



## 1. Introduction

Western Sydney Airport is one of the largest civil engineering projects underway in Australia. Due to the nature and size of the project there will be considerable public interest and private sector involvement in the project. It is recognised that this interest may generate Unsolicited Proposals from the market for involvement in certain aspects of the project.

This Policy sets out guidance for Western Sydney Airport and proponents in developing and assessing Unsolicited Proposals.

### 1.1 Definition of Unsolicited Proposals

An unsolicited proposal is an approach, in writing, to Western Sydney Airport from a proponent with a proposal to deal directly with Western Sydney Airport over a commercial proposition where Western Sydney Airport has not requested the proposal. This might include proposals to acquire property, build infrastructure, provide goods or services or other commercial transactions.

### 1.2 Alignment with Procurement Policy

Unsolicited Proposals are the exception to the rule in an environment where open and fair competition is actively endorsed. Unsolicited proposals are not a substitute for competitive procurement, which is Western Sydney Airport's core position, in accordance with Western Sydney Airport's Procurement Policy. However, Western Sydney Airport can receive and consider unsolicited proposals and, through this Policy, all proposals will be assessed and documented in a structured, objective, transparent and fair manner.

Western Sydney Airport will generally only consider proposals where:

- both the proposal and its proponent have unique attributes that others could not deliver or arrive at a similar value-for-money outcome; and
- the proposal would be of major significance to the project and/or would represent enhanced value-for-money to WSA and its shareholders.

### 1.3 Assessment Process

Proposals will be evaluated against the Assessment Criteria outlined in section 3. A four-stage assessment process has been developed to guide the evaluation of proposals:

- Stage 1: Pre-Submission Concept Review.
- Stage 2: Preliminary Proposal.
- Stage 3: Detailed Proposal.
- Stage 4: Negotiation of Final Binding Offer.

These stages are described in detail in section 4.



It is recognised that a proponent will be entitled to a fair rate of return for its involvement in a project and that outcomes should be mutually beneficial for the proponent and Western Sydney Airport. Further, Western Sydney Airport recognises the right of proponents to derive benefits from unique ideas. The approach to the identification, recognition and protection of intellectual property rights will be addressed and agreed with the proponent during Stage 1 of the process.

Where Western Sydney Airport assesses a proposal as not meeting the criteria, including uniqueness, it reserves the right to go to the market, if it considers it aligns with its strategic business objectives. The proponent will be provided with the opportunity to participate in the procurement process should the concept be offered to the market but will have no additional rights beyond those afforded to other market participants. If Western Sydney Airport elects to go to market in such circumstances it will respect any Intellectual Property (IP) owned by the proponent.

#### **1.4 Western Sydney Airport Contact Details for Unsolicited Proposals**

Western Sydney Airport has a dedicated contact point for all enquiries related to Unsolicited Proposals. All enquiries must be directed to the Western Sydney Airport dedicated contact point to ensure it can be dealt with in accordance with the processes outlined in this policy.

Enquiries and requests for Pre-Submission Concept Review meetings should be submitted to Simon Hickey, Chief Executive Officer, at [shickey@wsaco.com.au](mailto:shickey@wsaco.com.au).

Submissions should be mailed to:

Western Sydney Airport  
PO Box 397 Liverpool NSW 1871

A soft copy should also be submitted to the email address above.

Once a proposal has been submitted, Western Sydney Airport will formally acknowledge receipt of the proposal and provide contact details of the Proposal Manager. This will be the proponent's only point of contact in Western Sydney Airport regarding the proposal. Once lodged, the proposal is subject to a formal assessment process. Proponents must not contact Government Ministers, advisers or officials, in regard to the submitted proposal, outside of the formal handling and assessment process. This includes organisations authorised to act on the proponent's behalf.

## **2. Guiding Principles**

### **2.1 Optimise Outcomes & Strategic Alignment**

By their nature, Unsolicited Proposals are unlikely to be the current focus of Western Sydney Airport's strategic planning. Proposals must therefore be considered in light of the wider benefits and strategic outcomes that may be derived. To proceed however, proposals must be broadly consistent with Western Sydney Airport's strategic objectives and offer some unique attributes



that justify departing from a competitive tender process. Outcomes must always be in the best interest of Western Sydney Airport.

In order to demonstrate that optimal value for money will be achieved, an “open book” approach to negotiations is to be adopted once the proposal has progressed to Stage 2 and Stage 3 assessment (as applicable). Western Sydney Airport will also consider whole-of- Project impact and cost. The approach to demonstrating value for money is outlined in Section 2.3.1.

To guide the proponent, Western Sydney Airport will provide an early indication of its intention to continue or discontinue with the unsolicited proposal after completing its Pre-Submission Concept Review process. Where relevant, Western Sydney Airport will provide preliminary indications of an acceptable return on investment and other requirements to be achieved by the Proponent in the delivery of its proposal.

## 2.2 Uniqueness

**Proposal and Proponent uniquely able to deliver proposed service.**

For unsolicited proposals to progress through the assessment process, the proposal must be sufficiently unique and provide an opportunity that cannot be obtained by Western Sydney Airport by approaching the open market. The essential questions to be addressed in any Unsolicited Proposal are:

- Can this proposal be readily delivered by competitors? If the answer is yes, then what, if any, justification would Western Sydney Airport have to the public for not seeking best value through a competitive tender process? What benefit(s) would Western Sydney Airport gain?
- Does the proponent own something that would limit Western Sydney Airport from contracting with other parties if it went to tender? This would include IP, real property and other unique assets.
- Are there other attributes which may not necessarily stand alone as unique but, when combined, create a “unique” proposal? This may include genuinely innovative ideas, including financial arrangements or solutions that are otherwise unlikely to be defined and put to market (e.g. alternatives to providing a service or substantive processes, products or methods for delivering a service that is not offered by other service providers and constitute a significant departure from traditional service delivery).

### **Types of proposals that are NOT considered unique and/or proposals that are unlikely to be progressed**

- Proponents with an existing government licence to provide goods or services seeking to bypass a future tender process.
- Proposals for significant extensions/variations to existing contracts, or the next stage of a staged project on the basis that the contractor is already “on-site” or has some other claimed advantages, absent of other “uniqueness” criteria.



- Proposals seeking to develop land that is not owned by the Western Sydney Airport or the proponent.
- Proposals that do not contain a commercial proposition for Western Sydney Airport.
- Proposals that identify the proponent's skills or workforce capability as the only unique characteristic are unlikely to progress to Stage 2. A proponent with personnel holding superior expertise or experience in a particular field is not sufficient to justify bypassing an open tender.
- Proposals to provide widely available goods or services. The default procurement process is to hold an open tender.
- Proposals for consultancy services.
- Proposals for projects where the tender process has formally commenced, whether published or not.
- Proposals that are early concepts or lack detail.
- Proposals whose claim to uniqueness is trivial e.g. a 'unique' view from particular site.
- Proposals seeking to stop or suspend another Western Sydney Airport process.

### **2.3 Assessment Criteria (Summary)**

Any unsolicited proposal will be assessed against the assessment criteria identified in this policy. The assessment criteria are identified in section 3 of this policy, although in summary the criteria will include but not be limited to the following elements:

#### **2.3.1 Preliminary Assessment Criteria**

- Financial capacity
- Uniqueness
- Value for money, including alignment to Western Sydney Airport's strategic business objectives
- Return on investment
- Proponent capability and capacity
- Affordability
- Risk allocation
- Commercial solution
- Whole of project impact

#### **2.3.2 Detailed Assessment Criteria**

The detailed assessment criteria will be communicated to the proponent and documented in an assessment plan prior to the proponent lodging a detailed proposal.

In summary, the proponent may be asked to elaborate on some of the elements of their preliminary proposal and include other elements. Examples of the additional information that may be requested by Western Sydney Airport include:



- Delivery experience.
- Management structure and personnel.
- Collaborative procurement experience.
- Innovative approach to community and stakeholder engagement.
- Effective and innovative approaches to safety, sustainability and the environment.
- Draft commercial terms.
- Economic appraisal.

## 2.4 Governance

Western Sydney Airport will adopt the following governance structure to evaluate unsolicited proposals. Further information on the responsibilities of the positions and groups involved in the evaluation process is contained at **Attachment C – Unsolicited Proposals Process Flow Chart & Responsibilities**. All personnel involved for Western Sydney Airport will be required to complete relevant conflicts of interest and confidentiality undertakings.

### 2.4.1 General Manager, Procurement

The General Manager, Procurement, will take the lead role in co-ordination of the consideration of Unsolicited Proposals. The General Manager, Procurement will:

- Receive enquiries and requests for Pre-Submission Concept Review meetings from the CEO.
- Appoint, in consultation with the CEO, a Proposal Manager.
- Confirm the unique elements of the proposal and agree on the approach to managing IP in consultation with the Western Sydney Airport General Counsel.
- Co-ordinate the appointment of Western Sydney Airport personnel and any advisers to the Evaluation Panel and Review Panel, in consultation with the CEO.
- Make recommendations to the Evaluation and Review panel with respect to the Assessment Criteria in relation to unsolicited proposals, including the approach to assessing Value for Money and ROI.
- Facilitate referral of proposals to the Board of Directors arising from Stage 3 (Detailed Proposal) evaluation and review and from Stage 4 (Negotiation of Final Binding Offer) of the process.
- Appoint a probity advisor in consultation with the CEO and General Counsel.
- Agree and review feedback to be provided to proponents at all stages of the process.
- Report to the CEO and the Western Sydney Airport Executive Leadership team on the progress of the consideration of unsolicited proposals.

### 2.4.2 Proposal Manager

The Proposal Manager is the central contact point for all unsolicited proposals. This person will not be a decision-maker with respect to any unsolicited proposal but will:



- Report to the CEO and General Manager, Procurement.
- Conduct the Stage 1 – Pre-Submission Concept Review Meeting
- Confirm receipt of the Preliminary Proposal (Stage 2) and how proposal will be handled with the proponent.
- Facilitate evaluation meetings.
- Conduct initial compliance check and request further information if required.
- Co-ordinate assessment by the Evaluation and Review Panels, including input from advisers.
- Co-ordinate Evaluation Panel and Review Panel assessment reports.
- Act as a contact point for Proponents.
  
- Advise proponents of outcomes at all stages of the process, in consultation with the General Manager, Procurement.

#### **2.4.3 Evaluation Panel**

The assessment criteria will be applied by an Evaluation Panel, which will conduct a preliminary assessment and if necessary detailed assessment of the unsolicited proposal and report on the results of the assessment to a Review Panel. Another important function of the Evaluation Panel is to recommend whether the unsolicited proposal should progress through the assessment process (from preliminary assessment to detailed assessment).

The Evaluation Panel will consist of suitably qualified personnel within Western Sydney Airport and may include consultants.

#### **2.4.4 Review Panel**

The Review Panel will review the work of the Evaluation Panel. The Review Panel also has the authority to grant approval for the unsolicited proposal to move from the preliminary assessment stage (Stage 2) to detailed proposal stage (Stage 3).

In the event an unsolicited proposal moves through a detailed assessment stage, the Review Panel will review the detailed assessment and if appropriate endorse the detailed assessment. The detailed assessment report will then be referred to the Western Sydney Airport Board for consideration and approval.

#### **2.4.5 Western Sydney Airport Board**

The Western Sydney Airport Board will review and approve the recommendations arising from Stage 3 (Detailed Proposal) evaluation and review and approve any recommendation arising from Stage 4 (Negotiation of Final Binding Offer) of the process.

#### **2.4.6 Advisers**

Advisers may provide expert advice to the Evaluation Panel, Review Panel and the Western Sydney Airport Board. The following key advisers may be appointed to provide specialist expertise to assist in project scoping and assessment:



- Legal.
- Financial.
- Technical.
- Environmental.

Other advisers may be appointed where specialist input is required.

## **2.5 Interactive Process**

Western Sydney Airport will manage an interactive process with the proponent at all formal stages of assessment, commencing with the Pre-Submission Concept Review meeting set out in Section 3. It will not be an opportunity to negotiate the details of the proposal. This opportunity will arise in later stages if the proposal proceeds past the Stage 2 Assessment.

## **2.6 Probity**

Western Sydney Airport seeks to conduct its commercial dealings with integrity. The assessment of Unsolicited Proposals must be fair, open and demonstrate the highest levels of probity. Assessment of Unsolicited Proposals will be conducted through the application of established probity principles that aim to assure all parties of the integrity of the decision-making processes. These principles are:

### **2.6.1 Maintaining impartiality**

Fair and impartial treatment will be a feature of each stage of the assessment process. The process will feature a clearly defined separation of duties and personnel between the assessment and approval functions.

### **2.6.2 Maintaining accountability and transparency**

Accountability and transparency are related concepts. The demonstration of both is crucial to the integrity of the assessment.

Accountability requires that all participants be held accountable for their actions. The assessment process will identify responsibilities, provide feedback mechanisms and require that all activities and decision making be appropriately documented.

Transparency refers to the preparedness to open a project and its processes to scrutiny, debate and possible criticism. This also involves providing reasons for all decisions taken and the provision of appropriate information to relevant stakeholders.

### **2.6.3 Managing conflicts of interest**

In support of the public interest, transparency and accountability, Western Sydney Airport requires the identification, management and monitoring of conflicts of interest. Participants will be



required to disclose any current or past relationships or connections that may unfairly influence or be seen to unfairly influence the integrity of the assessment process.

#### **2.6.4 Maintaining confidentiality**

In the assessment of Unsolicited Proposals there is need for high levels of accountability and transparency. However, there is also a need for some information to be kept confidential, at least for a specified period of time. This is important to provide participants with confidence in the integrity of the process. All proposals submitted will be kept confidential.

#### **2.6.5 Obtaining value for money**

Obtaining optimal value for money is achieved by fostering an environment in which proponents can make attractive, innovative proposals with the confidence that they will be assessed on their merits and where Western Sydney Airport appropriately considers value. Where a probity advisor has been appointed, their role is to monitor the evaluation process and ensure that Value for Money has been optimally considered. It is not the role of the probity advisor to determine whether the proposal meets the required Value for Money criterion.

### **2.7 Resource Commitments**

While this Policy sets out information and processes to minimise costs for Proponents, Western Sydney Airport will not reimburse costs associated with Unsolicited Proposals.

## **3. Assessment Criteria**

This section contains the Assessment Criteria that WSA CO will use to assess unsolicited proposals.

### **3.1 Preliminary Assessment Criteria**

#### **3.1.1 Financial Capacity**

The proponent must provide information to show that it has sufficient financial capacity and liquidity to deliver the proposals.

#### **3.1.2 Uniqueness**

For unsolicited proposals to progress through the assessment process, the proposal must be sufficiently unique and provide an opportunity that cannot be obtained by Western Sydney Airport by approaching the open market. The essential questions to be addressed in any Unsolicited Proposal are:

- Can this proposal be readily delivered by competitors? If the answer is yes, then what, if any, justification would Western Sydney Airport have to the public for not seeking best value through a competitive tender process? What benefit(s) would Western Sydney Airport gain?



- Does the proponent own something that would limit Western Sydney Airport from contracting with other parties if it went to tender? This would include IP, real property and other unique assets.
- Are there other attributes which may not necessarily stand alone as unique but, when combined, create a “unique” proposal? This may include genuinely innovative ideas, including financial arrangements or solutions that are otherwise unlikely to be defined and put to market (e.g. alternatives to providing a service or substantive processes, products or methods for delivering a service that is not offered by other service providers and constitute a significant departure from traditional service delivery).

### **3.1.3 Value for Money**

The proposal should deliver value for money to Western Sydney Airport. A proposal is considered to provide value for money if it achieves the required project outcomes and objectives in an efficient, high quality, innovative and cost-effective way with appropriate regard to the allocation, management and mitigation of risks.

While value for money will be tested appropriately in the context of each specific proposal, factors that will be given consideration are likely to include:

- Quality of all aspects of the proposal, including: achievable timetable, clearly stated proposal objectives and outcomes, design, community impacts, detailed proposal documentation and appropriate commercial and/or contractual agreements (including any key performance targets), and a clearly set-out process for obtaining any planning or other required approvals.
- Innovation in service delivery, infrastructure design, construction methodologies, and maintenance.
- Cost efficient delivery of Western Sydney Airport strategic objectives.

### **3.1.4 Return on Investment**

The proposed Return on Investment to the proponent should be proportionate to the proponent's risks and industry standards. Where feasible, the proposed rate of return may be subject to independent review or benchmarking.

### **3.1.5 Capability and Capacity**

The proponent should have the experience, capability and capacity to carry out the proposal. Any reliance on third parties, such as sub-contractors, should be clearly identified.

Where appropriate, the proponent should provide referees both in relation to the content of the proposal and working with government organisations (e.g. NSW or other Australian governments).

### **3.1.6 Affordability**

Western Sydney Airport will consider whether the proposal requires additional funding, the budgetary impact and source of those funds should the project proceed.



Where additional funding is required, Western Sydney Airport may undertake or require the proponent to undertake a (Preliminary) Business Case and/or an economic appraisal at Stage 2 (where appropriate). Regardless of the outcome of the Business Case/economic appraisal, the proposal still needs to be affordable in the context of Western Sydney Airport's other priorities.

### **3.1.7 Risk Allocation**

Proposals should clearly identify what risks (and, if possible, quantify) are to be borne by the proponent and which risks will be borne by Western Sydney Airport. Appropriate risk allocation and quantification may also be considered under the Value for Money criterion.

If the proposal requires Environmental and Planning Approvals, the process to obtain these should be outlined, including whether WSA CO or the proponent bears the risks associated in obtaining the approvals.

### **3.1.8 Commercial Solution**

The acceptability and appropriateness of the proponent's overall commercial solution, including information about the proponent's corporate structure and contractual arrangements.

### **3.1.9 Whole of Project Impact**

Western Sydney Airport will consider the impact of the proposal on the overall program for the construction, delivery and operation of Western Sydney Airport. Factors that will be given consideration may include:

- Does the proposal meet a Project or Airport need?
- What is the overall strategic merit of the proposal?
- What is the opportunity cost for Western Sydney Airport and the Commonwealth if it were to proceed with the proposal?
- Is the proposal consistent with the Western Sydney Airport's plans and priorities?
- Does the proposal have the potential to achieve planning and building approvals, taking into account relevant planning and environmental controls?
- Does the proposal contribute to meeting the objectives of the Airport and any relevant off site District Plans, Regional Plans and Metropolitan Plans?
- Consideration will be given to whether the proposal would require Western Sydney Airport to re-prioritise and re-allocate funding.

## **3.2 Detailed Assessment Criteria**

The detailed assessment criteria will be communicated to the proponent and documented in a detailed assessment plan prior to proponent lodging a detailed proposal.

In summary, the proponent may be asked to elaborate on some of the elements of their preliminary proposal and include other elements. Examples of the additional information that may be requested by Western Sydney Airport includes:

- Delivery experience.
- Management structure and personnel.



- Collaborative procurement experience.
- Innovative approach to community and stakeholder engagement.
- Effective and innovative approaches to safety, sustainability and the environment.
- Draft commercial terms.
- Economic appraisal.

#### **4. The Process**

This section outlines a four-stage assessment process for the consideration of Unsolicited Proposals. It is recognised that the nominated stages may be refined in order to most effectively manage the assessment of any particular proposal. For example, each stage may include a number of milestones to be achieved in order to prevent unnecessary expenditure and to provide confidence for the proponent to continue. Any milestones or changes to the stages will be discussed and agreed with the proponent.

In summary unsolicited proposals if successful will step through 4 processes:

- Stage 1: Pre-Submission Concept Review.
- Stage 2: Preliminary Proposal.
- Stage 3: Detailed Proposal.
- Stage 4: Negotiation of Final Binding Offer.

#### **4.1 Stage 1: Pre-Submission Concept Review**

##### **4.1.1 Objective**

For the proponent to meet with the Western Sydney Airport Proposals Manager (and any advisors considered necessary) to explore whether the proposal is likely to meet the Stage 2: Preliminary Proposal Assessment Criteria and to guide proponents in their decision regarding whether to lodge their proposal. A key part of this meeting will be to explore whether the proposal is sufficiently unique to progress through the process. The key attributes, benefits, requirements and assumptions underlying the potential proposal may also be discussed.

Western Sydney Airport may provide feedback at this stage as to whether it considers that the proposal, as presented, is consistent with this Policy. Notwithstanding this feedback, it is the proponent's decision as to whether it proceeds with making a formal Stage 2 submission.

This is not a compulsory stage, but proponents planning to formally submit an unsolicited proposal are strongly advised to arrange such a meeting with Western Sydney Airport, prior to spending considerable money on the development of their proposal.

##### **4.1.2 Timing**

This initial meeting represents the first formal step in assessing the merits of each Unsolicited Proposal and may be before or after lodgement of the full proposal. Western Sydney Airport's



strong preference is that this occurs before formal lodging of any proposal and commencement of Stage 2 – Preliminary Proposal.

#### **4.1.3 Proponent responsibilities**

For this meeting to be helpful, the proposal needs to be developed to a stage where the key inputs and outcomes have been identified, key assumptions and requirements of Western Sydney Airport are clear, and other key elements have been identified. In particular, the unique ability of the proponent to deliver the proposal should be demonstrated and documented. Irrespective of the outcomes of this meeting, proponents may lodge their proposal formally

#### **4.1.4 Western Sydney Airport responsibilities**

Where Western Sydney Airport is of the view that there is little prospect of the uniqueness criteria being met, it will communicate this to the proponent. In such circumstances, Western Sydney Airport reserves the right not to advance to the preliminary assessment of the preliminary proposal.

### **4.2 Stage 2: Preliminary Proposal**

#### **4.2.1 Objective**

For Western Sydney Airport to undertake an Assessment of the Preliminary Proposal to determine if the submission constitutes an unsolicited proposal and if sufficient justification exists for direct dealing and therefore undertake a Stage 3 – Detailed Proposal assessment. Western Sydney Airport reserves the right to further consider, or not consider, Unsolicited Proposals beyond this stage at its absolute discretion.

To undertake a Preliminary Assessment, Western Sydney Airport will create an Evaluation Panel that consists of suitable Western Sydney Airport personnel and advisers to assess the preliminary proposal against the assessment criteria. The Evaluation Panel will make a recommendation to a Review Panel on whether the proposal should progress to the Detailed Proposal stage.

#### **4.2.2 Proponent responsibilities**

The proponent is responsible for:

- Preparing a Preliminary Proposal in line with the requested preliminary submission criteria.
- Forwarding the Preliminary Proposal to the Western Sydney Airport Proposals Manager.
- Responding to requests for further information. The information to be provided will depend on the size and complexity of the proposed project.

#### **4.2.3 Western Sydney Airport responsibilities**

Western Sydney Airport is responsible for:

- Promptly acknowledging receipt of the Initial Submission.
- Undertaking an initial compliance check to ensure the required information has been provided.
- Requesting further information from the proponent if required. This may involve clarification meetings with the proponent in order to promote clarity of Western Sydney Airport requirements.



- Establishment of the Evaluation Panel.
- Undertaking a preliminary assessment that will be based on the potential for the proposal to satisfactorily meet the Preliminary Assessment Criteria.
- Preparing a preliminary assessment report containing recommendations on whether the preliminary proposal is suitable to proceed to a detailed proposal.
- Determining if the proposal will proceed from a preliminary to detailed proposal.
- Notification of the Preliminary Assessment outcome to the proponent.

#### 4.2.4 Outcomes

The following outcomes may result from this stage:

- The proposal is considered suitable for progression to Stage 3 – Detailed Proposal. The proposal, in concept form, is deemed of sufficient interest to Western Sydney Airport to warrant further development and progression to a more defined project either with the original proponent or with a view to bringing a project to market.

Proponents with proposals considered suitable to proceed to Stage 3 will be provided with the following information:

- A summary of the assessment findings.
- The proposed process for the further development and consideration of a Detailed Proposal, including governance arrangements.
- Guidance regarding: value, scope, appropriate target return on investment parameters, timing, risk and other limitations affecting the Detailed Proposal in order to avoid unnecessary costs for the proponent.
- A Draft Participation Agreement.

If the submission is not considered suitable for further consideration, the Evaluation Panel will recommend a course of action, for example:

- Inform the proponent in writing that the submission will not be considered further and the reasons for that decision.
- Refer proponent to another procurement process.
- Other action as considered appropriate.

### 4.3 Stage 3: Detailed proposal

#### 4.3.1 Objective

For the proponent and Western Sydney Airport to work cooperatively in the development and assessment of a Detailed Proposal, which may require a degree of preliminary negotiation on key issues, subject to the nature of the proposal.

#### 4.3.2 Proponent responsibilities



The Proponent will:

- Enter into a Participation Agreement.
- Attend an Establishment Meeting.
- Participate in Proposal Development Workshops.
- Prepare and submit a Detailed Proposal in a form agreed with Western Sydney Airport that addresses each of Western Sydney Airport's Assessment Criteria. This may include (where appropriate):
  - Draft commercial terms for Western Sydney Airport's consideration.
  - A Business Case and/or economic appraisal.

#### **4.3.3 Western Sydney Airport responsibilities**

Western Sydney Airport will:

- Prepare an internal evaluation plan (which may be updated as appropriate throughout the process).
- Enter into a Participation Agreement.
- Facilitate an Establishment Meeting in order to:
  - Provide feedback to the proponent regarding risks and concerns with the Preliminary Proposal.
  - Advise the proponent of the evaluation process for the detailed proposal.
  - Agree the approach to managing Proposal Development Workshops.
  - Advise of the relevant Assessment Criteria.
  - Agree the format for the Detailed Proposal, including the information and level of detail required.
  - Commence discussions concerning the acceptable commercial and legal terms (with a view to developing draft commercial and legal terms that will form the basis of a final binding offer).
- Commit appropriately experienced and qualified resources to form an evaluation and review panel to participate in the Stage 3 process, including legal, financial and technical advice where appropriate.
- Confirm the approach to assessing Value for Money.
- Where appropriate, prepare (or require the proponent to prepare) a (Preliminary) Business Case and/or an economic appraisal.
- Participate in Proposal Development Workshops. Where appropriate, Western Sydney Airport may establish commercial/technical teams to guide and liaise with the proponent. These teams will provide information to the Evaluation Panel which will in turn report to the Review Panel.



- Provide further information to the proponent to assist with proposal development.
- Receive and undertake assessment of the Detailed Proposal (by the Evaluation Panel) against each of the Assessment Criteria.
- Request further information from the proponent as required.
- Prepare an Assessment Report (by the Evaluation Panel) and make recommendations to the Review Panel.
- Make recommendations to the Board and obtain Board approval to progress to Stage 4, if warranted.

#### **4.3.4 Outcomes**

The following outcomes may result from this stage:

- The Detailed Proposal is considered acceptable to progress to Stage 4. Ideally, commercial terms should be agreed by Western Sydney Airport and the proponent and will form the basis of a Final Binding Offer.
- The Detailed Proposal is not considered suitable for further consideration; written feedback will be provided outlining the reasons for the decision not to proceed.

### **4.4 Stage 4 – Negotiation of final binding offer**

#### **4.4.1 Objective**

To finalise all outstanding issues with a view to entering into a binding agreement.

#### **4.4.2 Proponent responsibilities**

The Proponent will:

- Participate in the negotiation process.
- Submit a Binding Offer, including appropriate legal and commercial terms.

#### **4.4.3 Western Sydney Airport responsibilities**

Western Sydney Airport will:

- Inform the proponent of the process and protocols for negotiation and provide a schedule of items for negotiation.
- Prepare an internal Governance Plan (may be updated as appropriate throughout the process).
- Commit appropriately qualified resources to complete negotiations, including legal, financial and technical advice where appropriate.
- Undertake a comprehensive assessment of the Final Binding Offer.
- Define the appropriate Contract Management arrangements to monitor and ensure contracted outcomes are delivered.
- Make recommendations to the Board regarding acceptance of Final Binding Offer if warranted.



#### 4.4.4 Outcomes

The following outcomes may result from this stage:

- Recommendation to the Board that the Final Binding Offer be accepted.
- Recommendation to Board that the Final Binding Offer not be accepted.



## Attachment A – Proponent Information

### Information to be included in Stage One Proposals

To enable Western Sydney Airport to consider the unsolicited proposal in an objective and timely manner, Stage One proposals should include as much of the following information as possible:

- Details of the party making the proposal, including:
  - Proposer's name.
  - Contact name and contact details..
  - A brief profile, e.g. The type of business and the nature of the business.
- A description of the nature of the proposal
  - Previous experience in delivery of similar project.
  - Past performance operating similar project.
  - Facilities to be used (e.g. land owned by proponent or Western Sydney Airport land).
- An explanation of the benefits the proposal will deliver to the goals of Western Sydney Airport or the government in general.
- A brief description of how the proposal would meet each of the assessment criteria. Refer to section 3 of this Policy for detailed description of each criteria and items to be addressed:
  - Financial Capacity.
  - Uniqueness i.e. what are the unique elements of the proposal that would provide justification for Western Sydney Airport entering direct negotiations with the Proponent? Unique elements may include characteristics such as:
    - Intellectual property or genuinely innovative ideas
    - Ownership of real property
    - Ownership of software or technology offering a unique benefit
    - Unique financial arrangements
    - Unique ability to deliver strategic outcome
    - Other demonstrably unique elements.
  - Value for money.
  - Return on investment.
  - Capability and capacity.
  - Affordability.
  - Risk allocation.
  - Commercial Solution.



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- 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.
- Details of costs to Western Sydney Airport: Clearly explain the requirements of Western Sydney Airport emerging from the proposal (what are you seeking from Western Sydney Airport?). This may include legislative/regulatory amendments, finance or the use of Western Sydney Airport assets, facilities, equipment, materials, personnel, resources and land. What would be the cost of Western Sydney Airport providing this?
- A list of risks to proponent and Western Sydney Airport.
- An inventory of any intellectual property, including nature, owners and registration details.
- Preferred contractual arrangements.
- Any information the proponent does not want disclosed outside of the evaluation process, i.e. Information that is commercially sensitive.
- The period that the proposal is valid, with a suggested minimum of three (3) months.



## **Attachment B - Glossary**

### **Unsolicited Proposal**

An unsolicited proposal is an approach, in writing, to Western Sydney Airport from a proponent with a proposal to deal directly with Western Sydney Airport over a commercial proposition where Western Sydney Airport has not requested the proposal. This might include proposals to acquire property, build infrastructure, provide goods or services or other commercial transactions.

### **Proponent**

The party lodging an unsolicited proposal.

### **Participation Agreement**

A Participation Agreement provides an agreed framework for Stage 2 and 3 which will be entered into by both Western Sydney Airport and the proponent in order to ensure the alignment of expectations regarding participation in the process.

The Participation Agreement will contain:

- Acknowledgement that a Value for Money outcome is a requirement for the proposal to proceed.
- Assessment Criteria and other relevant information including stakeholder requirements.
- Communication channels, including a prohibition on lobbying.
- Agreement regarding cost arrangements.
- Resource commitments.
- Conflict of interest management arrangements.
- Confidentiality requirements.
- Commitment to following an open book approach to discussions.
- Timeframe.
- Approval requirements, including planning and environmental approvals.



## Attachment C - Unsolicited Proposals Process Flow Chart





**Document control**

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Version Details	Document Author:	Verified by:	Approved by:
Revision: 00 Date: 12 Feb 2019	Melanie Burnicle   Company Secretary & Corporate Counsel	Shelley Turner   Chief Financial Officer	WSA Board
Main Changes: Original Issue			
Revision: 01 Date: 15 Oct 2021	Melanie Burnicle   Company Secretary & Corporate Counsel	Shelley Turner   Chief Financial Officer	WSA Board
Main Changes: Update to the name of the CEO			

**Related Documents:**

Document Number	Document Description
NIL	NIL

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