Australian Government
Department of Industry, Science and Resources

Technology Investment Taskforce B3 IDC Agenda

29 June 2023 Meeting

Meeting details

- **Date**: Thursday 29 June 2023
- **Time**: 10-11am
- **Location**: Industry House and MS Teams

Attendees

Members

- Co-Chair, Department of Industry, Science & Resources (DISR) – Duncan McIntyre, Deputy Secretary, Science and Technology
- Co-Chair Department of Finance (Finance) – Andrew Jaggers, Deputy Secretary, Commercial Group
- Department of Prime Minister & Cabinet – Nadine Williams, Economy, Industry & Resilience
- Treasury – Sam Reinhardt, Fiscal Group

Observers

- DISR: Anthony McGregor, Head of Taskforce, Technology Investment Taskforce; Dianna Gaetjens, Acting General Manager, Technology Investment Taskforce
- Finance: David Webster, First Assistant Secretary, Commercial Investments Division; Cameron Jose, Assistant Secretary, Commercial Policy and Advice

Agenda

Matter	Presenter	Papers
Welcome and apologies		
1 a) Acknowledgement of Country b) Introductions c) Apologies d) Conflict of interest declarations	Chair	Nil
Overview of project		
s 22(1)(a)(ii)		
IDC Terms of Reference		
s 22(1)(a)(ii)		
Establishing and progressing the market testing process		
s 34(3)		
Negotiating frameworks		
s 22(1)(a)(ii)		
Progressing due diligence and non-binding negotiations		
s 22(1)(a)(ii)		
Other business		
7 a) Other business b) Agenda for next meeting c) Date of next meeting	Chair	Nil

Australian Government
Department of Industry, Science and Resources

Technology Investment Taskforce B3 IDC Minutes

29 June 2023 Meeting

Meeting details

- **Date**: Thursday 29 June 2023
- **Time**: 10-11am
- **Location**: MS Teams

Minutes item overview

This meeting record is intended to capture key discussion points and all actions and outcomes agreed by the Committee.

Attendance list

- **a/g Chair:** Neal Mason – Deputy Secretary, Enabling and Business Services, Department of Industry, Science & Resources (DISR)
- **Deputy Chair:** Andrew Jaggers, Deputy Secretary, Commercial Group, Department of Finance (Finance)
- **Members:**
  - Nadine Williams, Deputy Secretary, Economy, Industry & Resilience, Department of Prime Minister & Cabinet (PM&C)
  - Mohita Zaeed, Division Head, Labour Market, Environment, Industry and Infrastructure Division, Treasury
- **Observers:**
  - DISR: Anthony McGregor, Head of Taskforce, Technology Investment Taskforce; Dianna Gaetjens, a/g General Manager, Technology Investment Taskforce, s 22(1)(a)(ii) s 22(1)(a)(ii) a/g Manager, Policy, Technology Investment Taskforce (note taker)
  - Finance: David Webster, First Assistant Secretary, Commercial Investments Division; Cameron Jose, Assistant Secretary, Commercial Policy and Advice
  - PM&C: s 22(1)(a)(ii) , Industry Section
- **Apologies**: Nil

Item summary

1 – Welcome and apologies

Presenter/speaker: Chair

Summary

- The Chair opened the meeting, and facilitated introductions.
- Attendees declared they had no conflicts of interest.

Actions

- Nil

2 – Overview of project

s 22(1)(a)(ii)

s 34(3)

s 22(1)(a)(ii)

Actions

- Nil

3 – IDC Terms of Reference

s 22(1)(a)(ii)

s 22(1)(a)(ii)

4 – Establishing and progressing the market testing process

Presenter speaker: Chair and Mr McGregor

Summary

s 34(3)

s 34(3)

5 – Negotiating frameworks

Presenter/speaker: Mr McGregor

Summary

s 22(1)(a)(ii)

Actions

s 22(1)(a)(ii)

6 – Progressing due diligence and non-binding negotiations

Presenter/speaker: Mr McGregor

s 22(1)(a)(ii)

7 – Other business

Presenter/speaker: Chair

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Appendix 2

Actions Arising from Band 3 IDC – 29 June

No.	Actions	Status

s 22(1)(a)(ii)

s 34(3)

s 22(1)(a)(ii)

Australian Government
Department of Industry, Science and Resources

PROTECTED CABINET

DEPUTY SECRETARY Neal Mason
EC23-001577

TECHNOLOGY INVESTMENT TASKFORCE BAND 3 IDC – 29 JUNE MEETING

DATE	Thursday, 29 June 2023
TIME	10 am to 11 am (AEST)
LOCATION	Industry House/Virtual (Teams)
CONTACT OFFICER	Dianna Gaetjens s 22(1)(a)(ii) / Anthony McGregor s 22(1)(a)(ii)

MEMBERS

- Neal Mason (a/g Co-Chair), Deputy Secretary, Enabling and Business Services, Department of Industry, Science and Resources (DISR)
- Andrew Jaggers (Co-Chair), Deputy Secretary, Commercial Group, Department of Finance (Finance)
- Nadine Williams, Deputy Secretary, Economy, Industry and Resilience, Department of the Prime Minister and Cabinet
- Sam Reinhardt, Deputy Secretary, Fiscal Group, Treasury

OBSERVERS

- Anthony McGregor, Head of Taskforce, Technology Investment Taskforce (TITF), DISR
- Dianna Gaetjens, General Manager, TITF, DISR
- David Webster, First Assistant Secretary, Commercial Investments Division, Finance
- Cameron Jose, Assistant Secretary, Commercial Policy and Advice, Finance

MEETING OBJECTIVE

s 22(1)(a)(ii)

KEY POINTS

s 22(1)(a)(ii)

SENSITIVITIES

s 22(1)(a)(ii)

s 34(3)

s 22(1)(a)(ii)

ATTACHMENTS

A: Terms of Reference for the Taskforce

RUN SHEET/ANNOTATED AGENDA

Item		Notes / suggested position
Welcome and apologies		
1	a) Acknowledgement of Country b) Introductions c) Apologies d) Conflict of interest declarations	Handling strategy: • **Lead** discussion
Overview of project		

s 22(1)(a)(ii)

DEPUTY SECRETARY Neal Mason
EC23-001577

s 22(1)(a)(ii)

Additional notes:
s 34(3)

s 22(1)(a)(ii)

s 34(3)

s 22(1)(a)(ii)

•

IDC & Taskforce Terms of Reference

s 22(1)(a)(ii)

DEPUTY SECRETARY Neal Mason
EC23-001577

s 22(1)(a)(ii)

Establishing and progressing the market testing process

s 34(3)

s 34(3)

DEPUTY SECRETARY Neal Mason

s 34(3)

Negotiating Frameworks

s 22(1)(a)(ii)

Progressing due diligence and non-binding negotiations

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Other business

s 22(1)(a)(ii)

DOCUMENT 12

s 22(1)(a)(ii)

From: McGregor, Anthony
Sent: Wednesday, 28 June 2023 9:42 PM
To: Mason, Neal
Cc: s 22(1)(a)(ii) ; Gaetjens, Dianna; s 22(1)(a)(ii)
Subject: Additional points for IDC tomorrow [SEC=PROTECTED]
Attachments: RE: PsiQuantum B3 IDC [SEC=PROTECTED, CAVEAT=SH:CABINET]; s 34(3) s 34(3) ; RE: PsiQuantum B3 IDC [SEC=PROTECTED]

PROTECTED

Hi Neal

As promised, a few additional points to supplement your briefing for tomorrow's IDC, based on discussions today.

Chair arrangements
- As noted earlier today (see email attached), DoF has agreed to be Deputy Chair, rather than Co-Chair, "subject to the views of the committee".
- Recommend we seek to confirm during the agenda item. I'm happy to raise this as part of my run-through, if you like.

s 34(3)
- s 34(3)
- DoF has this afternoon provided their initial is proposing a confidential market testing approach (attached, no need to read).
- Though not explicit in the paper, **this would usually consist of approaching selected companies and asking them to sign an NDA before inviting them to provide a proposal**.
  s 34(3)
- A confidential EOI approach would potentially provide the best risk mitigation in terms of adhering to the Commonwealth Investment Framework. If an alternative competitive proposal is received, it would need to be properly considered.

s 34(3)

- s 34(3)
  - s 34(3) , but would not be as close to normal government processes.
- We plan to reconvene with DoF on Friday to work through the options further, following which we will engage with the Minister/office.
  s 34(3)

- I think tomorrow's IDC is an opportunity to seek initial views on the two alternative approaches—their pros and cons—and we will likely need to come back to them once we have worked through further.

s 22(1)(a)(ii)

Cheers
Anthony

PROTECTED

DOCUMENT 13

From:	Gaetjens, Dianna
To:	McGregor, Anthony
Subject:	EOI process - key points [SEC=PROTECTED, CAVEAT=SH:CABINET]
Date:	Wednesday, 28 June 2023 6:00:02 PM
Attachments:	s 34(3) image001.png image002.jpg

PROTECTED//CABINET

Hi Anthony

I had a chat to DoF to clarify a couple of details. I think the key points:

- s 34(3)
- DoF is proposing a confidential EOI process – though not explicit in the paper, this would usually consist of approaching selected companies and asking them to sign an NDA before inviting them to provide a proposal. s 34(3)
- A confidential EOI approach could provide the best risk mitigation in terms of adhering to the Commonwealth Investment Framework.s 34(3)
- Should the confidential EOI approach be taken, s 34(3)

s 34(3)

but would not be as close to normal government processes.

Cheers DG

Dianna Gaetjens
A/g General Manager

Technology and Digital Division
50 Flinders St, Adelaide, 5000
Department of Industry, Science and Resources
P. s 22(1)(a)(ii)
E: Dianna.Gaetjens@industry.gov.au
s 22(1)(a)(ii)

DOCUMENT 14

From: Quinn, Meghan
To: McGregor, Anthony
Cc: McIntyre, Duncan; Gaetjens, Dianna; Blake, Judith
Subject: RE: s 47E(d) - approach to market testing [SEC=PROTECTED, CAVEAT=SH:CABINET]
Date: Tuesday, 11 July 2023 6:33:35 PM
Attachments: image001.jpg

Thanks for the email.

s 34(3) . I had a few questions (see below), but not anything you need to respond to ahead of the IDC. I will be interested in the views of the different parties in the IDC. And, we will need to think about our briefing approach – the written and the contact with office/minister.

Meghan Quinn PSM
Secretary

Connection to Country 2021. by s 22(1)(a)(ii)

PROTECTED//CABINET

From: McGregor, Anthony
Sent: Tuesday, 11 July 2023 6:15 PM
To: Quinn, Meghan
Cc: McIntyre, Duncan ; Gaetjens, Dianna ; Blake, Judith
Subject: s 47E(d) - approach to market testing [SEC=PROTECTED, CAVEAT=SH:CABINET]
Importance: High

PROTECTED//CABINET

Good afternoon Meghan,

Our Band 3 IDC will meet tomorrow afternoon. A key issue to resolve is the approach to market testing s 34(3) .

We have reached agreement with Finance on an approach that will be put to the IDC tomorrow. I wanted to give you visibility of where it is headed – s 34(3)

After working through several possible approaches, s 34(3)

s 34(3)

s 34(3)

s 34(3)

Subject to the IDC's views tomorrow, s 34(3) We would make clear that, based on Finance advice, s 34(3) is preferable in terms of compliance with the CIF etc. We would clearly set out the advantages/risks of each approach. (will need to be clear about the actual vs perceived risks s 34(3)

Please let me know if you would like to discuss / have any views before we finalise this paper ahead of tomorrow's IDC.

Thanks

Anthony

Anthony McGregor

Head of Taskforce – Technology Investment Taskforce

____

Department of Industry, Science and Resources

Ngunnawal Country, Industry House, 10 Binara Street, Canberra City, ACT 2601

GPO Box 2013, Canberra ACT 2601

P: s 22(1)(a)(ii) | e: anthony.mcgregor@industry.gov.au

Australian Government
Department of Industry, Science and Resources

Technology Investment Taskforce B3 IDC Agenda

12 July 2023 Meeting

Meeting details

- **Date**: Wednesday 12 July 2023
- **Time**: 12.30pm-1.30pm
- **Location**: Industry House and MS Teams

Attendees

Members

- Chair, Department of Industry, Science & Resources (DISR) – Duncan McIntyre, Deputy Secretary, Science and Technology
- Deputy Chair, Department of Finance (Finance) – Andrew Jaggers, Deputy Secretary, Commercial Group
- Department of Prime Minister & Cabinet – Nadine Williams, Deputy Secretary, Economy, Industry & Resilience
- Treasury – Deputy Secretary, Sam Reinhardt, Fiscal Group

Observers

- DISR: Anthony McGregor, Head of Taskforce, Technology Investment Taskforce (TITF); Dianna Gaetjens, General Manager, TITF; s 22(1)(a)(ii) , a/g Manager, TITF (notetaker)
- Finance: David Webster, First Assistant Secretary, Commercial Investments Division; David O'Connor, a/g Assistant Secretary, Commercial Policy and Advice

Agenda

	Matter		Presenter	Papers
Welcome and apologies				
1	a)	Acknowledgement of Country	Chair	
	b)	Welcome and apologies		
	c)	Conflict of interest declarations		
	d)	Minutes of Previous Meeting		Appendix 1
	e)	Actions Arising		Appendix 2
		<u>*Recommendation:*</u> *That the Committee approves the draft minutes of the 29 June meeting at Appendix 1.*		

Overview of s 22(1)(a)(ii) **Report on** s 47E(d) **Proposal**

s 22(1)(a)(ii)

Project Update

s 22(1)(a)(ii)

s 47E(d) **Terms of Reference**

s 22(1)(a)(ii)

Establishing and progressing the market testing process

s 34(3)

Negotiating frameworks

s 22(1)(a)(ii)

Other business

s 22(1)(a)(ii)

Australian Government
Department of Industry, Science and Resources

Technology Investment Taskforce B3 IDC Minutes

12 July 2023 Meeting

Meeting details

- **Date**: Wednesday 12 July 2023
- **Time**: 12:30pm – 1:30pm
- **Location**: Industry House and MS Teams

Minutes item overview

This meeting record is intended to capture key discussion points and all actions and outcomes agreed by the Committee.

Attendance list

- **Chair:** Duncan McIntyre – Deputy Secretary, Science and Technology, Department of Industry, Science & Resources (DISR)
- **Deputy Chair:** Andrew Jaggers, Deputy Secretary, Commercial Group, Department of Finance (Finance)
- **Members:**
  - Nadine Williams, Deputy Secretary, Economy, Industry & Resilience, Department of Prime Minister & Cabinet (PM&C)
  - Mohita Zaeed, Division Head, Labour Market, Environment, Industry and Infrastructure Division, Treasury
- **Observers:**
  - DISR: Anthony McGregor, Head of Technology Investment Taskforce (TITF); Dianna Gaetjens, General Manager, TITF; s 22(1)(a)(ii) , a/g Manager, Policy, TITF; s 22(1)(a)(ii) s 22(1)(a) a/g Assistant Manager, TITF (note taker), s 22(1)(a)(ii) , TITF
  - Finance: David Webster, First Assistant Secretary, Commercial Investments Division; David O'Connor, a/g Assistant Secretary, Commercial Policy and Advice
  - PM&C: Anthea Fell, Assistant Secretary, Industry, Innovation, Science & Communications and s 22(1)(a)(ii) , Industry Section
  - s 22(1)(a) , Treasury

s 22(1)(a)(ii)

Item summary

1 – Welcome and apologies

s 22(1)(a)(ii)

Actions

- Nil

2 – Overview of s 22(1)(a)(ii) Report on s 47E(d) Proposal

s 22(1)(a)(ii)

3 – Project Update

s 22(1)(a)(ii)

s 22(1)(a)(ii)

4 – s 47E(d) Terms of Reference

s 22(1)(a)(ii)

5 – Establishing and Progressing the Market Testing Process

s 34(3)

s 34(3)

6 – Negotiating Frameworks

s 22(1)(a)(ii)

7 – Other business

s 22(1)(a)(ii)

Meeting closed 1:40pm

DOCUMENT 18

s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @finance.gov.au>
Sent: Tuesday, 18 July 2023 10:37 AM
To: Gaetjens, Dianna <Dianna.Gaetjens@industry.gov.au>
Cc: O'Connor, David ; s 22(1)(a)(ii) @finance.gov.au>; s 22(1)(a)(ii) @finance.gov.au>
Subject: RE: Market testing options [SEC=PROTECTED]

PROTECTED

Dianna,

Apologies for the delay in responding on this issue.

We understand that Andrew Jaggers is intending to respond to IDC members via email confirming that Finance considers that the confidential EOI approach is the minimum approach that can demonstrate achieving efficient, effective, economic and ethical use of public money and is the only proposed option that appropriately tests the market for value for money and appropriately mitigates (but does not extinguish) commercial and compliance risks to the Commonwealth.

s 47C

If there is anything else we can assist with on this paper please reach out.

Regards

s 22(1)

s 22(1)(a)(ii)

From: Gaetjens, Dianna
Sent: Friday, 14 July 2023 5:22 PM
To: s 22(1)(a)(ii) @finance.gov.au>
Cc: McGregor, Anthony <Anthony.McGregor@industry.gov.au>; s 22(1)(a)(ii) @industry.gov.au>; s 22(1)(a)(ii) @industry.gov.au>; s 22(1)(a)(ii) @finance.gov.au>
Subject: Market testing options [SEC=PROTECTED]

Hi s 22(1)(a)(ii)

As promised, we've revised s 47C

Grateful your views – we've included a number of areas where your specific input would be appreciated. Let us know what is feasible in terms of a timeframe, but Monday would be good.

Many thanks Dianna

s 22(1)(a)(ii)

DOCUMENT 20

s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @sparke.com.au>
Sent: Monday, 17 July 2023 2:24 PM
To: Gaetjens, Dianna <Dianna.Gaetjens@industry.gov.au>; s 22(1)(a)(ii) @industry.gov.au>
Cc: s 22(1)(a)(ii) @sparke.com.au>
Subject: DISR: s 34(3) [SPARKE-MATT.FID6313487]

Hi s / Dianna,

s 34(3)

Our overarching comments are as follows:

s 34(3)

s 34(3)

Let us know if you wish to discuss our comment further.

Kind regards,

s 22(1)(a)(ii)

s 22(1)(a)(ii) Partner | Projects & Government Commercial
Sparke Helmore Lawyers | Level 40, 600 Bourke Street, Melbourne VIC 3000
s 22(1)(a)(ii)
s 22(1)(a)(ii) @sparke.com.au | www.sparke.com.au

DOCUMENT 21

s 22(1)(a)(ii)

From:	McIntyre, Duncan
Sent:	Friday, 21 July 2023 5:51 PM
To:	Andrew.Jaggers@finance.gov.au; Nadine.Williams@pmc.gov.au; sam.reinhardt@treasury.gov.au
Cc:	Gaetjens, Dianna; Webster, David; O'Connor, David; s 22(1)(a)(ii) ; Mohita.Zaheed@treasury.gov.au; s 22(1)(a)(ii) ; Tech Investment; Industry Section; s 22(1)(a)(ii) ; CGSExecutive; Warrington, Bruce (Protected); McGregor, Anthony
Subject:	Tech Investment Taskforce B3 IDC - s 34(3) [SEC=PROTECTED]
Attachments:	Attachment A - s 34(3) .docx

PROTECTED

PROTECTEDDear IDC Colleagues

At our meeting on 12 July, we agreed s 34(3)

I am now writing to seek the Committee’s out-of-session consideration and endorsement of the proposed way forward. I would appreciate your response as soon as practicable. If necessary I would be happy to arrange a brief Teams call, however I anticipate we can settle this via email.

DISR recommends s 34(3) A summary of what the recommendations and accompanying key points look like are below for reference.

Recommendations:
s 34(3)

s 34(3)

s 34(3)

We would appreciate your advice on the proposed way forward at your earliest convenience.

Thanks

Duncan

Duncan McIntyre
Deputy Secretary, Science and Technology

Ngunnawal Country, Industry House, 10 Binara Street, (GPO Box 2013) Canberra ACT 2601 Australia
Department of Industry, Science and Resources
s 22(1)(a)(ii) | duncan.mcintyre@industry.gov.au

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Australian Government
Department of Industry, Science and Resources

DEPUTY SECRETARY Duncan McIntyre
EC23-001678

TECHNOLOGY INVESTMENT TASKFORCE BAND 3 IDC MEETING – 12 July

DATE	Wednesday, 12 July 2023
TIME	12.30pm – 1.30pm (AEST)
LOCATION	Industry House/Virtual (Teams)
CONTACT OFFICER	Dianna Gaetjens s 22(1)(a)(ii) / Anthony McGregor s 22(1)(a)(ii)

MEMBERS

- Duncan McIntyre (Chair), Deputy Secretary, Science and Technology, Department of Industry, Science and Resources (DISR)
- Andrew Jaggers (Deputy Chair), Deputy Secretary, Commercial Group, Department of Finance (Finance)
- Nadine Williams, Deputy Secretary, Economy, Industry and Resilience, Department of the Prime Minister and Cabinet
- Sam Reinhardt, Deputy Secretary, Fiscal Group, Treasury

OBSERVERS

- Anthony McGregor, Head of Taskforce, Technology Investment Taskforce (TITF), DISR
- Dianna Gaetjens, General Manager, TITF, DISR
- David Webster, First Assistant Secretary, Commercial Investments Division, Finance
- David O'Connor, a/g Assistant Secretary, Commercial Policy and Advice, Finance

MEETING OBJECTIVES

s 22(1)(a)(ii)

s 34(3)

s 22(1)(a)(ii)

KEY POINTS

s 22(1)(a)(ii)

DEPUTY SECRETARY Duncan McIntyre
EC23-001678

SENSITIVITIES

s 34(3)

s 22(1)(a)(ii)

RUN SHEET/ANNOTATED AGENDA

Item	Notes / suggested position
Welcome and apologies	

s 22(1)(a)(ii)

Overview of s 22(1)(a)(ii) Report on s 47E(d) Proposal	

s 22(1)(a)(ii)

Project Update

s 22(1)(a)(ii)

s 47E(d) Terms of Reference

s 22(1)(a)(ii)

Establishing and progressing the market testing process

s 34(3)

DEPUTY SECRETARY Duncan McIntyre
EC23-001678

s 34(3)

Negotiating frameworks

s 22(1)(a)(ii)

Other business

s 22(1)(a)(ii)

s 22(1)(a)(ii)

DOCUMENT 24

s 22(1)(a)(ii)

From: McGregor, Anthony
Sent: Tuesday, 25 July 2023 1:23 PM
To: Dianna Gaetjens ; s 22(1)(a)(ii)
Subject: s 22(1)(a)(ii) iscussion - key points [SEC=PROTECTED, CAVEAT=SH:CABINET]

PROTECTED//CABINET

Team – key points from my discussion with s 22(1)(a)(ii) earlier today.

Happy to discuss.

Market testing

- I explained the IDC/DISR/Finance considerations in exploring options. Discussed IDC views to date, and anticipated preferred approach (expecting final advice today). s 34(3) Noted we are seeking to be as clear as possible on risks/benefits of options.

s 34(3)

<u>action please.</u>

- Agreed we would need to communicate the process s 47C **<u>Dianna – we should discuss and then raise with</u>** s 22(1)(a)(ii)
- s 34(3)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

DOCUMENT 25

s 22(1)(a)(ii)

From: Jaggers, Andrew <Andrew.Jaggers@finance.gov.au>
Sent: Tuesday, 18 July 2023 5:17 PM
To: McGregor, Anthony; McIntyre, Duncan; Nadine.Williams@pmc.gov.au; sam.reinhardt@treasury.gov.au
Cc: Gaetjens, Dianna; Webster, David; O'Connor, David; s 22(1)(a)(ii) Mohita.Zaheed@treasury.gov.au; s 22(1)(a)(ii) ; Tech Investment; Industry Section; s 22(1)(a)(ii) ; CGSExecutive
Subject: RE: TITF B3 IDC meeting 12 July 2023 - Agenda and papers [SEC=PROTECTED, CAVEAT=SH:CABINET]

PROTECTED//CABINET

Hello Duncan and IDC Members

At the IDC meeting last week I agreed to come back to you s 34(3)

My view is that s 34(3)

s 34(3)

CPR requirements:

s 34(3)

Not complying with the CPR creates a risk of breaching free trade agreements and obligations under the PGPA Act.

CGRG requirements:

To comply with the CGRGs any grant elements of the deal must use a ‘competitive merit-based selection process to allocate grants’ and choose methods ‘that will promote open, transparent and equitable access to grants’. 11.2 of the CGRGs set out that the ‘objective of the selection process is to select grant activities that best represent value with relevant money in the context of the objectives and outcomes of the grant opportunity.’ s 34(3) best supports evidence regarding how grant related activities within the transaction will best achieve value with relevant money.

s 34(3)

CIF requirements:

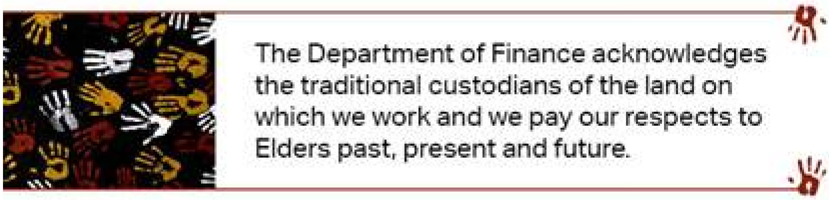
Under Part 1 of the Commonwealth Investment Framework which apply to the investment aspect of the deal, the proposal must analyse the market and alternative sources of supply. This includes undertaking market engagement to form a view of contestability, which could only be satisfied under s 34(3)

I understand there are concerns that s 34(3)

. Regardless, it should not be viewed as an inhibitor to an approach to the market s 34(3)

Regards
Andrew

Andrew Jaggers PSM
Deputy Secretary
Department of Finance
T: s 22(1)(a)(ii)
E: Andrew.jaggers@finance.gov.au



Classification: PROTECTED//CABINET
Classified by: anthony.mcgregor@industry.gov.au on: 11/07/2023 8:09:11 PM
s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

DOCUMENT 26

s 22(1)(a)(ii)

From:	Danks, Andrew <Andrew.Danks@finance.gov.au>
Sent:	Thursday, 27 July 2023 1:17 PM
To:	McIntyre, Duncan
Cc:	Gaetjens, Dianna; Webster, David; O'Connor, David; s 22(1)(a)(ii) ; Mohita.Zaheed@treasury.gov.au; s 22(1)(a)(ii) ; Tech Investment; Industry Section; s 22(1)(a)(ii) ; CGSExecutive; Warrington, Bruce (Protected); McGregor, Anthony
Subject:	RE: Tech Investment Taskforce B3 IDC - Market Testing Options [SEC=PROTECTED]

PROTECTED

Hi Duncan

Thank you for providing the final market testing options. I'm responding as Andrew Jaggers is on leave and I am acting in his role.

As per Andrew's email, Finance supports proceeding with a confidential sounding of potential international and domestic competitors to test the quantum market for options for meeting the underlying policy objectives. We view this option is the minimum necessary to test value for money before entering into a deal or exclusive negotiations with one party. It minimises reputational, commercial and compliance risks to the Commonwealth.

s 34(3)

s 34(3)

s 22(1)(a)(ii)

Regards
Andrew

Andrew Danks | A/g Deputy Secretary
Commercial Group
Department of Finance

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

From: Zaheed, Mohita <Mohita.Zaheed@treasury.gov.au>
Sent: Friday, 28 July 2023 7:45 AM
To: Williams, Nadine; McIntyre, Duncan; Andrew.Jaggers@finance.gov.au; Reinhardt, Sam
Cc: Gaetjens, Dianna; Webster, David; O'Connor, David; s 22(1)(a)(ii) Tech Investment; Industry Section; s 22(1)(a)(ii) CGSExecutive; Warrington, Bruce (Protected); McGregor, Anthony
Subject: RE: Tech Investment Taskforce B3 IDC - Market Testing Options [SEC=PROTECTED]

Hi Duncan,

Similar to Nadine's comments, I am supportive of the recommended option for testing the market noting the advice from Finance. s 34(3)

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s 34(3)

Mohita

Mohita Zaheed
First Assistant Secretary – Labour Market, Environment, Industry and Infrastructure Division
P s 22(1)(a)(ii)

EA Contact: s 22(1)(a)(ii) @treasury.gov.au

treasury.gov.au
Langton Crescent, Parkes ACT 2600
Twitter | LinkedIn | Facebook

The Treasury acknowledges the traditional owners of country throughout Australia, and their continuing connection to land, water and community. We pay our respects to them and their cultures and to elders both past and present.

From: Williams, Nadine
Sent: Thursday, 27 July 2023 1:36 PM
To: Duncan McIntyre (External Contact) ; Andrew.Jaggers@finance.gov.au; Reinhardt, Sam
Cc: Gaetjens, Dianna ; Webster, David ; O'Connor, David ; s 22(1)(a)(ii) ; Zaheed, Mohita ; s 22(1)(a)(ii) ; Tech Investment ; Industry Section ; s 22(1)(a)(ii) ; CGSExecutive ; Warrington, Bruce (Protected) ; McGregor, Anthony
Subject: RE: Tech Investment Taskforce B3 IDC - Market Testing Options [SEC=PROTECTED]

PROTECTED

Hi Duncan,

Thank you for providing the final market testing options for the Committee's out-of-session consideration.

Market testing

In considering the proposed approach for the market testing process, I am mindful that Andrew's previous advice reflects Finance's expertise regarding compliance with the Commonwealth Investment Framework and related protocols including CPR and CGRG requirements. On this basis, I am comfortable with s 34(3)

s 34(3)

I note DISR have appointed a probity adviser to oversee the market testing process and negotiations. Grateful for confirmation the IDC's recommendation s 34(3)

I also welcome any additional probity advice on the sequencing of the market testing s 34(3)

s 34(3)

Technical Advisory Group

I share Finance's view that additional independent technical expertise should inform Government's consideration of s 34(3)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

DOCUMENT 28

s 22(1)(a)(ii)

From: McGregor, Anthony
Sent: Monday, 31 July 2023 8:46 AM
To: Zaheed, Mohita; Williams, Nadine; Andrew.Jaggers@finance.gov.au; Reinhardt, Sam
Cc: Gaetjens, Dianna; Webster, David; O'Connor, David; s 22(1)(a)(ii) Industry Section; s 22(1)(a)(ii) Warrington, Bruce (Protected); Danks, Andrew
Subject: RE: Tech Investment Taskforce B3 IDC - Market Testing Options [SEC=PROTECTED]
Attachments: s 34(3)

Follow Up Flag: Follow up
Flag Status: Flagged

Dear IDC members

Thank you for your advice and assistance on this matter.

Consistent with the advice of the IDC, s 34(3) with a confidential sounding of potential international and domestic competitors to test the market s 34(3)

We have reflected the Committee's input in our advice, including

- that the market testing process must be sufficiently robust to demonstrate alignment with the requirements of the PGPA Act and relevant Commonwealth frameworks

s 34(3)

s 34(3)

s 34(3)

An updated version of the s 34(3) is attached to this email, and may be useful for you in supporting discussions with your offices, if required.

s 34(3)

s 34(3)

- **Probity advice –** as reflected in the updated s 47C , probity advice aligns with the views of the IDC on the options
- s 47C

Kind regards,
Anthony

Anthony McGregor
Head of Division – Technology Investment Taskforce
____
Department of Industry, Science and Resources
Ngunnawal Country, Industry House, 10 Binara Street, Canberra City, ACT 2601
GPO Box 2013, Canberra ACT 2601

P: s 22(1)(a)(ii) | e: anthony.mcgregor@industry.gov.au

Executive Assistant s 22(1)(a)(ii) @industry.gov.au

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Hi Anthony and Dianna

Following our discussion this afternoon, below is an explanation on why s 34(3) in addition to the explanation provided by Andrew below on why Finance supports <u>at minimum</u>, a limited approach to market – s 34(3) Ok with the minor changes to the s 34(3)
s 34(3)

These points should support your briefing.

<u>CIF</u>

There is a requirement in the BPORs 1.21 that entities must comply with the requirements of the Commonwealth Investment Framework. Under the framework:

- Investment proposals should be supported by a detailed business case, which should:
    - Analyse the market (if any), including demand and alternative sources of supply
    - Assess financing approaches per the 3 Step Commercial Assessment, which encourages entities to understand the market, including: market size, composition and willingness to participate; and capacity, capability and willingness of multiple partners to participate in the project.

s 34(3)

<u>Unsolicited approaches</u>

Finance is in the process of creating guidance for unsolicited approaches that will sit under the CIF. This was prompted following unsolicited approaches that have been the subject of ANAO audits.

For an unsolicited proposal to proceed under the guidelines as drafted, it must:

- Align with government objectives;
- Demonstrate an absence of competition (or willing and active participants) in the market capable of achieving the proposed objective; and
- Offer demonstrable value for money.

s 34(3)

s 34(3)

Thanks for your email s 22(1)(a)(ii)

I think there is still some confusion on this point worth clearing up.

There is a fundamental difference between the Government making a policy decision to invest in a company versus receiving an unsolicited proposal from a company. We are not aware of any circumstances were there was an unsolicited proposal from a company and Government decided to pursue that without testing the market to establish value for money and mitigate risks associated with picking a winner.

s 34(3)

Suggested changes to that paragraph in your briefing below:

s 34(3)

10. s 34(3) the most efficient and effective way of structuring that investment is considered. s 34(3)

s 34(3)

Commonwealth Procurement Rules

s 34(3)

Under the CPRs:

- Departments and officials, not Ministers, are responsible for procurement. Ministers should not direct Departments to take a procurement approach, and Departments do not need to follow such a direction.

s 34(3)

CPRs 2.6 provides for exemptions under the CPRs for *officials* to apply for:

- Maintenance or restoration of international peace and security
- To protect human health
- For the protection of essential security interests
- To protect national treasures of artistic, historic or archaeological value.

If the CPRs apply, s 34(3)

CPRs 10.3 provides the that the *relevant entity (I.e. DISR)* must only conduct a limited tender (including approaching one) where circumstances a. through h. are met. s 34(3)

Classification: PROTECTED

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

DOCUMENT 32

From: "McGregor, Anthony"
Sent: 31/07/2023 9:24:36 AM
To: s 22(1)(a)(ii) @industry.gov.au>
Cc: "Quinn, Meghan" <Meghan.Quinn@industry.gov.au>; "Gaetjens, Dianna" <Dianna.Gaetjens@industry.gov.au>; "s 22(1)(a)(ii) @industry.gov.au>; "Blake, Judith" <Judith.Blake@industry.gov.au>; "Warrington, Bruce (Protected)" <Bruce.Warrington@industry.gov.au>
Subject: RE: Tech Investment Taskforce - Weekly Update [SEC=PROTECTED]
Attachments: RE: TITF B3 IDC meeting 12 July 2023 - Agenda and papers [SEC=PROTECTED, CAVEAT=SH:CABINET]

Hi s 22(1)(a)(ii)

s 34(3)

You also asked to see Finance's input to the s 34(3) – see inserted text below, and the **attached** email, which also informed the IDC's assessments (DoF has confirmed they are happy for me to provide this advice).

AM

CIF

-

There is a requirement in the BPORs 1.21 that entities must comply with the requirements of the Commonwealth Investment Framework. Under the framework:

- Investment proposals should be supported by a detailed business case, which should:
  - Analyse the market (if any), including demand and alternative sources of supply
  - Assess financing approaches per the 3 Step Commercial Assessment, which encourages entities to understand the market, including: market size, composition and willingness to participate; and capacity, capability and willingness of multiple partners to participate in the project.

s 34(3)

Unsolicited approaches

-

Finance is in the process of creating guidance for unsolicited approaches that will sit under the CIF. This was prompted following unsolicited approaches that have been the subject of ANAO audits.

For an unsolicited proposal to proceed under the guidelines as drafted, it must:

- Align with government objectives;
- Demonstrate an absence of competition (or willing and active participants) in the market capable of achieving the proposed objective; and

- Offer demonstrable value for money.

s 34(3)

Commonwealth Procurement Rules

s 34(3)

Under the CPRs:

- Departments and officials, not Ministers, are responsible for procurement. Ministers should not direct Departments to take a procurement approach, and Departments do not need to follow such a direction.

s 34(3)

CPRs 2.6 provides for exemptions under the CPRs for *officials* to apply for:

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- To protect human health
- For the protection of essential security interests
- To protect national treasures of artistic, historic or archaeological value.

If the CPRs apply, s 34(3)

CPRs 10.3 provides the that the *relevant entity (I.e. DISR)* must only conduct a limited tender (including approaching one) where circumstances a. through h. are met. s 34(3)

From: s 22(1)(a)(ii) @industry.gov.au>
Sent: Monday, 31 July 2023 8:25 AM
To: McGregor, Anthony <Anthony.McGregor@industry.gov.au>
Cc: Quinn, Meghan <Meghan.Quinn@industry.gov.au>; Gaetjens, Dianna <Dianna.Gaetjens@industry.gov.au>; s 22(1)(a)(ii) @industry.gov.au>; Blake, Judith <Judith.Blake@industry.gov.au>; Warrington, Bruce (Protected) <Bruce.Warrington@industry.gov.au>
Subject: RE: Tech Investment Taskforce - Weekly Update [SEC=PROTECTED]

Hi Anthony,

Thanks for this –

s 47C

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Office of the Hon Ed Husic MP
Minister for Industry and Science
s 22(1)(a)(ii)
E s 22(1)(a)(ii) @industry.gov.au

PROTECTED

From: McGregor, Anthony <Anthony.McGregor@industry.gov.au>
Sent: Friday, 28 July 2023 5:09 PM
To: s 22(1)(a)(ii) @industry.gov.au>
Cc: Quinn, Meghan <Meghan.Quinn@industry.gov.au>; Gaetjens, Dianna <Dianna.Gaetjens@industry.gov.au>; s 22(1)(a)(ii) @industry.gov.au>; Blake, Judith <Judith.Blake@industry.gov.au>; Warrington, Bruce (Protected) <Bruce.Warrington@industry.gov.au>
Subject: Tech Investment Taskforce - Weekly Update [SEC=PROTECTED]

PROTECTED

Hi s 47C

This week's update attached.

Anthony

PROTECTED
PROTECTED

DOCUMENT 33

s 22(1)(a)(ii)

From:	Quinn, Meghan
Sent:	Thursday, 20 July 2023 5:41 PM
To:	s 22(1)(a)(ii)
Cc:	Gaetjens, Dianna; McGregor, Anthony; McIntyre, Duncan; Blake, Judith
Subject:	Comments on MS[SEC=PROTECTED, CAVEAT=SH:CABINET]
Attachments:	MS23-001125 001 s 34(3)

PROTECTED//CABINET

Hi

I have put comments in the attached. You will need to do a compare as I wasn't able to use tracked changes on the ipad. I suggest changing the tone s 47C
If it is our recommendation then we should say so.

It also read too much like s 47C

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

From: McIntyre, Duncan <Duncan.McIntyre@industry.gov.au>
Sent: Tuesday, 18 July 2023 6:16 PM
To: Quinn, Meghan <Meghan.Quinn@industry.gov.au>
Cc: McGregor, Anthony <Anthony.McGregor@industry.gov.au>
Subject: FW: TITF B3 IDC meeting 12 July 2023 - Agenda and papers [SEC=PROTECTED, CAVEAT=SH:CABINET]

DOCUMENT 34

PROTECTED//CABINET

Hi Meghan

As we anticipated in our discussion last week, Finance have firmed up their advice, below.

Subject to your views, the team are s 34(3) . I expect we will have a draft of this advice suitable for your review late tomorrow (Wednesday) prior to us s 34(3) . An outline of the approach to be covered off in the brief is attached, including s 34(3)

Happy to discuss

Duncan

PROTECTED//CABINET

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

DOCUMENT 35

s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Wednesday, 2 August 2023 8:05 AM
To: Gaetjens, Dianna
Cc: s 22(1)(a)(ii) ; McGregor, Anthony
Subject: RE: Market testing options [SEC=OFFICIAL:Sensitive]

Thanks for this Dianna. I have reviewed this now and have the following comments…

1. Broadly I agree with the proposed option as being the best s 34(3)

2. The key to the success of s 34(3) from a probity perspective is to: (a) be able to explain objectively and cogently why we did not need to do the full market approach (which may be on the basis of risk, or on the basis of efficiency, or on the basis of cost effectiveness, or some combination) and why that does not lessen our ability to achieve best value for money; and (b) that our market intelligence drives a strong evidence base for reasonably comprehensive identification of the market of potential suppliers to include in the market testing process.
3. The other important aspect of this is that we do comprehensive due diligence s 34(3)

)

4. s 34(3)

On the other parts of your email below, happy to…

(a) Discuss the sequencing of market testing s 34(3)

s 34(3)

But that is a position that I am happy to test with you as there may be factors I am not aware of.

(b) Very happy to chat about the s 47C

.

(c) s 47C

Let me know when you might want to discuss these various points.

Cheers

s 22(1)(a)(ii)

From: Gaetjens, Dianna <Dianna.Gaetjens@industry.gov.au>
Sent: Friday, July 28, 2023 5:21 PM
To: s 22(1)(a)(ii) @sentcon.com.au>
Cc: s 22(1)(a)(ii) @industry.gov.au>; s 22(1)(a)(ii) @industry.gov.au>; McGregor, Anthony <Anthony.McGregor@industry.gov.au>
Subject: Market testing options [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22(1)(a)(ii)

As foreshadowed, please find attached s 34(3) This incorporates advice from the previous probity adviser (and you'll see some references to that in the document).

Assisting us to navigate probity issues with regard to this process will be a key part of your role. In addition to any views you have on the attached, we'd also welcome advice in due course on managing the sequencing of the market testing s 47C .

s 22(1)(a)(ii)

s 47C

Have a lovely weekend.

Regards Dianna

Dianna Gaetjens
Deputy Head

Ph. s 22(1)(a)(ii)
Technology Investment Taskforce
50 Flinders St, Adelaide, 5000
Department of Industry, Science and Resources
P. s 22(1)(a)(ii)