified material (Australian or foreign) in your submission.
- 2.7 Do not engage in any collusive bidding, anti-competitive conduct or other similar conduct in connection with your submission or any engagement with Defence in relation to your submission.
- 2.8 You must make sure that your officers, employees, agents and advisors involved in the submission or the process also observe this restriction.

3. Assessment of submissions

- 3.1 Your submission will be assessed in accordance with these Terms, against the assessment criteria, and in accordance with the Call for Submissions - Assessment Criteria and Assessment Process.
- 3.2 Defence reserves the right to determine the order in which it assesses the submissions it receives in response to this call for submissions.

4. Clarification

- 4.1 Defence may, at any time, seek clarification of your submission and enter into discussions with you in relation to your submission or with other respondents in relation to their submissions.

5. Costs

- 5.1 Defence will not meet your costs in preparing or making a submission, or of further engagements with Defence in relation to your submission (such as clarifying your submission).

- 5.2 Defence is not liable to you for any costs or expenses incurred by you in taking part in this call for submissions, including without limitation, instances where:
- a. your submission is excluded or you are not invited to respond to a Request for Proposal;
 - b. Defence varies or terminates this call for submissions or the process;
 - c. Defence's requirements change;
 - d. Defence exercises any of its other rights in these Terms;
 - e. you rely on advice from Defence or any other Commonwealth of Australia entities, including the Centre for Defence Industry Capability, in relation to your submission; or
 - f. there are failures or problems involving your infrastructure, browser or internet connectivity.

6. Who owns your submission?

Defence will own any submission you make - but see clause 7 below. This does not affect the ownership of any intellectual property.

7. Confidentiality

- 7.1 You agree that Defence can use the information in your submission and any further information you give Defence about your submission (where requested by Defence) to:
- a. determine whether to invite you to make a formal proposal (through a Request for Proposal) to enter into an Innovation Contract for funding and development of the proposed innovation in your submission;
 - b. inform the assessment of your response to a Request for Proposal; and
 - c. evaluate and review its processes, in order to make improvements in relation to future calls for submissions.
- 7.2 You agree that Defence may disclose or provide access to information included in your submission to:
- a. authorised personnel within the Department Industry, Innovation and Science, to allow the Centre for Defence Industry Capability to provide you with updates on the progress of your submission;
 - b. other government agencies, including state and territory government agencies, to consult with them about the claims you have made in your submission;
 - c. take appropriate action if any statement made in your submission is incorrect, incomplete, false or misleading, including using the information contained in the proposal for a fraud investigation that would be consistent with the Australian Government's Investigations Standard and Fraud Control Guidelines.
- 7.3 Defence will not use or disclose information in your submission other than as set out in clauses 7.1 or 7.2 unless:
- a. you agree;
 - b. the information is in the public domain otherwise than due to a breach of confidence;
 - c. to comply with legal obligations or statutory or portfolio duties, or for public accountability reasons; or
 - d. to defend any claim made in relation to the process or a procurement by Defence (whether or not of the innovation proposed in your submission).

8. Your acknowledgments and agreements

- 8.1 By making a submission you:
- a. acknowledge that you do so, and participate in the process, at your own risk and cost;
 - b. acknowledge that Defence is not obliged to proceed further with any submission you make, or enter into arrangements with you about the innovation proposed in your submission;

- c. acknowledge that, subject to these Terms, Defence may deal with other organisations (whether or not they have made a submission) in relation to proposed innovations that may have Defence applications;
 - d. acknowledge that in assessing submissions, Defence may consider additional information related to any assessment criteria or consideration (including information obtained from sources other than you);
 - e. declare that the information provided in the submission is accurate, complete and current and acknowledge that giving false or misleading information is a serious offence under the *Criminal Code Act 1995*;
 - f. declare that you have not – and your related bodies corporate (as defined in the *Corporations Act 2001*), as well as officers, employees, agents and advisors of you or your related bodies corporate, have not – broken any applicable law (including foreign laws) about offering of inducements in connection with the preparation of your submission; and
 - g. declare that there is no actual, potential or perceived conflict between Defence’s interests and your interests in relation to the process, other than those you have identified in your submission, and that you will immediately notify Defence if you become aware of one.
“your interests” includes the interests of your related bodies corporate, and the interests of the officers or employees of you or your related bodies corporate.
- 8.2 By making a submission which names you as the lead respondent and other entities as project partners, in addition to your acknowledgements and declarations in clause 8.1, you acknowledge and declare that:
- a. each of the project partners make the acknowledgements and declarations referred to in clause 8.1; and
 - b. you have the authority to provide the acknowledgements and declarations on behalf of each of the project partners.

9. Exclusion

- 9.1 Defence may, at any time, exclude a submission from further consideration if:
- a. clause 2 or clause 8 of these Terms is breached;
 - b. the assessment of the submission against any one or more assessment criteria suggests that there is no reasonable prospect of the proposed innovation being progressed by Defence;
 - c. the proposed innovation is covered by existing procurement activities Defence is undertaking;
 - d. the proposed innovation has been developed by or with the assistance of an individual during the course of their employment with Defence;
 - e. the proposed innovation has been developed under a contract with Defence (unless the contract specifically allows this);
 - f. the submission is made by, or with the assistance of, an entity or individual that is working or has worked with Defence on the call for submissions or the process; or
 - g. the submission includes information that cannot be read or decrypted, or Defence believes the submission may contain a virus, malicious code or anything else which may compromise the integrity or security of its ICT environment.

10. Withdrawing a submission

- 10.1 You agree that your submission is valid unless or until it is withdrawn.
- 10.2 You may withdraw a submission at any time by submitting an online enquiry form via the Innovation Hub Dashboard.

- 10.3 If you withdraw a submission before Defence has assessed it, or during its assessment, Defence will not assess it, or continuing assessing it.

11. Debriefing

- 11.1 You will be notified whether your submission has been successful or unsuccessful. You may request an oral or written debriefing from Defence in relation to a successful or unsuccessful submission.

12. Interpretation of these Terms

- 12.1 In these Terms, unless the contrary appears:

- a. the singular includes the plural and vice-versa;
- b. a reference to one gender includes the others;
- c. “Closing Time” means the time and date specified in the Closing Time section of the relevant Special Notice;
- d. “Defence” refers to the Commonwealth of Australia as represented by the Department of Defence, including its advisers or contractors;
- e. “Innovation Contract” means a contract between Defence and a respondent, formed after the respondent has provided a successful response to a Request for Proposal;
- f. “Challenge Statement” means the description of the problem or technical challenge the Special Notice seeks to address, as set out in the “Problem Statement” section of the relevant Special Notice.
- g. “Special Notice” means a call for submissions issued by Defence to address a specific problem or technical challenge;
- h. “Terms” means these terms for the call for submissions, and includes the Call for Submissions - Assessment Criteria and Assessment Process; and
- i. “the process” refers to the process commenced by this call for submissions.

- 12.2 To the extent of any inconsistency, these Terms take precedence over:

- a. information set out in the call for submissions cover page, or on relevant Commonwealth websites including business.gov.au, or on the Defence Industry & Innovation social media platforms;
- b. instructions or guidance within the “Innovation Proposal Submission Form”; and
- c. any other guidance documents on completing the “Special Notice Proposal Submission Form”.