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Driving Business Success for Consulting Firms in the Built and Natural Environment

29 October 2014

Mr James Hallion  
State Coordinator General  
Office of the Coordinator General  
Level 6, Roma Mitchell House  
136 North Terrace  
Adelaide SA 5000

Dear Mr Hallion,

**Guidelines for Assessment of Unsolicited Proposals**

Consult Australia thanks you for your letter of 17 October 2014 inviting consideration of, and comment on the proposed Guidelines. We have long advocated for formal guidelines supporting unsolicited proposals, and we appreciate this engagement with industry to develop a fair, clear and transparent framework for assessment of unsolicited proposals.

Consult Australia is the industry association representing consulting firms operating in the built and natural environment sectors. These services include design, engineering, architecture, technology, survey, legal and management solutions for individual consumers through to major companies in the private and public sector including local, state and federal governments.

We represent an industry comprising some 48,000 firms across Australia, ranging from sole practitioners through to some of Australia's top 500 firms with combined revenue exceeding \$40 billion a year.

The major concern for our industry is the confidentiality of the information submitted in the process of assessment. Our member firms' assets are their people—who have the skills, both technical and business knowledge—to design and deliver major projects across various sectors including but not limited to infrastructure, mining, water and energy. We support a clear and transparent process which gives certainty of intellectual property protection to those promoting innovative ideas and the delivery of high quality, value for money outcomes.

In considering the Government's proposed Guidelines for Assessment of Unsolicited Proposals we wish to highlight concern regarding the following:

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

### 4.4 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 last paragraph in that section goes on to state:

*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.*

Consult Australia believes that the Process should invite projects including those where a broader Benefits Cost Analysis and business case assessment is required to justify government investment. This might include projects with significant agglomeration benefits through job generation, or broader productivity benefits; packages of complementary projects might also be considered based on their collective merits rather than an individual cost benefit analysis. Many of these issues are canvassed in the Australian Government Department of Infrastructure and Regional Development's current review of Project Appraisals which we encourage you to consider as part of these Guidelines. Consult Australia's submission to this review highlights the benefits of Wider Economic Benefit (WEB) assessments and broader business case assessments of projects with a view to maximising value for money outcomes for the tax payer. Such proposals should be invited as part of this Process.

## 5. Process for Consideration of Unsolicited Proposals

**Stage 3** - *At the conclusion of the Contract Negotiation process, the Government has 4 options:*

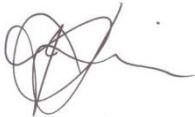
- 1. Agree to the terms included in the contractual documentation and approve formal documentation to be executed;*
- 2. Agree to the contractual documentation, with specific conditions;*
- 3. Do not agree to the contractual documentation but pursue the unsolicited proposal through an alternative arrangement, 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.*

Our members concerns regarding confidentiality and the protection of intellectual property should be more strongly addressed to encourage industry participation in future unsolicited bids. For example, in relation to point 3 above, we are concerned that this could be perceived by industry as encouraging agencies to avoid settlement of contract terms, leave intellectual property exposed, and then go to market. The stated Process for Consideration of Unsolicited Proposals at Stage 3 should more explicitly protect intellectual property and confidentiality as fundamental throughout the Process regardless of outcome.

In summary, Consult Australia supports the Government in issuing Guidelines for Assessment of Unsolicited Proposals to enable the private sector to propose new projects which in turn will drive innovation and assist with improved service delivery. We believe from our experience that the keys to success are a guarantee of the protection of intellectual property rights when bringing new ideas to market and an open, transparent process encouraging a broad range of projects to be submitted.

We trust that the above comments will assist in the best possible framework for the assessment of unsolicited proposals. We reiterate Consult Australia's support and look forward to the Guidelines becoming operational.

Yours sincerely



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