



INVITATION TO APPLY FOR INCLUSION ON A MULTI-USE LIST FOR THE PROVISION OF RECRUITMENT SERVICES ('SERVICES') TO THE AUSTRALIA COUNCIL FOR THE ARTS

REFERENCE NO: **MUL 2022-2023 004**

This document is available until the closing date.

The Australia Council for the Arts ('the Council' or 'Australia Council') is the Australian Government's principal arts funding, development and advisory body. Our overarching purpose is to champion and invest in arts and creativity to benefit all Australians. As a statutory authority, our powers and functions are set out in legislation under the *Australia Council Act 2013*.

LODGEMENT OF APPLICATIONS

All applications must be submitted on the template provided at Part B. Do not submit your application in a different format and do not provide additional marketing material.

Applicants are to submit an original application by the due date.

Applications should be sent by a secure email and lodged/received by **3:00 pm local Sydney time on 17 February 2023**. The application should be endorsed with the above reference number and addressed as follows:

By email: tenders@australiacouncil.gov.au

All enquiries should be emailed to the above email address in the first instance.

HAND OR POSTAL DELIVERY **will not** be accepted.

FAXED APPLICATIONS **will not** be accepted.

PART A - APPLICATION INFORMATION

1 OVERVIEW OF REQUIREMENT

The overall objective is to seek expressions of interest from recruitment services providers to join a Multi-User List (MUL), for the provision of temporary workers, placement of contract or permanent employees and/or executive search services to the Australia Council.

Applicants that successfully meet the requirements outlined in this statement may be included in a list of pre-qualified (MUL) suppliers for recruitment Services to the Australia Council.

Note: Current or past suppliers on the multi-use list will not be eligible for inclusion on this MUL unless they submit a new application.

2 INFORMATION FOR APPLICANTS

- 2.1 A Multi-Use List (MUL) is a list, intended for use in more than one procurement of pre-qualified suppliers who have satisfied the conditions for participation for inclusion on the list.
- 2.2 The process of establishing a MUL is not a procurement. It is a procurement activity which pre-qualifies suppliers who may wish to participate in future procurement processes.
- 2.3 Inclusion on a MUL does not guarantee a pre-qualified supplier that they will be included in any future procurement processes. It only provides certainty that pre-qualified suppliers have been recognised as meeting the conditions for participation.

3 SUMMARY OF REQUIREMENT

- 3.1 This MUL process aims to provide the Australia Council with a pool of prequalified suppliers who have satisfied the conditions for participation for inclusion on the list and who can provide one or more of the services outlined in the Service Requirements below.
- 3.2 Once the MUL is established, we may seek submissions for specific Services from pre-qualified suppliers. A more detailed description of the type of Services the Council anticipates or is likely to require are detailed in the Service Requirements below.
- 3.3 We may, at our discretion, conduct financial checks on any of the pre-qualified suppliers for any future procurement process they may be asked to participate in.
- 3.4 Applicants are required to read the Multi-Use List Rules before completing and submitting Part B (Application Form).

4 APPLICATIONS

- 4.1 Applicants should respond to this MUL by completing Part B and providing a response to each of the matters identified.

4.2 Applications should be marked in accordance with the instructions on the front page of this invitation to apply for inclusion on the MUL.

5 STATEMENT OF REQUIREMENTS

5.1 Service Requirements

5.1.1 Services will fall into the following broad categories:

- Temporary staff
- Specialist search/placement
- Executive search

The recruitment Services that the Australia Council typically requires include the following disciplines/specialisations:

Accounts Payable	Governance
Accounting	Government relations
Administration	Human resources
Analyst	Industrial relations
Arts administration	Information technology
Arts funding	International relations
Arts management	Investment
Arts programming	Legal
Arts practitioner expertise	Marketing
Business intelligence	Marketing - digital
Business development	Market development
Capacity building	Media management
Co-investment	Office support
Community engagement	Payroll
Communications	Philanthropy
Customer service	Public affairs
Consulting	Program evaluation
Diversity and inclusion	Project management
Digital culture	Procurement
Donations management	Research (qualitative and quantitative)
Events production	Reception
Executive support	Risk management
Evaluation	Stakeholder management
Facilities management	Strategy
Finance	

Note: Inclusion in the MUL will be dependent on providers being able to demonstrate relevant success in the provision of recruitment services within the above disciplines/specialisations.

5.1.2 Types of Services Required

We may require the following recruitment support services from suppliers:

- Sourcing, interviewing and referral of candidates
- Reference checking

- Labour market advice and salary benchmarking
- Market and talent mapping / targeted search.

5.2 Technical and Management Capabilities

5.2.1 Suppliers are expected to have and maintain significant knowledge and experience in the following:

- Labour market conditions and trends, and
- Relevant employment legislation and regulations, in particular the *Fair Work Act 2009* (Cth), and Workplace Health and Safety regulations and frameworks.

5.3 Quality and Standards

5.3.1 Any Services provided by suppliers must be to the standard that would be expected of an experienced and professional supplier of similar services and any other standard specified by the Australia Council.

5.3.2 For any scope of work, we may set a level of quality or standards which must be adhered to in performing the Services. These quality standards, where applicable, will be used as performance indicators in assessing the work provided by suppliers.

5.4 Timing

5.4.1 Suppliers may be asked to provide the Services within timeframes set by us or agreed with us.

5.4.2 Suppliers may be asked to provide Services within urgent timeframes or over a planned program of work including milestones or phases.

5.5 Location of Services

Suppliers may be requested to provide services at their own premises or at the offices of the Australia Council.

5.6 Period of Services

We anticipate the MUL will be operational for a period of two years from 17 March 2023 and will conclude when the MUL is renewed after two years. At this time, we will advise all suppliers that the MUL is to be terminated.

5.7 Government Legislation and Policies Affecting the Services

Suppliers will be required to adhere to all relevant Government legislation as outlined in the Multi-Use List Rules. Failure to adhere to all relevant Government legislation will prevent a potential supplier from being included on the MUL.

5.8 Disclosure of Information

5.8.1 We will keep all applications submitted confidential unless required by law to disclose information.

5.8.2 Suppliers should note that we may disclose any information contained in or regarding an application without your written authority to:

- a. Parliamentary Committees,
- b. Employees and advisers engaged by the Commonwealth, and

- c. Commonwealth departments, agencies, bodies, enterprises, authorities and Ministers

for the purposes of this application process, and any legal, policy or other Australia Council accountability requirements.

5.9 Freedom of Information

Suppliers should be aware that the *Freedom of Information Act 1982* (Cth) ('FOI Act') gives members of the public certain rights of access to documents in the possession of the Commonwealth and its agencies. The FOI Act extends as far as possible the right of the Australian community to access information (generally documents) in the possession of the Commonwealth, which may include the application, any subsequent contract and related documents.

6 MULTI-USE LIST RULES

6.1 Compliance with Commonwealth Policies and Legislation

6.2 Suppliers must comply with the Australian Privacy Principles contained in the *Privacy Act 1988* (Cth), in relation to personal information handled by the supplier.

6.2.1 Suppliers must, when using our premises or facilities, comply with all reasonable directions and procedures relating to workplace health (including its smoke free work place policy), safety and security in effect at those premises or in regard to those facilities, as notified by us, or as might reasonably be inferred from the use to which the premises or facilities are being put.

6.2.2 Suppliers should comply with their obligations under the *Workplace Gender Equality Act 2012* (Cth) and not be proposing to enter any subcontracting arrangements with a subcontractor named by the Equal Opportunity for Women in the Workplace Agency as an employer currently not complying with the *Gender Equality Act 2012* (Cth). It is also Australian Government policy not to contract with parties engaging illegal workers.

6.2.3 In performing the obligations under the proposed MUL, suppliers will (and will ensure that each and any of its subcontractors will):

- a. comply with the Australia Council's Supplier Code of Conduct
- b. comply with the *Modern Slavery Act 2018* (Cth); and
- c. take reasonable steps to mitigate and address modern slavery risks in the supplier's or subcontractors' supply chains or in any part of their business.

6.2.4 Suppliers must comply with the Supplier Code of Conduct included in Part A.

6.3 Australian Business Number (ABN)

Suppliers must provide an ABN in Part B (Application Form).

6.4 Applicable Law

The law applying in the state of New South Wales applies to the MUL, and the application process. Each supplier must comply with all relevant laws in preparing and lodging its application and taking part in the MUL process.

6.5 Ownership of Application

All documents submitted in response to this MUL shall become the property of the Australia Council. We may use, reproduce, communicate or modify any application for the purposes of assessment, but will keep applications confidential (unless required by law to disclose information (as discussed at paragraph 5.8 above).

6.6 Temporary staff employed by pre-qualified suppliers

By submitting an application, suppliers confirm that all personnel offered for the provision of temporary services are directly employed by the supplier, rather than independent contractors.

6.7 Payment terms

By submitting an application, the supplier agrees to accept 30-day payment terms from the date of invoice for all services provided under the proposed MUL.

6.8 Financial Viability

6.8.1 Once you become a pre-qualified supplier, we may conduct detailed evaluations of your financial position. For this purpose, suppliers should be prepared to provide details of relevant financial data when requested by us.

6.8.2 In agreeing to supply relevant financial statements, suppliers also agree that the information supplied represents a true and fair statement of your affairs.

6.9 Insurance

Suppliers must, at their own expense, take out, provide and maintain during the term of any contract entered into with us, the insurances specified in that contract.

6.10 Suppliers to Meet Own Costs

Participation in any stage of the MUL process is at the supplier's sole risk, cost and expense. The onus is on supplier to inform themselves appropriately.

6.11 Right to Terminate

The Australia Council may terminate this MUL process at any time.

6.12 Right to Request Further Information

6.12.1 Notwithstanding any other requirement of the MUL, we may require suppliers to submit additional information to allow further consideration of your application.

6.12.2 Should suppliers fail to submit any of the information we require by the date and time stipulated, the application may be excluded from further consideration.

6.12.3 Any request by us for further information is not, nor deemed to be, a representation by us that the application is, or is likely to be, accepted.

6.13 The Australia Council's Right to Negotiate

6.13.1 The Council may negotiate the contents of an application with any supplier.

6.13.2 Any request by the Council to negotiate all or any part of an application is not, nor deemed to be, a representation by the Council that the application is, or is likely to be, accepted.

6.14 No implied contract

Nothing in this MUL shall be construed to give rise to any contract between the Council and any supplier.

6.15 Removal from the Multi-Use List

The Council may at any time after the establishment of the MUL, exercise discretion to remove suppliers from the MUL if we become aware that the supplier ceases to meet the conditions for participation.

6.16 Preparing Applications

Suppliers must respond to the MUL by completing Part B and addressing the matters identified.

7 GENERAL CONDITIONS OF CONTRACT

- 7.1 It is intended the terms set out in this Part A (Application Information) may be relied on in any future contracts with pre-qualified suppliers.
- 7.2 The Council reserves the right to negotiate the terms and conditions of any contract entered into with any or all suppliers.
- 7.3 The Council does not warrant or make any representation that a supplier will be invited to participate in a tender process for any work or will be guaranteed any or any quantity of work.
- 7.4 We may, at our discretion, procure any of the type of services covered by this MUL without using any of the suppliers listed on the MUL.

8 EVALUATING APPLICATIONS

8.1 Evaluation Process

- 8.1.1 Applications will be assessed by the Australia Council's Human Resources team in strict compliance with the requirements of this MUL and the Australia Council's Procurement Guidelines. Non-compliant applications may be precluded from further consideration.
- 8.1.2 Only the completed templates as provided in Part B (Application Form) will be considered and assessed. Suppliers must provide the evidence required at a particular item and confirm compliance with the rules outlined in Part A in order to be considered for membership on the MUL.

8.2 Evaluation timetable

It is proposed that the following timetable shall apply to this MUL application process. We will strive to adhere to this timetable but reserve the right to vary dates whenever necessary.

Date	Activity
25/01/2023	MUL applications open
17/02/2023	MUL applications close
Week commencing 20/02/2023	Submitted applications acknowledged Eligibility checked
Between 22/2/2023 and 16/03/2023	Applications evaluated
17/03/2023	Successful pre-qualified suppliers notified MUL in effect
Week commencing 20/03/2023	Unsuccessful Applicants notified

9 SUCCESSFUL SUPPLIERS

All applicants will be informed in writing of the outcome of their proposal at the earliest opportunity.

SUPPLIER CODE OF CONDUCT

Issue No:	2.0
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Document Status:	FINAL
Supersedes:	Version 1.0
Prepared by:	Rebecca Kenny, General Counsel
Approved by:	The Board on 9 December 2020

1 INTRODUCTION

The Australia Council for the Arts ('the Australia Council' or 'Council') is the Australian Government's principal arts funding, development and advisory body. We champion and invest in Australian arts and creativity. We support all facets of the creative process and are committed to ensuring all Australians can enjoy the benefits of the arts and feel part of the cultural life of this nation.

The Supplier Code of Conduct ('Supplier Code') sets out the standards of conduct required of a Supplier of goods and services to the Australia Council.

The Australia Council requires their Suppliers to practice the highest level of ethical and legal standards when engaged to provide goods and services. Specifically, we require our Suppliers to:

- Comply with all relevant laws and regulations;
- Implement diversity and inclusion practices and procedures within their business;
- Respect the protection of human rights by assessing and mitigating the risks of modern slavery to ensure the people and communities working within their operations and supply chains are not adversely affected by their business decisions;
- Ensure their employees and any subcontractors also comply with this Supplier Code; and
- Act responsibly and honestly, with integrity and transparency, in dealing with the Australia Council.

Suppliers must comply and monitor compliance with this Supplier Code, notify the Australia Council of any breaches of this Supplier Code and take reasonable steps to address, remedy and prevent reoccurrence of any breach of the Supplier Code Principles (Part 6).

Breach of this Supplier Code may result in the Australia Council terminating its contractual relationship with a Supplier.

2 PURPOSE

The purpose of the Supplier Code is to communicate the Australia Council's expectations of and requirements for all Suppliers of goods and services to the Australia Council.

3 POLICY STATEMENT

The Australia Council values integrity and transparency when engaging with its Suppliers and seeks to work with other likeminded persons and entities that share the same principles and values.

We require our Suppliers to comply with all applicable laws and, in all cases, to, at a minimum, meet the standards and principles set out in this Supplier Code. Compliance with such laws, standards and principles is a material consideration for us in assessing our procurement processes and who we choose to do business with.

The Australia Council recognises the ethical and legal importance of protecting human rights and is committed to ensuring as far as possible the Council can identify and address any risks of modern slavery practices in its supply chains. We expect our Suppliers to share and adhere to this position.

4 SCOPE

The Australia Council requires that all its Suppliers comply with, and ensure their employees, contractors, consultants and Second Tier Suppliers are advised of and comply with this Supplier Code.

5 DEFINITIONS

Modern slavery for the purposes of this policy is defined under clause 6.4.

Modern Slavery Act 2018 means the Commonwealth legislation enacted by the Parliament of Australia on 29 November 2018 and which commenced on 1 January 2019.

Modern slavery practices are defined under Part 6.4.

Second Tier Suppliers are suppliers that provide goods and services to the Australia Council's Suppliers (defined below)

Suppliers are defined as any organisation or person who provides the Australia Council with goods or services, including their subcontractors, agents, related entities and consultants.

Supply chains is defined as the products and services (including labour) that contribute to the Australia Council's own products and services. This includes products and services sourced in Australia or overseas and extends beyond direct suppliers.

6 PRINCIPLES

The Australia Council expects Suppliers to act in an ethical and lawful manner by conducting themselves professionally and consistently with the following principles.

6.1 Compliance with the law

Suppliers must ensure that they and all their Second Tier Suppliers comply with:

- All relevant laws in connection with any legally binding contract they enter into with the Australia Council including its terms and conditions;
- All applicable laws relating to bribery, corruption, money laundering, fraud, tax evasion or similar activities including, where relevant, the Australian *Criminal Code Act 1995*;
- All relevant environmental protection laws, regulations and standards; and
- All relevant work, health and safety laws, industrial regulations as well as anti-discrimination laws for their employees, contractors and visitors in their workplace.

6.2 Governance

The Australia Council expects our Suppliers to:

- Have appropriate risk management and governance frameworks in place to ensure legal compliance and best practice standards are adhered to;
- Keep accurate records and ensure that information provided to the Australia Council is a true and accurate reflection of their operations, supply chain and business dealings;
- Have processes in place that encourage their employees and Second Tier Suppliers to report any non-compliance with this Supplier Code, anonymously if they prefer, and without retribution.

6.3 Diversity and Inclusion

The Australia Council values and supports diversity, equal opportunity and inclusion in its workplace and expects Suppliers to do the same.

Suppliers must not discriminate on the basis of gender, race (including colour, descent, nationality or ethnic origin), religion, religious belief or activity, marital/domestic status, family responsibility or parental status, pregnancy, breastfeeding, age, disability, personal associations, trade union or industrial activity, political opinion, lawful sexual activity, sexual preference, gender identity or intersex status. Discrimination based on any of the above will not be tolerated by the Australia Council.

The Australia Council respects and supports the legal status and importance of the culture, heritage and traditional rights of First Nations Australians, and requires its Suppliers to do the same.

6.4 Human Rights and Modern Slavery

The Australia Council is committed to adhering to the *Modern Slavery Act 2018* and the protection of human rights and expects its Supplier to do the same. This includes assessing

and mitigating the risks of modern slavery in the way it conducts its operations and manages its supply chains.

Modern slavery practices describe the worst and most serious types of exploitation as follows:

- **trafficking in persons** – the recruitment, harbouring and movement of a person for the purposes of exploitation through modern slavery. Exploitation also includes the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- **slavery** – where the offender exercises powers of ownership over the victim;
- **servitude** – where the victim’s personal freedom is significantly restricted, and they are not free to stop working or leave their place of work;
- **forced labour** – where the victim is either not free to stop working or not free to leave their place of work;
- **forced marriage** – where coercion, threats or deception are used to make a victim marry or where the victim does not understand or is incapable of understanding the nature and effect of the marriage ceremony;
- **debt bondage** – where the victim’s services are pledged as security for a debt and the debt is manifestly excessive or the victim’s services are not applied to liquidate the debt, or the length and nature of the services are not limited and defined;
- **the worst forms of child labour** – involves situations where children are exploited through slavery or similar practices, including for sexual exploitation or engaged in hazardous work which may harm their health or safety, or used to produce or traffic drugs; and
- **deceptive recruiting for labour or services** – where the victim is deceived about whether they will be exploited through a type of modern slavery.¹

Suppliers must not engage, or be complicit in, any form of modern slavery practices. Any suspected or actual situations of modern slavery practices in the Supplier’s business or supply chain must be reported to the Australia Council as soon as possible.

6.5 Second Tier Suppliers

The Australia Council expects that all Suppliers will have robust management processes in place for managing their own subcontractors so they can ensure that Second Tier Suppliers to the Australia Council operate in accordance with this Supplier Code.

6.6 Dealing with the Australia Council

In addition to complying with all terms and conditions of any contract entered into with the Australia Council, we require Suppliers to participate in contract performance reviews when requested and do all things reasonably necessary to protect the reputation, assets and information of the Australia Council in connection with the contract.

¹ Department of Home Affairs [Commonwealth Modern Slavery Act 2018 - Guidance for Reporting Entities](#), Appendix 1, Table 5

We acknowledge that this Supplier Code cannot cover every situation or scenario and our Suppliers will also need to make judgments on their legal and ethical responsibilities. We encourage our Suppliers to engage with their contract manager in the first instance on any issues that may arise or any questions or feedback about this Supplier Code.

7 CHANGE HISTORY

Date	Change description	Reason for change	Author	Issue no:
October 2020	N/A (first version)	N/A (first version)	Rebecca Kenny, General Counsel	1.0
December 2022	Immaterial amendments to update terminology	Scheduled 2-year review	Rebecca Kenny, General Counsel	2.0