



Australian Government

Department of the Environment and Energy

PARTNERING FOR A SUSTAINABLE ENVIRONMENT

Guide for Potential Partners when completing a Partnering Proposal

See www.environment.gov.au/partnerships for more details

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February 2019	Original document published in February
October 2019	Minor amendment to remove the need to request information from the Potential Partner following Stage 1 assessment where additional information is not required to complete Stage 2 assessment.

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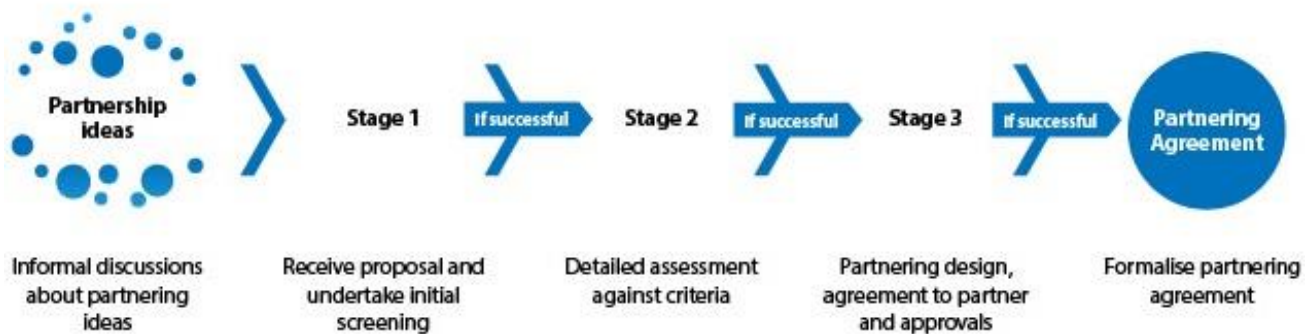
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1. INTRODUCTION

The Department of the Environment and Energy is taking an active role in facilitating more multi-stakeholder partnering to sustain Australia's unique environment. Through the *Partnering for a sustainable environment* statement (the Statement) available on the partnerships webpage, we are inviting organisations from all sectors, large or small, to consider what they can offer and gain through partnering for the environment, and to put forward their partnering ideas.

This *Guide for Potential Partners when Completing a Partnering Proposal* (the Guide) is for Potential Partners seeking to submit a Partnering Proposal to the Department of the Environment and Energy (the Department) and sets out our process to discuss partnering ideas and receive and consider partnering proposals.

Our process (illustrated below) creates space for stakeholders to have informal discussions with the Department about partnering ideas, while ensuring that we have a fair and transparent process that determines who the Department partners with. If you would like the Department to formally consider partnering with you, please submit a Proposal in accordance with the section 6 of this Guide.



Key terms used in this Guide are defined in the Glossary of Terms (section 15).

2. WHY PARTNERING

The Department continues to design and implement Australian Government policy to protect and conserve the environment, water and heritage, promote climate action, and provide adequate, reliable and affordable energy. In doing so, we recognise the importance of a multidisciplinary, coordinated approach that brings government, the community and business to develop effective solutions to environment and energy challenges.

Our focus is to bring together unique strengths and resources of stakeholders to develop better solutions with more impact and achieve more sustainable outcomes for the environment, then we can by acting alone.

In adopting a partnering approach, the Department is seeking to build long term relationships with existing and new partners, to address our environment and energy challenges together.

To support successful multi-stakeholder partnering, we are building capacity in the Department to negotiate and implement more partnering arrangements. We are committed to upholding the five key principles of effective partnerships: diversity, equity, openness, mutual benefit and courage.¹

The Department expects to receive a range of Partnering Proposals, both financial and non-financial, ranging from collaboration to partnering relationships where solutions are co-created and risks and responsibilities are shared.

Any resulting partnering arrangements will be flexible and fit for purpose, recognising the diverse partnering arrangements that already exist across the portfolio, and the need to define arrangements that are appropriate for the partners, resources contributed and benefits to be received.

3. DEPARTMENT OFFERING

The Department can bring value to a partnership through our networks across industries and regions; communication channels; information, data and analytical expertise; facilitation and convening power; strategic planning, policy and program resources; credibility, knowledge and expertise and strong governance.

In submitting a Partnering Proposal Form, it is important for Potential Partners to understand that the Department does not have new funding to support Partnering Proposals. While existing appropriations may be available for some Partnering Proposals, the Department may or may not be successful in sourcing additional Commonwealth funds to be invested in a Partnering Proposal. Affordability and value for money will be considered in the assessment process of all Partnering Proposals.

4. PRINCIPLES FOR INDIGENOUS ENGAGEMENT

Management of land and sea and the knowledge, experiences, perspectives and cultures of Aboriginal and Torres Strait Islander peoples are integral to improving environmental outcomes.

Potential Partners are encouraged to consider opportunities to engage Indigenous organisations as partners and/or to consider opportunities to deliver broader benefits for Indigenous communities as part of their Partnering Proposal.

Whenever a Partnering Proposal is seeking to involve Indigenous organisations as a partner and/or create an opportunity to deliver broader benefits for Indigenous communities, the following principles for engagement must be adhered to:

- Potential Partners must ensure they are familiar with laws, administrative arrangements and other developments relevant to Indigenous traditional knowledge and cultural expressions as well as intellectual property rights. Where necessary seek appropriate expert advice on intellectual property issues.
- All Partnering Proposals must recognise and acknowledge continuing Indigenous ownership of the traditional knowledge, traditional cultural expressions and intellectual property rights in the

¹ Partnership Brokers Association principles of effective partnerships: partnershipbrokers.org.

materials used in the Partnering Proposal, and protect the privacy, integrity and wellbeing of Indigenous partners.

- Potential Partners must gain Free, Prior and Informed Consent before seeking to include Indigenous persons, organisations or communities in their Partnering Proposal.
- Potential Partners must gain Free, Prior and Informed Consent before seeking to utilise any property (including intellectual property and traditional knowledge) of Indigenous persons, organisations or communities in their Partnering Proposal.

5. DEPARTMENT PRIORITIES FOR PARTNERING

The Department welcomes Partnering Proposals that contribute to our purposes and activities as defined in the Department's Corporate Plan and any further priorities for partnering outlined on our website at www.environment.gov.au/partnerships.

6. SUBMITTING A PROPOSAL

Potential Partners are welcome to submit a Partnering Proposal for consideration by the Department at any time in accordance with this Guide.

If you would like to discuss your idea with the Department prior to formally submitting a Partnering Proposal, please contact the Department's Partnerships Team. They will connect you with the right people in the Department to explore your Partnering Proposal and discuss whether it is likely to meet the Stage 1 Initial Screening process (set out in section 10). The Department may also suggest other avenues than partnering under this process.

If you would like the Department to formally consider your Partnering Proposal, please submit your proposal in writing to the Department's Partnerships Team using the Partnering Proposal Form available on the partnerships webpage. The Proposal Form requests key information necessary to help the Department assess your Proposal.

The Department's Partnerships Team contact details are:

Email: partnerships@environment.gov.au

Telephone: 02 6274 2227

Please be aware that the Department's Partnerships Team, or any other Department personnel that you may communicate with in relation to your Partnering Proposal (either before or after it is submitted to the Department) is not providing you with advice on whether your Partnering Proposal will be successful.

The Department will aim to confirm receipt of your Partnering Proposal within five working days after receipt of the Partnering Proposal Form. The Department will provide you with the contact details of a Departmental Proposal Manager who will be your central point of contact throughout the assessment process.

The time it will take the Department to consider and respond to your Partnering Proposal is subject to the complexity of the Partnering Proposal and the number of stakeholders involved. The Department will aim to provide you with the Department's assessment of Stage 1 - Initial Screening within 20 working days after receipt of your Partnering Proposal Form.

In submitting a Partnering Proposal to the Department you acknowledge and agree that any information provided to you by the Department in relation to your Partnering Proposal regardless of when that information is provided or involvement occurs is provided strictly for your information only and does not guarantee the success of your Partnering Proposal. The Department excludes any and all liability to the Potential Partner for any information provided by the Department (by the Partnerships Team or any other Department personnel) to the Potential Partner for the purposes of completing the Partnering Proposal.

7. ELIGIBILITY CRITERIA

To be eligible to partner with the Department, Potential Partner/s must meet the following Eligibility Criteria:

- Be a legal entity at the time of submitting the Partnering Proposal Form, for instance:
 - An individual;
 - Trustee of a trust;
 - A company;
 - A partnership where each of the partners are legal entities;
 - An Aboriginal or Torres Strait Islander organisation, council or incorporated association;
 - A government related entity; or
 - An incorporated association or cooperative society; and
- Have an Australian Business Number (ABN) and be registered for GST, if required to be registered by the Australian Tax Office.

Where a Partnering Proposal is submitted on behalf of a consortium:

- Each member of the consortium must be a legal entity; and
- Each member of the consortium must submit a letter of support for the Partnering Proposal with the Partnering Proposal Form.

A Partnering Proposal submitted on behalf of a consortium must specify a Lead Partner who will act as the main contact with the Department for the assessment process and be the person who enters into any agreement with the Department if the Partnering Proposal is successful.

8. PROBITY

The Department, in all dealings, endeavours to be fair and open, and demonstrate the highest levels of integrity consistent with the public interest.

Probity principles are an important aspect of conducting open, fair, accountable and consistent processes relating to all Department activities including all partnering arrangements. The probity principles will be applied through the assessment process and aim to assure all parties of the integrity of the decision making process. The probity principles include:

- a) honesty and impartiality;
- b) identification and management of conflicts of interest;
- c) appropriate security and confidentiality arrangements;
- d) consistency, fairness and due diligence;
- e) transparency;
- f) use of open and competitive processes, as required; and
- g) compliance with legal and policy framework.

The assessment process of the Partnering Proposals is not a substitute for other competitive procurements or competitive merit based grant programs run by the Department.

In considering the Department's involvement in any partnership arrangement, the Department will act in a fair and unbiased way and in a manner consistent with the legislative and regulatory requirements articulated in the *Public Governance, Performance and Accountability Act 2013* (Cth) (PGPA Act) and *Public Governance, Performance and Accountability Rule 2014* (Cth) (PGPA Rule); the Commonwealth Grants Rules and Guidelines (CGRGs) and the Commonwealth Procurement Rules (CPRs), to the extent they apply.

While direct negotiation with Potential Partners in response to Partnering Proposals seeking Commonwealth funding may be pursued in certain circumstances (as determined by the Department in assessing against the criteria), the usual approach to engaging providers in a fee for service arrangement or funding arrangement is to conduct a formal approach to market as described by the CGRGs and CPRs (as appropriate). This due process is required to assure value for money outcomes and fair and equal opportunities for stakeholders to engage with the Australian Government.

The Department will publish aggregated and de-identified data annually on Partnering Proposals submitted to the Department. This data will include details of the number of Partnering Proposals received and number of partnering arrangements entered into by the Department through this process. The data will be presented to promote transparency in the assessment process while maintaining Potential Partners' confidentiality.

Potential Partners must comply with all relevant laws and Australian Government policy in preparing and submitting a Partnering Proposal and participating in the Partnering Proposal process.

9. DUE DILIGENCE CHECKS

The Department may conduct security, probity, and financial investigations and other due diligence checks on all Potential Partners their employees, officers, partners, associates, subcontractors or related entities and their officers, employees and subcontractors.

10. THE ASSESSMENT PROCESS AND CRITERIA

This section outlines the three stage assessment process and Assessment Criteria that the Department will follow in considering Partnering Proposals.

Stage 1: *Initial Screening*

The Department will undertake an initial screening of the Partnering Proposal against the below threshold criteria. The Partnering Proposal will not proceed further in the assessment process if in the sole and absolute opinion of the Department, the Partnering Proposal does not meet all of the threshold criteria.

Threshold criteria:

A: Threshold requirements:

1. The Partnering Proposal does not duplicate existing efforts or fall within the scope of an existing grant program or procurement within the Department.

[Note to Potential Partners: By submitting a Partnering Proposal you accept that you may not know what the scope of an existing grant program or procurement are within the Department.]

2. Potential Partners meet the Eligibility Criteria as detailed in section 7 of this Guide.
3. The Partnering Proposal aligns with the purposes and activities as defined in the Department's Corporate Plan and any further priorities for partnering as set out in section 5 of this guide.
4. The Partnering Proposal does not present any ethical issues for the Department that would prevent involvement, or any conflict of interest that could not be reasonably managed.
5. There are no known dependencies that would prevent the Department participating in the Partnering Proposal.
6. The Partnering Proposal is not incomplete and is able to be assessed.

B. Initial value threshold requirements:

[Note to Potential Partners: These initial value threshold requirements will be assessed as a preliminary initial view determined at the sole and absolute discretion of the Department.]

7. Potential Partners have the capabilities to deliver the Partnering Proposal. Consideration will be given to the Potential Partner's skills, experience and resources (including specialist technical support).
8. The Partnering Proposal creates added value for the Department to achieve its outcomes, by demonstrating the ability to deliver a better solution and have more impact than possible without the proposed partnering arrangement.
9. The Department has the capacity (or likely ability to acquire capacity) to participate in the Partnering Proposal.

You will be advised of the Department's decision in Stage 1 (unsuccessful or proceeding to Stage 2) in writing unless the Department is of the view that the Partnering Proposal can proceed directly to Stage 2 without the need for further information.

If the Partnering proposal passes Stage 1 - Initial screening, you may be requested to provide further information on your Partnering Proposal for the Stage 2 - Detailed assessment and may be asked to clarify or expand on aspects of your Partnering Proposal during the Stage 2 – Detailed assessment in order to effectively complete the assessment. It will not include the opportunity to materially amend the Partnering Proposal or negotiate details at this stage.

Stage 2: *Detailed assessment*

If the Partnering Proposal proceeds to Stage 2 - Detailed assessment, the Partnering Proposal will be assessed by the Department against the following Assessment Criteria:

Assessment Criteria 1-5 are of equal importance with respect to Stage 2 assessment process.

1. Proper use and management of public resources and value for money

- a) **Effective:** The extent to which the Partnering Proposal will achieve outcomes aligned with the Department's purposes and activities.

In preparing their response to this criterion, Potential Partners should describe the methods proposed to achieve the stated outcomes, third party permissions and other dependencies, and whether measurement, reporting and evaluation methods are sufficient to enable the Department to measure the stated outcomes.

- b) **Efficient:** the extent to which the Partnering Proposal will achieve maximum value for resources used, including whether the budget items are reasonable and relevant to achieve the outcomes and whether partner contributions are reasonable in comparison to requested Department contributions (where relevant).

In assessing this criteria, the Department will consider the cost efficiency of the Proposal benchmarked against market prices for comparable activities, the appropriateness and efficiency of the proposed activities, inefficiencies and wasteful expenditure, appropriate apportionment and mitigation of risk, and whether the proposal is innovative and high quality.

- c) **Economical:** the extent to which the Partnering Proposal minimises costs for the achievement of the outcomes.

In assessing this criteria, the Department will consider whether the level of resources requested from the Department is commensurate to the outcomes and whether the proposal duplicates or overlaps with existing efforts.

- d) **Ethical:** the extent to which the Partnering Proposal (including Potential Partners, other organisations, personnel, approach to achieving outcomes or other factors) raises any ethical issues and/or conflict of interests that could not be reasonably managed.

In preparing their response to this criterion, Potential Partners should describe the actions required to manage any conflicts of interests and any ethical issues.

In assessing this criteria, the Department will consider whether a decision to proceed with the proposal would be defensible (upholding the ethical principles of honesty, integrity, probity, due diligence, fairness and consistency).

2. Viability: Whether the Partnering Proposal can realistically achieve sustained benefits over time. This includes considering the extent to which there are any known or reasonably foreseeable barriers or external factors that would prevent the Partnering Proposal from achieving its stated outcomes and whether the project could realistically achieve sustained benefits once the partnership has ended.

3. Affordability: Whether the Partnering Proposal is affordable considering the requested Department contribution (in-kind and financial), other strategic priorities, potential to source additional capacity and/or funding and potential return on investment.

In assessing this criteria, the Department will consider the affordability of the proposal in the context of existing government appropriations and other Department priorities and the level of resources needed, whether these are available and if they could be sourced.

4. Uniqueness: The extent to which the Partnering Proposal, and the capability and capacity of the Potential Partners to deliver the Partnering Proposal, is unique.

In preparing their response to this criterion, Potential Partners should describe whether the proposal could readily be delivered by competitors, whether the Potential Partner has unique assets (including intellectual property, design, innovative methods or technology) that the Department could not benefit from by partnering with others, and/or whether there are a number of attributes which combined would create a unique proposal.

[Note to Potential Partners: This assessment will inform the justification for direct negotiations or need to test the market. For Partnering Proposals involving the commitment of Commonwealth resources, the Department's starting position will be

to undertake a competitive grant or tender process, unless the relevant Partnering Proposal is unique or there is another exception under the CPRs or CGRGs.]

5. Risk Profile: The risk profile of the Partnering Proposal as determined by the Department in consideration of the Partnering Proposal as a whole. Potential Partners should outline any risks of their proposal in their Partnering Proposal as well as their intended mitigation strategies for those risks. This includes considering the extent to which Potential Partners comply with their Work Health and Safety (WHS) obligations.

The Department will also consider Indigenous involvement in the context of any additional benefits offered by the Partnering Proposal

6. Indigenous Involvement: the extent to which additional benefits can be achieved through the involvement of Indigenous entities and/or communities in the Partnering Proposal.

If the proposal seeks to involve Indigenous entities or communities, the proposal must comply with the Principles of Indigenous Engagement set out in section 4.

Potential Partners will be advised of the decision in relation to Stage 2 (unsuccessful or proceeding to Stage 3) in writing. Unsuccessful Potential Partners may request a verbal debriefing.

The timeframe required for the Department to assess your Partnering Proposal is subject to the complexity of the Partnering Proposal and the number of stakeholders involved. The Department is committed to responding to Potential Partners in a timely manner and where necessary will provide updates on expected timing of a decision.

The Department may seek to place the Partnering Proposal on a pending list, for potential review at a later stage should circumstances change to trigger re-consideration. The Department will first seek confirmation from the Potential Partner that they agree to the Partnering Proposal being placed on a pending list, and the period of time the Partnering Proposal will remain valid for acceptance by the Department.

The Department may choose to undertake a separate competitive, merit-based process, to demonstrate value for money before entering into any partnering negotiation. If this occurs the Potential Partner (who submitted the Partnering Proposal) will be provided with the opportunity to participate in this separate process, but will have no additional rights beyond those afforded to other market participants. The Department will respect any intellectual property rights owned by the Potential Partner or, subject to section 11, any information marked as commercial-in-confidence in their Partnering Proposal.

Stage 3: Partnering design and approvals

Where the Department determines that a Partnering Proposal should proceed to Stage 3 - Partnering design and approvals, the Department will seek to coordinate a partnering workshop or similar forum with the Potential Partner to commence the Stage 3 - Partnering

design and approvals. This process could be conducted remotely where the parties are unable to meet in a central location.

Potential Partners will negotiate with the Department the details of the partnering arrangement, including:

- Joint in principle agreement to the shared objective and outcomes for partnering;
- Clear understanding of individual partner objectives and outcomes being sought;
- Partner roles and responsibilities;
- Detailed scope of the Partnering Proposal that is action and results orientated;
- Detailed project plan that defines outputs and timelines for each activity;
- Resource commitments needed to deliver outputs;
- Performance indicators and monitoring, reporting and evaluation mechanisms;
- Governance and review procedures;
- Risk mitigations (shared and individual);
- Communication protocols;
- Funding arrangements and budgets;
- Personnel; and
- Compliance with all relevant laws and Australian Government policy.

Pending the outcome of the partnering workshop or similar forum for scoping and design, the Department and the Potential Partner may agree to partner in principle with formal agreements to follow. The Department's obligations and approval processes will vary depending on the nature of the Partnering Proposal.

11. COMMERCIAL-IN-CONFIDENCE INFORMATION

The Department will assess the content of Partnering Proposals and determine which aspects it will agree to protect as confidential based on the guidelines published by the Department of Finance. Please note that a Potential Partner is not therefore able to say their entire Partnering Proposal is confidential. It may be that the Department is in possession of similar information from its own work or a third party, or that the information does not otherwise meet the criteria for protection as confidential.

Subject to this section and the [Department of Finance guidelines](#), relevant aspects of all Partnering Proposals that the Department agrees meet the criteria for protection as confidential information will be treated as confidential by the Department unless authorised by the Lead Partner to share information contained in the Partnering Proposals with other Potential Partners outside of the Partnering Proposal.

If the Department is unable to agree with a Potential Partner the information that will be treated as confidential information, without limiting its rights, the Department may decide not to assess the Partnering Proposal.

Partnering arrangements entered into through this process will be promoted on the Department's website.

The Department also has obligations under the *Freedom of Information Act 1983* (Cth) that may oblige the release of information in certain circumstances.

12. DEPARTMENT RIGHTS AND RESPONSIBILITIES

The Department reserves the right to:

- suggest the use of an alternative process for a potential Partnering Proposal;
- vary the Partnering Proposal submission process at any time;
- issue a written invitation for Potential Partners to submit Partnering Proposals for either a specific partnering activity or a program of activities subject to specified terms and conditions;
- not advance the assessment of a Partnering Proposal at any stage or discontinue negotiations or discussions at any time for any reason;
- in assessing a Partnering Proposal, the Department may decide to conduct a separate competitive process to demonstrate value for money in relation to the goods/services proposed in the Partnering Proposal. Should this occur, the Lead Partner (acting on behalf of all listed members in the Partnering Proposal) will be invited to participate but will have no additional rights beyond those afforded to other participants;
- exclude a Partnering Proposal from further consideration based on the outcomes of due diligence checks or if the Potential Partner does not provide all reasonable assistance required to enable the Department to conduct relevant checks;
- exclude a Partnering Proposal from further consideration at any stage based on a consideration of affordability (including that the Department's appropriation allocation has been exhausted); and/or
- suspend the consideration of Partnering Proposals at any time, for any length of time and for any reason as determined by the Department.

The Department shares the ethical values and code of conduct of the Australian Public Service and is committed to:

- integrity – acting honestly, ethically and lawfully;
- responsiveness – responding in a timely and considered way to your Partnering Proposals and ideas; and
- responsibility – being accountable for actions.

In dealing with the Department, Potential Partners are expected to:

- provide sufficient and accurate information in a timely manner; and
- understand that the Department is bound by legislative requirements and Australian Government policy.

13. NO LIABILITY

- In submitting a Partnering Proposal, the Potential Partner agrees it has done so with Free, Prior and Informed Consent.
- Nothing in this Guide or Partnering Proposal documentation will be construed to create any binding agreement (express or implied) between the Department and any Potential Partner until a written agreement, if any, is entered into between the Department and that Potential Partner.
- The Department will not be responsible for any Losses incurred whatsoever by Potential Partners in submitting a Partnering Proposal.
- Notwithstanding this section 13, if a court finds there to be an agreement between the Department and a Potential Partner (or other legal right for the Potential Partner against the Department) regarding the conduct of this Partnering Proposal process, the Potential Partner agrees that the Department's general liability in connection with this Partnering Proposal process (e.g. for negligence, breach of contract or statute or otherwise), and any breach of the terms of such agreement (or right) is limited to the Potential Partner's direct substantiated costs of participation in this Partnering Proposal process excluding Consequential Loss.

14. COMPLAINTS

Any complaints arising out of the Partnering Proposal process should be directed to the Complaints Officer via email.

Email: externalcomplaints@environment.gov.au

15. GLOSSARY OF TERMS

Term	Definition
Consequential Loss	<p>Means any liability, loss or claim suffered or incurred by any person, whether arising in contract, tort (including negligence), under statute or on any other basis in law for:</p> <ul style="list-style-type: none"> i. indirect or incidental Loss; ii. punitive or exemplary damaged of any kind; iii. loss of profit; iv. loss of revenue; v. loss of goodwill; or vi. loss of business opportunity.

Free, Prior and Informed Consent	<p>Means all of the following are met (as applicable):</p> <ul style="list-style-type: none"> • consent is given voluntarily and without coercion, intimidation or manipulation; • consent is sought sufficiently in advance of any authorisation or commencement of activities; • the nature of the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process should enable the decision makers to be informed; and • in respect of Indigenous communities, the consent is a collective decision made by the right holders and reached through the customary decision-making processes of the communities.
Loss/Losses	<p>Means any liabilities, expenses, losses, damages and costs (including but not limited to legal costs on a full indemnity basis, whether incurred by or awarded against a party). Loss has a corresponding meaning.</p>
Partnering Proposal	<p>The partnering idea submitted by the Potential Partners to the Department for consideration in accordance with this Guide.</p>
Potential Partners	<p>The person or organisation that submits the Partnering Proposal.</p>