

NOTE: This document was made available on the NSW eTendering website for a request for proposals process that closed on 26 July 2015. This is an archived copy.

REQUEST FOR PROPOSALS:

Social impact investment transactions

Proposals must be submitted on
<https://tenders.nsw.gov.au/>

by 11:59pm AEST on 26 July 2015

*Office of Social
Impact Investment*



Contents

1. BACKGROUND	4
1.1 Policy context	4
1.2 Purpose of this document	5
1.3 Governance of the RFP process	6
2. CONDITIONS OF SUBMITTING A PROPOSAL	7
2.1 Eligibility to respond	7
2.2 Process to develop and implement a transaction	7
Request for proposal (RFP)	7
Joint development phase (JDP)	7
Contract negotiations with preferred proponent	8
3. EVALUATION	10
3.1 Delivery of social impact	11
3.2 Robust measurement	11
3.3 Value for money	12
3.4 Likely to achieve outcomes	13
3.5 Sharing of financial risk and return	14
4. SUBMISSION REQUIREMENTS	16
4.1 Basic conditions	16
4.2 Format of submissions	16
a) Background information	17
b) Summary of the proposed transaction	17
c) Statement against the evaluation criteria	18
d) Other information	18
4.3 Lodgement of proposals	18
Notification of intent	18
Electronic proposals	18
Extension of closing date and closing time	19
Ownership of proposals	19
Confidentiality	19
Variations to proposals	20
Non-complying proposals	21
Acceptance or rejection of proposals	21
Communication / Clarification	21
Ethical conduct	22
Probity	23
Exchange of information between government agencies	23
Disclosure information	23

5. APPENDICES	24
A. Supporting vulnerable young people, particularly out-of-home care leavers, to transition to independence	25
1. Outcomes sought	25
2. Potential cohort	26
3. Data	26
4. Principles for effective interventions	29
B. Supporting offenders on parole to reduce their levels of re-offending and re-incarceration	32
1. Intended outcomes	32
2. Potential cohort	33
3. Re-offending and risk	34
4. Principles for effective interventions	37
5. Duration of intervention	39
6. Evidence-based practice	41
7. Opportunities for social impact investments	42
8. Business as usual – The role of Community Corrections	43
9. References	49
C. Sample JDP agreement	51

Contact officer details

Proponents should refer requests for information or advice regarding this RFP to:

NAME Jeremy Harris
 PHONE (02) 9228 5307
 EMAIL ADDRESS socialimpactinvestment@dpc.nsw.gov.au

Any information given to a proponent to clarify any aspect of this RFP will also be given to all other proponents if, in the opinion of the Office of Social Impact Investment, it would be unfair not to do so.

1.BACKGROUND

The NSW Government believes social impact investment has the capacity to deliver better services and results, better partnerships between the government and non-government sectors, and better value for taxpayers. The government seeks suitably skilled and experienced partners to design and deliver better social and financial outcomes for individuals and communities in NSW through social impact investment transactions.

1.1 Policy context

NSW Social Impact Investment Policy was launched in February 2015

On 4 February 2015, the NSW Government launched its [Social Impact Investment Policy](#) ('the policy').¹ The policy builds on the success of NSW's social benefit bonds and sets out the government's intent to support a broader social impact investment market in NSW. A key action in the policy is to aim to deliver two social impact investment transactions to the market each year.

2015 Statement of Opportunities identified four priority areas for future transactions

To help interested parties prepare for a formal Request for Proposals (RFP) process this year, the Office of Social Impact Investment ('the OSII') released a [2015 Statement of Opportunities](#)² with the policy. The statement identifies four priority areas in which the government believes there are strong opportunities to achieve better outcomes for individuals and communities through social impact investment:

- managing chronic health conditions
- supporting offenders on parole to reduce their levels of re-offending
- managing mental health hospitalisations
- preventing or reducing homelessness among young people.

In February and March, the OSII held market sounding sessions for each of the priority areas, plus a fifth session for those interested in other potential policy issues. These sessions were well attended by representatives of service providers, intermediaries, financiers and other interested organisations. Feedback during market sounding activities was largely positive, suggesting there are indeed social impact investment opportunities in each of the four areas.

The NSW Government intends to conduct two RFP processes this year – this is the first RFP and another is planned for late 2015. The government will coordinate the RFPs with the Premier's Innovation Initiative, recognising the potential for proponents to submit proposals through either process.

¹ Available at http://www.dpc.nsw.gov.au/programs_and_services/social_impact_investment/nsw_policy

² *Ibid.*

Supporting parolees and vulnerable young people to achieve better outcomes are the preferred policy areas for this RFP

Feedback from market soundings indicated a greater degree of readiness for transactions to **support offenders on parole to reduce re-offending and re-incarceration**.


Also in response to market sounding feedback, the government has broadened the focus of preventing or reducing youth homelessness to **supporting vulnerable young people, particularly out-of-home care leavers, to transition to independence**. This shift acknowledges the need for a holistic response for this cohort that provides wrap around support services, along with shelter, and that encourages collaboration between service providers.

For these reasons, this RFP round will focus on addressing these two issues. However, all policy areas outlined in the Statement of Opportunities are priorities for the government and the remaining two are intended to be a focus in the next RFP process in late 2015.

While the statement and materials from the market sounding sessions outlined potential outcomes and target cohorts in the priority areas, proposals that suggest variations on these are also invited. Proposals in areas other than those identified in the statement will also be considered, though these will be expected to meet the evaluation criteria (refer [Section 3](#)) to a very high standard.

It is also important to note that proposals are not limited to social benefit bonds. The government is open to and encourages proposals for other investment models that involve risk sharing among participants and one or more of the following:

- payment by results contracts
- incentive payments
- layered investments
- pooled investments (refer to the policy for more detail).

 Refer to [Appendix A](#) and [Appendix B](#) for further information and data on the two preferred policy areas. Data in these materials may be used for initial modelling.

Health-related transactions are expected to be the focus of the next RFP in late 2015

Consistent with the 2015 Statement of Opportunities, the OSII and Ministry of Health remain committed to pursuing social impact investment opportunities in chronic health and mental health. Together, they will spend the rest of this year preparing for a second RFP round (anticipated in late 2015), which is expected to focus on these two areas.

1.2 Purpose of this document

The purpose of this document is to:

- outline the background to the RFP
- define terms, conditions and processes for submitting a proposal
- explain the anticipated process and timeframe for evaluating proposals and selecting the preferred proponent(s)
- guide proponents about the information they should include in their proposals
- provide information and data on the preferred policy areas to help prepare proposals.

1.3 Governance of the RFP process

The RFP process will be overseen by a steering committee of senior officers from the Department of Premier and Cabinet, NSW Treasury and other NSW Government agencies responsible for human services portfolios ('line agencies').

The steering committee will appoint an evaluation panel ('the panel') to assess all proposals received through the RFP process. The panel will assess proposals according to the evaluation criteria set out in this document (refer [Section 3](#)). During the assessment process, the panel may ask proponents to clarify aspects of their proposal or provide more information. The panel may also contact other government agencies if a proponent's capability needs to be verified (i.e. reference checks).

Following the assessment process, the panel will prepare an evaluation report to the steering committee, recommending one or more proposals received through this RFP that should proceed to the joint development phase (JDP). The steering committee may then endorse that recommendation to the NSW Government to enter into a JDP agreement with one or more proponents.

 Refer to **Appendix C** for a sample JDP agreement.

ARCHIVE

2. CONDITIONS OF SUBMITTING A PROPOSAL

2.1 Eligibility to respond

Proposals must be submitted by a legal entity (or entities in the case of a joint proposal) with the capacity to contract. Where there is a joint proposal, references to a proponent or preferred proponent includes all parties to the proposal.

The NSW Government will only enter into an agreement with an entity that has an Australian Business Number (ABN) and is registered for GST. Proponents must state their ABN and GST status in their proposals.

A proponent may submit more than one proposal. Each proposal will be considered independently of other proposals submitted by the one proponent. Similarly, intermediaries and other consultants are permitted to be party to more than one proposal, provided there are adequate processes in place to manage conflicts of interest.

2.2 Process to develop and implement a transaction

The process for developing and implementing a social impact investment transaction with the NSW Government includes:

Request for proposal (RFP)

This RFP seeks innovative proposals for social impact investment transactions to deliver better services and/or infrastructure, and improved social and financial outcomes for individuals and communities in NSW. All proposals will be assessed against evaluation criteria (refer [Section 3](#)) by an evaluation panel. The panel will assess which proposals meet the evaluation criteria to a standard that indicates a successful transaction that represents good value is likely. The panel may recommend one or more such proposals to the steering committee for approval by the NSW Government. Proponents will be notified in writing of the outcome of their proposals by late October 2015.

Joint development phase (JDP)

The preferred proponent will be invited to enter into a JDP with the NSW Government. As the contracting entity, the relevant line agency is likely to lead the JDP, with support from the OSII.

The purpose of the JDP is to develop proposals to a level suitable for contracting. This stage features a high degree of collaboration and negotiation to develop a transaction structure that satisfies all parties. Matters expected to be negotiated during this JDP are set out below (see below, [Contract negotiations with the preferred proponent](#)).

A JDP agreement (see Appendix C) between the preferred proponent and the NSW Government will be finalised and entered into prior to the start of the JDP. The JDP agreement will govern the terms of the relationship between the preferred proponent and the NSW Government, and will address matters including:

- ownership of any intellectual property generated during the JDP
- the process for negotiating and reaching agreement on the Implementation Agreement (see below, [Contract negotiations with the preferred proponent](#))
- the dispute resolution process
- termination and the sharing of information between the preferred proponent and NSW Government.

The JDP is intended to begin as soon as the preferred proponent is approved, advised in writing, and returns a signed JDP agreement to the government. The government estimates the JDP will take approximately six months.

At the end of the JDP, the government negotiating team (likely to comprise the relevant line agency and the OSII) will review and reassess the final proposal against the evaluation criteria of this RFP and recommend whether to proceed with implementation to the steering committee. The committee will then decide whether to endorse the recommendation to the NSW Government for approval to enter into an Implementation Agreement with the preferred proponent.

If a proposal is subsequently shown to be unviable through the JDP, another proposal from the RFP process may be brought forward and a further JDP agreement negotiated with the relevant proponent. However, the government may instead decide to open the next RFP. In this case, proposals from the previous RFP round may be resubmitted.

Note: Selection as a preferred proponent through the RFP process and entering into a JDP agreement with the NSW Government is not a guarantee of proceeding to an Implementation Agreement.

The likely social impact and relative value for money of proposed transactions will be crucial in determining whether to proceed with implementation. Proposals must represent an effective use of public funds, relative to other non-social impact investment funding options available to the NSW Government for the same improvement in outcomes.

Contract negotiations with preferred proponent

An Implementation Agreement will be negotiated with the preferred proponent as part of the JDP. The Implementation Agreement is expected to include:

- details of the target cohort, including location and referral arrangements
- contract duration and any extension provisions
- ownership of intellectual property from the transaction
- details of baselines, comparison groups and other measurement arrangements
- payment triggers
- a payment schedule covering all performance scenarios (below baseline, baseline, good performance and over-performance)
- allocation of risk between parties to the transaction
- dispute resolution provisions including a mechanism for resolution of client issues

- break clauses for all parties
- any options for recontracting at the conclusion of the transaction term
- details of any evaluation.

The relevant government agency will enter into an Implementation Agreement with the preferred proponent following approval by the NSW Government. A sample Implementation Agreement, along with other sample documents typically needed for social impact investment transactions with the NSW Government, will be available on the [Social Impact Investment Knowledge Hub](#)³ soon. These documents have been developed based on the NSW Government's experience with social benefit bonds.

ARCHIVE

³ Will be available at:
http://www.dpc.nsw.gov.au/programs_and_services/social_impact_investment/social_benefit_bonds#tools_and_resources

3. EVALUATION

Proposals will be assessed against the evaluation criteria listed below. Proposals will need to address all criteria to a high standard to be considered suitable for a social impact investment transaction. The first is particularly important.

Refer to the [Principles for Social Impact Investment Proposals to the NSW Government](#)⁴ for more information on the criteria, including examples from the social benefit bonds.

Evaluation criteria

1. Demonstrates social impact (PASS / FAIL)

- Measurable individual or community social benefits will be delivered

2. Robust measurement

- Clear and reliable outcome measures
- Well defined client group and/or addresses an unmet need
- Robust methods for determining performance

3. Value for money

- Composition of benefits
- Who receives the benefit
- Proportion of benefits achieved during the contract
- Where the program falls on the service spectrum (i.e. prevention, early intervention, acute)
- Cost-benefit ratio

4. Likely to achieve outcomes

- Evidence of program effectiveness or program logic
- Evidence of proponent achieving stated outcomes
- Degree of change required / time to reach full service delivery
- Demonstrates capacity to deliver, including IT systems, financial management, capability, geographic spread
- Demonstrates innovation compared to business as usual

5. Sharing of financial risk and return

- Appropriate composition of financial risk sharing in various performance scenarios
- Proposed payment mechanisms and return structure
- Ability to finance the transaction

⁴ Available at: http://www.dpc.nsw.gov.au/programs_and_services/social_impact_investment/nsw_policy

3.1 Delivery of social impact

Proposals will be subject to a pass or fail assessment of whether they demonstrate social impact that is achievable and can be measured in terms of individual or community social and financial benefits. The proposal must clearly identify the social and financial benefits it aims to deliver.⁵

For example, a proposal to improve records management and reduce administrative burden may deliver cash savings and efficiency dividends to a government agency, but will not result in social benefits to individuals. Such a proposal will fail the social impact assessment and will not proceed further.

Alternatively, a proposal to improve road quality and safety, leading to reduced accidents and use of public health services, will deliver financial benefits to the government *and* social benefits to individuals and communities. This type of proposal is likely to pass the social impact assessment and then be assessed against remaining criteria.

3.2 Robust measurement

Social impact investment proposals should have a measurement framework that satisfies investors, the government and the proponent that outcomes and associated payments can be accurately quantified and, if appropriate, independently verified. The capacity to measure outcomes will be an important indicator of the proposed investment model's viability.

The measurement framework should outline:

- **Clear and reliable outcome measures.** Outcome measures are the basis for making payments to service providers and/or investors. Proponents should include measures that are closely linked to the social and financial benefits the proposal aims to deliver. If client outcomes have not been captured for a satisfactory historical period, proponents can consider reliable proxy measures. Proponents should demonstrate how the chosen proxy measures are linked to the expected social and financial benefits of the proposal. Binary measures may maximise reliability and reduce the risk of dispute, but graduated measures are also possible and will be considered. Proponents should consider the availability of reliable data in the proposed area, the costs and practical steps of collecting that data, and whether data can be accessed by or shared with existing government IT systems.
- **A well-defined client group.** Proposals should demonstrate clear and objective eligibility criteria for the proposed client group ('intervention group'). Be specific about the characteristics of the proposed intervention group, including age, location, and demographics (e.g. juvenile offenders, people with a disability, Aboriginal people). Proposals should suggest an efficient and objective referral process and outline how outcomes will be measured for all clients who

⁵ In this instance, 'social benefits' refer to the positive effect on a client or client group that can be reasonably attributed to their involvement with a service or program. 'Financial benefits' could include immediate cash savings to the government, or avoided costs or productivity gains. More detail on the nature, timing and recipients of benefits of proposals is outlined in [section 3.3](#) (below).

are referred, including those who refuse to participate. The intervention group should be able to be identified through existing government IT systems or with limited changes to existing IT systems. Proponents should also specify if their proposal **addresses an unmet need** or targets those not currently accessing services. Proposals that replace an existing service(s) will be considered as long as they do not disadvantage clients of current services (e.g. by applying more stringent eligibility criteria and reducing the number of clients that can access the service), improve on the efficiency and effectiveness of current services, and can be sufficiently scaled.

- **Robust methods for determining performance.** Proposals should build into the methodology a matched or randomised comparison group (who do not receive the service), which is subject to the same eligibility criteria as the intervention group. This is so outcomes can be attributed to the proposal and are not due to other environmental factors. Options for assessing performance, in order of robustness (and preference), include:
 - (i) random selection of the comparison and intervention group from the same population
 - (ii) a 'real time' or live comparison group with similar characteristics
 - (iii) a comparison group created using a one to one matching process at the time of referral
 - (iv) using a rolling average performance baseline
 - (v) using a historic or static performance baseline.

Proposals should include intervention and comparison groups that are large enough to be statistically reliable and specify the period during which outcomes will be measured.

The measurement framework is open to further discussion, clarification and negotiation during the JDP. Proposals need not include 'gold standard' frameworks but must show evidence of considering the above elements.

3.3 Value for money

Just as for infrastructure and commercial investments, social impact investment proposals should only proceed when expected benefits outweigh costs. All measurable benefits – financial, economic and social – can be used to support a business case for a proposal. Proposals should outline:

- **The composition of benefits.** Proposals must identify the intended benefits and how and when they will be achieved. Where possible, benefits should be quantified in dollar terms as this will help calculate the cost benefit ratio (see below), and show how financial returns and other payments will be funded. For example, immediate cash savings to government are among the most straightforward ways of funding these costs. *Ideally, cash savings should be sufficient to cover the set-up and delivery costs of the service, transaction costs, and returns to government and investors* (if relevant). Proposals should also identify indirect benefits and how they contribute to value for money relative to direct government service provision.
- **Who receives the benefits.** Proposals should identify who receives the economic and social benefits, including government agencies (local, state and Commonwealth), communities and individuals. *However, only financial benefits that accrue to NSW government agencies can be used to offset payments to investors or service providers.*

- **Proportion of benefits achieved during the contract period.** Proposals should clearly state the total benefits, both social and financial, that are expected to result from the service and transaction both during and after the transaction period. Benefits achieved by preventative and early intervention proposals may not be visible for some time. In this case, proposals must show what is expected to be achieved during the proposed contract period. Where possible, proposals should demonstrate that benefits deliver a positive net present value (NPV) during the term of the contract.
- **Where the intervention falls on the service spectrum.** Proposals should identify the type of service or intervention that will be delivered (i.e. prevention, early intervention, secondary prevention or acute). Proposals likely to deliver the greatest social benefits and savings to the NSW Government are anticipated to be those that prevent or reduce the need for acute, high cost services in the future.
- **Cost benefit ratio.** The NSW Government prefers social impact investment transactions that deliver financial benefits that are greater than the total costs of the transaction. While the financial outcomes of the transaction will not be agreed until the JDP, proposals that include sufficient financial modelling to demonstrate *a likely cost benefit ratio greater than 1:1* will be well regarded.

3.4 Likely to achieve outcomes

Proposals should demonstrate the effectiveness of both the service and the proponent in delivering the stated outcomes. This should include:

- **Evidence of program effectiveness or program logic.** Proposals should outline evidence of achieving outcomes through multiple, independent evaluations of the service or program. If the service is new or untested, sound program logic should be provided. In all cases, proposals should demonstrate how the service or program incorporates internationally accepted principles for successful interventions in the policy area (refer to 2015 Statement of Opportunities for examples of intervention principles in the preferred priority areas). Robust evidence of the likelihood of achieving outcomes will reduce risk and make the proposal more attractive to the government and investors (if relevant).
- **Evidence of proponent achieving stated outcomes.** Proposals should demonstrate the proponent's ability to successfully implement the program at a scale required to achieve the intended outcomes. This could include providing supporting evidence of delivering similar programs and achieving agreed outcomes, and effectively managing partnerships with government, investors and other partners.
- **Degree of changes required / time to reach full service delivery.** Proposals should demonstrate that full implementation is achievable in an appropriate timeframe and with minimal change to existing systems and processes for the government and proponent.
- **Demonstrates capacity to deliver.** Proposals should clearly demonstrate capacity and capability to administer all aspects of the proposed transaction from service delivery, managing partnerships and data collection. Proponents should consider IT systems, financial management, staff capability, and geographic spread. This is particularly important where the service or program is new and untested and/or where the proposal involves a recently negotiated partnership.

- **Demonstrates innovation compared to business as usual.** While an evidence base is important to demonstrate the likelihood of achieving stated outcomes, innovation is also a desirable element of proposals. In this instance, innovation can be untested and catalytic or incremental. Proponents should also demonstrate their ability to continually assess and adapt services to achieve the best results. If the program is untested, or the proponent's ability to deliver is unproven, the risk-return profile for participants will need to be carefully considered (see below).

3.5 Sharing of financial risk and return

Overall, the proposal should demonstrate that the sharing of risk and return is appropriately balanced between investors (where appropriate), the proponent and the government. Proposals should outline:

- **Appropriate composition of financial risk sharing in various performance scenarios.** Proposals must outline the intended risk-return profile for each participant in the transaction, considering the risk appetite of all parties and potential returns. The government prefers that the majority of risk is taken by investors and/or proponents, with limited financial risk borne by the government. Where private investors are involved, proposals should outline how the transaction intends to deliver returns for target investors in the expected performance scenario. Scenarios in which performance is above or below that expected should also be outlined (see below, Proposed payment mechanisms and structure, for more information).
- **Proposed payment mechanisms and return structure.** Proposals should demonstrate a structure where government payments are made depending on the outcomes achieved. Proposals should also suggest clear mechanisms to independently assess the payments due. Where investors are involved, returns will ideally reflect the length of time for which investment capital is committed, and the regularity and size of payments. The size of the principal in transactions involving investors should also be considered and specified. Given the costs of raising capital, a transaction with a *principal of less than \$5 million may not be attractive for private investors*. Proposals must outline the suggested payment schedule and amounts for all possible performance scenarios:
 - below baseline
 - baseline
 - good performance
 - over-performance.

These features will be further negotiated during the JDP, but the financial risk in the case of below-baseline performance should reside mostly with investors and/or proponents.

- **Ability to finance the transaction.** Proposals must identify a funding source to support the costs of the transaction (including financial returns to investors, where relevant). This might include one or a combination of the following:
 - savings to government from successful prevention services
 - revenue from other government or philanthropic payments
 - sales of goods or services
 - other returns from assets (e.g. rental income).

Where relevant, proposals should demonstrate sufficient investor interest and a market-based risk/return profile, with the capacity to market the product effectively to the target investors. Ideally, financial modelling should show that the government and the proponent at least break even at base case performance levels. Indirect benefits, such as productivity gains, are generally unable to directly fund transaction costs. However, they are still important and while more complex than other benefits, may be used to support proposals with significant social benefits.

Proponents could consider working with an intermediary to structure the transaction. As with the measurement framework, the breakdown of risk and return will be further discussed and negotiated during the JDP.

Government standing charges

With many international bond models, all risk is transferred to investors. This has not been the case with social benefit bonds in NSW. Recognising the early stages of the social impact investment market, the NSW Government provided a 'standing charge' or payment to improve the risk profile for investors in the Newpin and Benevolent Society bonds. The standing charge in the bonds is approximately 50 per cent of the service delivery costs. As the market develops and investor interest grows, a lower level of financial support from the government will likely be provided in future.

The standing charge is not a government guarantee to investors but an early payment that is deducted from the amount due from the government when outcomes are known. It may be structured as a one-off payment or as a regular payment throughout the life of the contract. It enables an appropriate risk-return profile for the investors sought in the particular proposal. It is important that standing charge arrangements give the government an appropriate risk profile in the context of the risk allocated to investors and the proponent.

4. SUBMISSION REQUIREMENTS

Proposals are not limited to the preferred policy areas identified in [Section 1.1](#) and the 2015 Statement of Opportunities. However, other ideas must demonstrate how they meet evaluation criteria to a high standard (refer [Section 3](#)).

4.1 Basic conditions

In addition to meeting the social impact criterion, proposals must also meet the basic conditions set out below to be eligible for assessment:

- Proponents must provide contact details for at least two independent referees so the panel can verify the information in proposals. If possible, referees should have experience of previous work done by the organisation(s) involved in the proposal. The panel may contact referees at its discretion.
- Proponents are required to disclose any existing contracts (with the NSW Government or other entities) in areas that may be relevant to the proposal.
- If selected as a preferred proponent through this RFP process, proponents must be willing to participate in the JDP according to the terms of the JDP agreement.

The panel may, at its absolute discretion, exclude proposals that fail to meet these basic conditions from this RFP process without further consideration.

4.2 Format of submissions

Proposals should be no longer than **30 pages in length**, including appendices or additional documentation (e.g. financial modelling). Where proposals exceed 30 pages the panel may not consider the information contained in the additional pages. Font size is to be a minimum of 11 point and all pages must be A4. All references to money, prices and/or payments must be in Australian dollars.

A suggested structure for proposals is set out below. This is only a guide – the structure and length of sections should be tailored to the content.

a) Background information

- Details of proponents, including contact person
- Statement against basic conditions (section 4.1)

b) Summary of the proposed transaction

- Description of cohort group and proposed intervention
- Preferred structure and contractual relationships

c) Detailed statement against the evaluation criteria

d) Other information

- Details of independent referees
- Appendices

a) Background information

The following requested information is mandatory. Proposals must outline the organisation (or organisations) involved in the proposal, as well as key personnel who will be involved in the JDP if the proposal is successful through this RFP. Contact details must also include:

- Trading name and ABN for each organisation involved in the proposal.
- Type of legal entity for each organisation involved in the proposal.
- GST status for each organisation involved in the proposal.
- Business address for each organisation involved in the proposal.
- Details of nominated contact person for the proposal. This should be one person for each proposal who is authorised on behalf of all participating organisations to be the contact person for the proposal.
- The contact details for any advisors to the proposal and their role/responsibilities in developing the proposal.

The panel's nominated contact officer (or delegate) may contact proponents during the assessment process to clarify elements of proposals and/or seek further information. The proponent's nominated person will be contacted in the first instance for all such communication.

b) Summary of the proposed transaction

Description of the cohort and proposed intervention

A business case is a critical part of the proposal and should cover:

- a general description of the proposed service or program, including the proposed intervention group
- details of capital asset requirements (if appropriate)
- high level implementation plan.

This section should also discuss:

- if and how the proposed service or program interacts with other government (including NSW, the Commonwealth and local governments) or non-government programs
- its scalability and adaptability over time
- length and intensity of services
- privacy considerations (e.g. for data collection) and any ancillary requirements such as the need to obtain ethics approval.

Preferred structure and contractual relationships

Proposals should outline a preferred structure for implementing the transaction. The structure should identify the legal entities proposed to participate in the transaction, show the suggested contractual relationships between those entities and identify the financing and payment structures. The structure will be different for each transaction, but should account for the service provider(s), the government as well as special purpose entities and investors (if relevant).

For example, two different contractual structures were used for the social benefit bonds (see the Principles for Social Impact Investment Proposals to the NSW Government, p. 12). In one bond,

the NSW Government contracted directly with a service provider through an outcomes-based contract. In the other, the agreement is between the government and a special purpose entity, which minimised risks to the service provider.

However, transactions are not limited to social benefit bonds and variations on these example structures are possible. Less complex structures will aid in streamlining negotiations. The structure and contractual relationships will depend on the proposed transaction and will be further negotiated during the JDP.

c) Statement against the evaluation criteria

Proposals will be assessed against evaluation criteria outlined in [Section 3](#). Proponents are advised to respond to all evaluation criteria listed in this RFP. Proposals that do not include a full and complete response to permit a proper assessment against these criteria and the requirements of this RFP may be excluded from the evaluation process without further consideration at the panel's discretion.

d) Other information

Proposals must include the details of at least two independent referees, as specified in [Section 4.1](#).

Appendices should be included as separate attachments and should be as succinct as possible as they are included in the 30 page limit. Large attachments containing key proposal information may be disregarded at the panel's absolute discretion.

4.3 Lodgement of proposals

Proposals (including all supporting information, if any) must be fully received by 11:59pm AEST on 26 July 2015, as specified on the front page on this RFP.

Late proposals will not be considered except where the panel is satisfied that the integrity and competitiveness of this RFP process has not been compromised. The panel will not penalise any proponents whose proposal is received late if the delay is due solely to mishandling by the NSW Government.

Notification of intent

All parties considering submitting a proposal should register their interest at <https://tenders.nsw.gov.au> as early as possible, including the details of a contact person for the proposal. All correspondence and any additional information distributed during the RFP period will be sent to the nominated contact person.

Electronic proposals

All proposals must be submitted electronically on <https://tenders.nsw.gov.au> and will be treated in accordance with the *Electronic Transactions Act 2000* (NSW).

A proponent, by electronically lodging their proposal, is taken to have accepted the conditions shown in the conditions and rules on the Office of Finance and Services (OFS) tenders website at

<https://tenders.nsw.gov.au/commerce>, and to have accepted the conditions set out in this RFP document.

Signatures are not required but the proponent must ensure that a proposal is authorised by the person or persons who may do so on behalf of the proponent, appropriately identify the person, and indicate the person's approval of the information communicated.

Electronically submitted proposals may be made corrupt or incomplete, for example by computer viruses. The NSW Government may decline to consider for acceptance a proposal that cannot be effectively evaluated because it is incomplete or corrupt. Proponents must note that:

- To reduce the likelihood of viruses, proposals should not include any macros, applets, or executable code or files.
- Electronically submitted files should be free from viruses and should be checked using an up to date virus-checking program before submission.

The NSW Government will not be responsible in any way for any loss, damage or corruption of electronically submitted proposals.

If a proponent experiences any persistent difficulty with the OFS tenders website in submitting a proposal or otherwise, they are encouraged to advise the OSII promptly by email to socialimpactinvestment@dpc.nsw.gov.au.

Proponents may break down the lodgement of large proposals into smaller packages if clearly identified (e.g. Package 1 of 3) and must provide clear directions as to whether the lodgement is:

- supporting information
- a further part of the proposal that has previously been lodged.

Extension of closing date and closing time

The NSW Government may, in its absolute discretion, extend the closing date and closing time of this RFP.

If there is an extended defect or failure of the OFS tenders website or e-Tendering system and the NSW Government is advised as indicated above, the closing date and closing time may be extended if the NSW Government is satisfied that the RFP process will not be compromised by such an extension.

Ownership of proposals

All proposals become the property of the NSW Government on submission. The NSW Government may make copies of the proposals for any purpose related to this RFP.

Confidentiality

Any information relating to this RFP process, however, received by the proponent in connection with the RFP is confidential to the State of NSW. The proponent must not use or disclose to any person such information, in whole or in part, except to the minimum extent necessary for the purposes of preparing its proposal. The proponent may disclose such information to a bona fide

independent consultant retained by the proponent for the purposes of preparing or submitting their proposal.

Without limitation, the proponent will not in any way publicise that they proposes to submit or that they have submitted a proposal or the content of any proposed or submitted proposal in response to this RFP. The proponent and their personnel must not at any stage make any public statement or in any way disclose information about the RFP process or any aspect of that process, including selection for entry into any JDP or Implementation Agreement under this RFP, to any person without the express written permission of the NSW Government.

The restrictions under the above paragraphs do not apply to the extent that:

- the information is generally available to the public (other than as a result of the wrongful disclosure by the proponent)
- the information is required to be disclosed by any law or under the lawful compulsion of any court, tribunal, authority or regulatory body.

Failure to comply with these confidentiality requirements may be taken into account by the NSW Government when considering the proponent's proposal and may result in the proposal being passed over.

Variations to proposals

At any time after the closing date and closing time and before the NSW Government accepts any proposal for to enter the JDP, a proponent may vary its proposal:

- by providing the NSW Government with further information by way of explanation or clarification
- by correcting a mistake or anomaly
- by documenting agreed changes negotiated.

Such variation may be made either at the request of the NSW Government or with the consent of the NSW Government at the request of the proponent, but only if:

- in the case of a variation requested by the proponent to provide information by way of explanation or clarification or to correct a mistake or anomaly, it appears to the NSW Government reasonable in the circumstances to allow the proponent to provide the information or correct the mistake or anomaly
- in the case of a variation to document agreed changes negotiated, the NSW Government has confirmed that the draft documented changes reflect what has been agreed.

If a proposal is varied in accordance with the above provisions, the NSW Government will provide all other proponents whose proposals have similar characteristics with the opportunity to vary their proposals in a similar way.

A variation of a proposal will not be permitted if the NSW Government is satisfied that:

- it would substantially alter the original proposal
- in the case of in the case of a variation requested by the proponent to provide information by way of explanation or clarification or to correct a mistake or anomaly, it would result in the revising or expanding of a proposal in a way that would give the proponent an unfair advantage over the other proponents.

Non-complying proposals

A proposal that does not address the requirements of sections 4.1 and 4.2 above may be considered non-compliant. Before making any determination as to acceptance or rejection of a proposal, the OSII (in its role as compliance assessors) may, provided it is satisfied that the integrity and competitiveness of the RFP process has not been compromised, give a proponent of a non-complying proposal the opportunity to rectify any non-compliance.

Acceptance or rejection of proposals

It is not intended by the NSW Government or the proponent that the issuing of this RFP or a submission of a proposal to it commits, obligates or otherwise creates a legal relationship in respect of entering into a contract with that party.

The NSW Government is not bound to select any proposal for participation in the JDP or for implementation.

If the NSW Government rejects all proposals received, it may invite fresh proposals based on the same or different criteria.

Selection of a proposal for participation in the JDP will be subject to the issue of a letter of selection to the preferred proponent and entry into a JDP agreement. Entry into a JDP agreement must not be construed as an indication or representation to the proponent by the NSW Government that the proponent will be selected as the successful proponent and that an Implementation Agreement will be entered into with the proponent to give effect to the social impact investment transaction proposed.

The NSW Government will not, in any circumstances, be responsible for any costs incurred by a proponent arising out of or in connection with the RFP including without limitation:

- in preparing and submitting a proposal
- participating in the JDP
- not being selected as the successful proponent
- discontinuance of this RFP.

Communication / Clarification

The NSW Government acknowledges that information gaps may exist, and further information may be required by proponents to develop proposals in response to this RFP. The NSW Government may be able to provide additional information in response to queries about specific proposals. Any such queries should be directed to the OSII by email to socialimpactinvestment@dpc.nsw.gov.au. Requests for additional information must be received before 5pm AEST on 10 July 2015.

Information the OSII can and cannot provide is listed below:

We can:	We can't:
<ul style="list-style-type: none"> provide general information about social impact investing 	<ul style="list-style-type: none"> develop and implement proposals outside a formal RFP process
<ul style="list-style-type: none"> provide general information on NSW Government activity and priorities in social impact investing 	<ul style="list-style-type: none"> give detailed advice or feedback on proposals prior to or during a formal RFP process
<ul style="list-style-type: none"> provide information on RFP processes, timing and requirements 	<ul style="list-style-type: none"> advocate or promote potential proponents or their proposals to other government agencies and market participants.
<ul style="list-style-type: none"> facilitate contact with other government agencies and market participants 	
<ul style="list-style-type: none"> consider and facilitate information and data requests. 	

Any additional information made available in response to a request will also be distributed to all persons who have registered an interest in the RFP and posted at www.dpc.nsw.gov.au/sii for access by all interested parties.

Ethical conduct

Proponents must comply with the requirements of the NSW Department of Premier and Cabinet [Business Ethics Statement](#).⁶

A proponent's proposal may not receive further consideration if a proponent or any of its officers, employees, agents or subcontractors is found to have:

- offered an inducement or reward to any public servant or employee, agent or subcontractor of the NSW Government in connection with this RFP or the submitted proposal
- committed "corrupt conduct" within the meaning of the *Independent Commission Against Corruption Act 1998 (NSW)*
- a record or alleged record of unethical behaviour, or not complied with the requirements of the Business Ethics Statement referred to above.

The NSW Government may, but is not required to, invite a relevant proponent to provide written comments within a specified timeframe before the NSW Government excludes the proponent and its proposal on this basis.

Proponents must disclose any conflicts of interests in their proposal.

⁶ Available at http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0010/127477/DPC_Statement_of_Business_Ethics.pdf

Probity

The Government has engaged a probity adviser for the duration of the evaluation process.

The probity adviser is not part of the evaluation panel, but is an independent observer of the evaluation process. The probity adviser will not be involved in the evaluation of any proposals.

Proponents who have any concerns about the conduct or probity of the RFP process should, notwithstanding any other restrictions contained in this document, promptly bring their concerns to the attention of the probity adviser.

The probity advisor's contact details are:

Michael Shatter
RSM Bird Cameron
Phone: 03 9286 8166
Email: michael.shatter@rsmi.com.au

Exchange of information between government agencies

By lodging a proposal the proponent will authorise the NSW Government to make information available, on request, to any NSW Government agency. This includes information dealing with the proponent's performance on any prior contract that has been awarded. Such information may be used by the recipient NSW Government agency for assessment of the suitability of the proponent for pre-qualification, selective tender lists, expressions of interest or the award of a contract.

The provision of the information by the OSII to any other NSW Government agency is agreed by the proponent to be a communication falling within section 30 of the *Defamation Act 2005 (NSW)*, and the proponent shall have no claim against the OSII and the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the proponent arising out of the communication.

Disclosure information

Following the NSW Government's decision, the proponent will be notified in writing of the outcome of their proposal. Details of this proposal and the outcome of the RFP process will be disclosed in accordance with the [Government Information \(Public Access\) Act 2009](#) and the [Premier's Memorandum 2007-01](#) which requires proactive disclosure of information, including information relating to procurement.

5. APPENDICES

- A** **Supporting vulnerable young people, particularly out-of-home care leavers, to transition to independence**
- B** **Supporting offenders on parole to reduce their levels of re-offending and re-incarceration**
- C** **Sample JDP agreement**

ARCHIVE

A. Supporting vulnerable young people, particularly out-of-home care leavers, to transition to independence

Vulnerable young people need wrap around support to transition to independence. This includes coordinated support from mental health, drug and alcohol, domestic and family violence, education, justice and homelessness services.

Young people leaving statutory out-of-home care (OOHC) are particularly vulnerable to poor transitions, and experience a range of poor social and economic outcomes throughout their life. Social impact investment may be best used to prevent or intervene early in the lifecycle of difficult and costly problems, particularly for OOHC leavers.

1. Outcomes sought

The ultimate outcome sought through a social impact investment mechanism in this area is that vulnerable young people make a positive transition to independence.

Specific outcomes we are seeking to achieve for vulnerable young people provided with transition support include:

- improved mental health and life skills
- improved educational outcomes
- increased rates of employment
- reduced experiences of homelessness
- improved capacity to maintain stable housing
- reduced need for health services
- reduced contact with the justice system.

1.1 Outcome measures

Various proxy measures could be used to determine the extent to which the intervention achieves the ultimate outcome for participating young people, based on their use of government services. For example:

- use of emergency or crisis accommodation
- participation in drug and alcohol programs
- emergency department presentations
- interactions with the justice system.

This could be done using data collected by the Bureau of Crime Statistics and Research (BOCSAR), the Ministry of Health and the Department of Family and Community Services.

Ideally, the intervention would result in young people in the intervention group accessing services or entering the justice system at a significantly lower rate than a similar group who do not receive the intervention ('a comparison group'). The measures might include the number of times young people interact with services, the duration for which the services are engaged and perhaps the circumstances in which the young people exit from the services. However, these measures are indicative only and will be considered further during the JDP to ensure they align closely with the desired outcomes.

Additional outcome measures that could also be used, relative to a comparison group, include:

- the proportion of participants engaged in education programs
- the proportion of participants engaged in employment programs
- the proportion of participants in stable housing
- improved subjective wellbeing of participants measured with a developmentally appropriate standardised tool.

2. Potential cohort

We recommend the intervention be focused on vulnerable young people, particularly those who are leaving statutory OOHC or who are homeless or at imminent risk of homelessness. Young people leaving OOHC can be easily identified as a cohort for intervention. The following table shows the number of young people aged 15-17 years who exited OOHC from 2011-12 to 2013-14. Forecasts for the next six years are also provided.

Table 1: Young people aged 15-17 years leaving OOHC in NSW, actual and forecast

		Actual			Forecast ¹					
		2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
AGE (years)	17	799	875	740	911	970	1,026	1,079	1,130	1,178
	16	184	153	148	183	195	206	216	227	236
	15	197	209	180	221	236	249	262	274	286
	Total	1,180	1,237	1,068	1,315	1,401	1,481	1,557	1,631	1,700

Young people leaving OOHC have been the subject of research given their poor outcomes and the rate at which they become homeless. Australian research indicates that close to half of young adults exiting the OOHC system experienced periods of homelessness.² A 2009 study identified approximately 33 per cent of young people as homeless in their first year of leaving care.³ Factors, such as Aboriginality and contact with the justice system, can be used to identify those most at risk of the poorest outcomes following their exit from OOHC. Proposals that identify and include services for the most vulnerable in the potential cohort are encouraged.

3. Data

Data in this section is focused on homelessness, as this leads to the poorest outcomes for the potential cohort.

¹ Forecast numbers are point in time only and based on assumptions that all current policy parameters remain the same over the forecast period. Source: Department of Family and Community Services, 2015

² Osborn, A & Bromfield, L. (2007). *Young people leaving care* (Research Brief 7). Melbourne: Australian Institute of Family Studies cited in Crane, P, Kaur, J & Burton, J. (2013) *Homelessness and Leaving Care: The experience of young adults in Queensland and Victoria, and implications for practice*. School of Public health and Social Work, Queensland University of Technology.

³ McDowall, J. (2009). *Report Card 2009: Transitioning from Care: Tracking Progress*. Sydney: CREATE Foundation.

Accurate data on homelessness in NSW is difficult to obtain as it is not easy to count people who are sleeping rough or couch surfing. Nonetheless, ABS Census 2011 data indicate 28,191 people were homeless in NSW on Census night. The rate of homelessness in NSW increased by 20.4 per cent from the homeless rate recorded in the 2006 Census.

Census data also show that children and young people aged between 12 and 24 years are overrepresented in the homeless population, accounting for 24.5 per cent of those experiencing homelessness, compared to 16.7 per cent of the general population in NSW. The following table illustrates the types of homelessness experienced by children and young people in NSW on the 2011 Census night.

Table 2: Children and young people (aged 12-24 years) identified as homeless in NSW on 2011 Census night, by homelessness type

Homelessness type	Number of homeless persons 2011 – young people	Number of homeless persons 2011 – total	Proportion of homeless young people in each homelessness type
Persons who are in improvised dwellings, tents or sleeping out	213	1,920	11.1%
Persons in supported accommodation for the homeless	1,411	4,926	28.6%
Persons staying temporarily with other households	911	4,933	18.5%
Persons staying in boarding houses	886	6,507	13.6%
Persons in other temporary lodging	36	246	14.6%
Persons living in 'severely' crowded dwellings	3,463	9,658	35.9%
All homeless persons	6,920	28,190	24.5%

Census data also indicate differences in the types of homelessness experienced by male and female children and young people. For under 25s, for example, there is a greater proportion of young women in supported accommodation and a greater proportion of young men in other categories, with the largest variation in 'other temporary lodgings'.

Data from specialist homelessness services show a more nuanced picture of the homelessness experience of young people aged 15 to 24 years. The table below identifies the number of 15 to 24 year olds who have presented alone to a specialist homeless service over a three year period. This represents the numbers of individual young people that have received a specialist homeless service or services over an annual period. This may include information and advice, case worker support, and/or accommodation.

Table 3: The number of young people (15-24 years) presenting alone to a specialist homelessness service in NSW from 2011 to 2013

Year	2011-12	2012-13	2013-14
Number of young people	12,463	12,157	12,169
Proportion of young people of all SHS clients in NSW	23.3%	23.4%	23.5%

From the information collected from specialist homelessness services, we also have information on the young client groups experiencing homelessness. The table below shows a number of areas where young people are overrepresented in the homelessness service system, such as young women (60.6%) and people who identified as Aboriginal or Torres Strait Islander (23.5%).

Table 4: Young people (15-24 years) presenting alone to specialist homelessness service in NSW by client group, 2012-13

Client group	Number of young people aged 15-24 years	Proportion of specified client group of total young people aged 15-24 years
Female	7,372	60.6%
Identified as Aboriginal or Torres Strait Islander	2,860	23.5%
Born overseas	1,007	8.3%
Identified as having mental health issues	2,008	16.5%
Identified as experiencing domestic or family violence	2,735	22.5%

Compared with the overall population who accessed specialist homelessness services in Australia in 2013-14, young people presenting alone were more likely to be identified as needing assistance with:

- living skills / personal development (35% compared with 21%)
- education (19% compared with 9%)
- employment (16% compared with 7%)
- training (13% compared with 5%).⁴

This correlates with qualitative evidence on the long term needs of young people who have experienced homelessness and the future costs to government. The evidence shows that young people experiencing homelessness are at a high risk of developing a range of negative health, social and economic outcomes, including:

- increased susceptibility to substance abuse and dependence⁵
- mental health issues⁶
- medical problems⁷
- violence and victimisation⁸

⁴ Australian Institute of Health and Welfare (2014), *Specialist Homeless Services 2013-2014*, Australian Institute of Health and Welfare, Canberra.

⁵ Baer, J. S., Ginzler, J. A., Peterson, P. L., White, V. M., Hill, D. J., Effendi, Y., et al. (2003). DSM-IV alcohol and substance abuse and dependence in homeless youth. *Alcohol*, 64, 5-14.

⁶ Slesnick, N., & Prestopnik, J. (2005). Dual and Multiple Diagnosis Among Substance Using Runaway Youth. *The American Journal of Drug and Alcohol Abuse*, 31(1), 179-201.

⁷ Hudson, A. L., Nyamathi, A., Greengold, B., Slagle, A., Koniak-Griffin, D., Khalilifard, F., et al. (2010). Health Seeking Challenges Among Homeless Youth. *Nursing Research*, 59(3), 212.

Kelly, K., & Caputo, T. (2007). Health and street/homeless youth. *Journal of Health Psychology*, 12(5), 726.

- the burden of harms linked to youth homelessness can cause significant cost to individuals, families and the community⁹
- homelessness in later life, and chronic and repeat periods of homelessness.¹⁰

These have cost impacts to government including more service utilisation across all sectors, including child protection, justice, employment, health and mental health services. Other costs to the community include the opportunity cost of people not being engaged in the community, poor economic participation, social exclusion and poor family functioning.

A study on OOHC leavers in Victoria estimated that this cohort costs state government approximately \$738,741 more over their lifetime than the average person who was not in OOHC.¹¹ This figure includes costs to the police and justice portfolio and the child protection and housing areas. It is considered by the researchers to be a conservative estimate.

4. Principles for effective interventions

Vulnerable young people who need intensive support to transition to independence have diverse experiences and needs. The proposed intervention should be designed to meet the development needs of vulnerable young people to support their successful transition to independence, including an education or employment pathway, support to address issues (such as substance abuse and mental health) and sustainable housing options. Collaboration between service providers may be needed to achieve the outcomes sought and is encouraged.

While some vulnerable young people will need higher levels of intervention, the evidence base for interventions addressing the needs of these young people indicates that the following principles should be included in any intervention proposed for this cohort:

- robust tools are used to assess the risk or level of need
- approaches for supporting young people are informed by a strong evidence base
- young people are empowered to plan for their future education, employment and housing options
- support is linked with appropriate housing options. Note, not all housing options are suitable for the needs of young people (i.e. large congregate or shared housing is generally not suitable for young people with higher levels of need).

Interventions should also include some or all of the following and this may only be achieved through collaboration and partnerships among service providers:

- trauma informed therapeutic care

⁸ Baron, S. W. (2003). Street youth violence and victimization. *Trauma, Violence, & Abuse*, 4(1), 22.

Baron, S. W. (2009). Street youths' violent responses to violent personal, vicarious, and anticipated strain. *Journal of Criminal Justice*, 37(5), 442-451.

⁹ National Youth Commission. (2008). *Australia's Homeless Youth: a report of the National Youth Inquiry into Youth Homelessness*. Melbourne: National Youth Commission.

¹⁰ Chamberlain, C., & Johnson, G. (2011). Pathways into adult homelessness. *Journal of Sociology*.

¹¹ Forbes, C., Inder, B., and Raman, S. (2006), *Measuring the cost of leaving care in Victoria*. Monash University, Department of Econometrics and Business Statistics.

- support to develop future plans, and access education, training and employment
- assistance with living skills and with relationship formation
- housing options (e.g. specific youth accommodation or private rental market subsidies)
- brokerage to obtain housing in the private market.

The extent to which interventions encompass these principles will drive the risk/return profile for the investment. Interventions that deviate from these principles should have evidence to support the different approach or have factored this deviation into the financial model.

Any social impact investment mechanism that includes provision of housing should consider how the accommodation will be delivered and managed during the intervention period, including the type of housing, procurement (e.g. direct provision or through partnerships), rent setting and operational sustainability. The rent setting approach should be affordable and appropriate to the needs of young people. Operational costs of tenancy and property management should be factored in.

ARCHIVE

B. Supporting offenders on parole to reduce their levels of re-offending and re-incarceration

Addressing re-offending is important, both to ensure the safety of communities and to reduce costs to the government. These costs arise primarily in the justice portfolio in policing, courts and where offenders are incarcerated, prisons.

Governments around the world have implemented social impact investment mechanisms to help reduce crime and re-offending, and to achieve savings. Key examples are the social impact bonds in Peterborough, United Kingdom and Rikers Island, New York. The NSW Government has previously investigated opportunities for a social benefit bond to reduce recidivism, which did not proceed to implementation. However, we consider there are opportunities for different mechanisms that will help address this issue and contribute to keeping the community safe, for example, a payment by results (PBR) contract.

We are interested in hearing from the private and not-for-profit sectors about innovative ways of funding and providing services to reduce crime. In particular, we want to assist those who have previously offended and are serving the final part of their custodial term in the community by way of a supervised parole order.

Government-funded achievements to reduce re-offending are encouraging. There has been a steady downward trend in re-offending since 2011. Robust partnerships with the private and not-for-profit sectors could help us build on this work and develop offender management practices that result in closing prison wings or prisons, or reducing the need for more prisons. As a result, this kind of partnership could also offer major returns on social impact investments.

1. Intended outcomes

The key goal of a social impact investment mechanism in this priority area is to reduce the rate of re-offending and return to custody for parolees.

Additional outcomes sought include:

- increased time to re-offending among parolees
- reduce severity of re-offences, if any.

1.1 Outcome measures

For the purposes of an intervention funded through social impact investment, re-offending is defined as ‘someone who has received some form of criminal justice sanction (such as a conviction or a caution) going on to commit another offence within a set time period’ (UK Ministry of Justice, 2012).

The government seeks to link the outcomes we are measuring in transactions in this area to the savings that will be used to make payments, and prefer that there is a robust and reliable data source for this. As the greatest costs arise when a person is incarcerated, we propose measuring the return to custody of parolees within a specified period of their release to supervised parole. This data is reliable and available to us and will provide a method of measuring the savings associated with the outcomes. We are open to negotiating the length of the measurement period but suggest that 12 to 24 months following the first release to supervised parole (or date of referral to the intervention) is appropriate.

Innovative ways of incorporating additional outcomes in the structure, such as reduced severity of, and increased time to, re-offend and return to custody for non-compliance are also of interest. We are open to discussing these as part of any social impact investment mechanism developed in this space.

BOCSAR has estimated that those who continue to offend spend approximately 560 days in custody in the five years following release. Re-offending, particularly when it leads to re-incarceration, is a costly problem for society and government. Some costings data related to the above are outlined in Table 1 (below).

Table 1: Costs of re-offending that may be saved by the NSW Government (Report on Government Services, 2014; Allard et al. 2014)

Variable	Cost to government
Direct cost to Corrective Services NSW for incarceration	\$189 per inmate per day*
Court costs associated with a court finalisation leading to an imprisonment penalty	\$1,202
Police costs associated with court finalisations	\$2,696

* The NSW Government will accept proposals that use the average cost of \$189 per inmate per day in financial models, noting only the marginal cost for incarceration of \$19 per inmate per day is cashable. This recognises the current correctional services environment.

Please note that the police and court figures are indicative only and are subject to verification. However, they may be used for modelling purposes at this stage.

2. Potential cohort

A parole term allows an inmate to serve the final part of a custodial term in the community under the supervision of Corrective Services NSW. NSW data shows that, as a cohort, those serving parole have a higher risk profile than those serving legal orders wholly in the community. Accordingly, targeting parolees has the potential to reduce rates of re-offending and improve community safety.

Efforts should be focused on those most likely to re-offend and who are supervised by Corrective Services NSW on release to parole. However, we are seeking interventions that would work with all parolees referred by Corrective Services NSW, regardless of:

- gender
- the offence for which they were incarcerated
- whether their parole period and conditions of their parole order is determined by a court or the State Parole Authority (SPA).

We anticipate that the majority of parolees referred to the intervention would be accepted.

2.1 Parolees at medium-high and high risk of re-offending

Of all parolees released each year, approximately 2,200 are in the categories of medium-high and high risk of further offending, based on actuarial-style risk assessment. While numbers vary from year to year, those released during financial year 2013/14 and who fall into the medium-high and high risk categories totalled 2,092. They were released to the following locations (Table 2).

Table 2: Release locations of medium-high and high-risk supervised parolees (2013/14)

Location	Releases	Location	Releases	Location	Releases
Albury	24	Glen Innes	11	Newcastle	109
Armidale	14	Gosford	34	Nowra	71
Bankstown	44	Goulburn	29	Orange	27
Batemans Bay	23	Grafton	32	Parramatta	88
Bathurst	28	Griffith	13	Penrith	58
Bega	8	Gunnedah	9	Port Macquarie	20
Blacktown	42	Hornsby	10	Queanbeyan	6
Bourke	28	Hurstville	29	Sutherland	13
Bowral	6	Inverell	10	Tamworth	32
Broken Hill	42	Katoomba	0	Taree	25
Burwood	22	Kempsey	58	Tumut	8
Campbelltown	78	Lake Macquarie	37	Wagga Wagga	49
Casino	29	Leichhardt/Newtown	117	Wellington	18
Sydney City	101	Lismore	54	Windsor	51
Coffs Harbour	30	Lithgow	4	Wollongong	109
Cooma	16	Liverpool	59	Wyong	47
Coonamble	20	Maitland	58	Young	11
Dee Why	15	Moree	17		
Deniliquin	0	Mt Druitt	44		
Dubbo	59	Murwillumbah	0		
Fairfield	53	Muswellbrook	16		
Forbes	27	Narrabri	0		

Note: Shaded locations are where funded additional support services are available under the CSNSW Funded Partnership Initiative.

3. Re-offending and risk

3.1 Assessing the risk of re-offending

In 1998, NSW adopted an actuarial-style risk instrument, the Level of Service Inventory – Revised (LSI-R), enabling precise and accurate identification of individual risk levels and the degree of intervention required to meet that level of risk. The LSI-R has 54 items which are grouped into 10 subscales:

- criminal history
- education/employment
- finances
- family/marital status
- accommodation (i.e. high crime neighbourhood, dissatisfaction with current accommodation)
- leisure/recreation

- associates
- drug/alcohol use
- emotional/personal
- attitudes/orientation.

All offenders are administered the LSI-R when they first have contact with Corrective Services NSW Community Corrections. To date, over 300,000 LSI-R assessments have been undertaken and recorded on a central database.

The LSI-R categorises the offender's risk of re-offending into:

- low/medium-low
- medium
- medium-high/high risk.

In line with the contemporary evidence-based correctional practices, current government policy is to prioritise higher-risk offenders (medium, medium-high and high risk) with sufficiently intensive interventions to meet individual needs.

3.2 Characteristics of high risk offenders

Higher-risk offenders are more likely than lower-risk offenders to have:

- higher levels of antisocial personality traits such as impulsivity, hostility, inability to delay gratification, risk taking, pleasure seeking, disregard for others, callousness, etc.
- poor cognitive abilities, including problem solving skills and poor emotional coping/ability to tolerate distress
- antisocial associations and lack of pro-social associations
- antisocial thinking styles and values/beliefs that are supportive of offending
- started to experiment, use and abuse drugs and alcohol at an earlier age and more likely to experience early severe dependence
- been raised in dysfunctional, chaotic families
- co-morbid psychiatric issues such as psychotic, affective and anxiety disorders, *which are independent of offending behaviour*
- personality disorders, particularly antisocial and borderline personality disorder
- experienced multiple traumas
- complex, dynamic psychosocial issues relating to education, accommodation, relationships, chronic unemployment and subsequent financial problems, unstructured and antisocial leisure activities, and social alienation
- low levels of literacy and numeracy.

3.3 Risk assessment and gender

In a study of community-based supervised offenders, Ringland (2011) found that in the 12 month period from the imposition of a supervised good behaviour bond or suspended sentence, women offended less than men across all risk levels. For example, the 12-month re-offence rate for high risk men was 59 per cent, compared with 44 per cent for their female counterparts. For low-medium risk offenders, 19 per cent of men re-offended within 12 months, compared with 16 per cent of women.

Using the LSI-R, the study also found the following rates of re-offending among the cohort studied, based on risk level categories set out by the LSI-R (Table 3):

Table 3: LSI-R categories/score and further offending (Ringland, 2011)

LSI-R Risk Level (Score Range)	Males (n=5,523) % Re-offend	Females (n=1,414) % Re-offend
Low (0 – 13)	10.2	6.8
Low-Medium (14 – 23)	19.2	15.8
Medium (24 – 33)	31.2	25.2
Medium-High (34 – 40)	44.5	40.6
High (41 – 54)	59.2	43.8

Ringland (2011) noted the centrality of risk assessment to NSW offender management practices, including entry to interventions. On the basis of these findings, Ringland concluded that the LSI-R is a valid tool for identifying those offenders who should be prioritised for services and it is the higher-risk offender groups who are the subject of this social impact investment opportunity.

There has been considerable debate within the academic literature which calls into question the predictive validity of the LSI-R and other actuarial risk assessment instruments for females (e.g. Holtfreter & Cupp, 2007; Reisig, Holtfretter, & Morash, 2006).

In a study of 14,737 female offenders, Smith, Cullen and Latessa (2009) concluded that the LSI-R is equally likely to predict further offending in female offenders as it does for male offenders. Furthermore, the results for women were similar to the results that previous meta-analyses had generated when using mixed samples dominated by male offenders.

3.4 Aboriginality

Some 21 per cent of all male parolees and almost 31 per cent of all female parolees identify as Aboriginal. However, there is a higher proportion of Aboriginal parolees in the target population. Table 4 details the risk levels of community-based offenders who identify as Aboriginal compared to non-Aboriginal offenders.

Table 4: Risk levels and Aboriginality

<i>n</i>	Low	Med-Low	Med	Med-High	High	Pending
Aboriginal	53	321	1089	549	127	453
Non-Aboriginal	832	2032	2910	1024	194	1381
Pending	19	32	26	4	1	263
Total	904	2385	4025	1577	322	2097
%						
Aboriginal	5.9%	13.5%	27.1%	34.8%	39.4%	21.6%
Non-Aboriginal	92.0%	85.2%	72.3%	64.9%	60.2%	65.9%
Pending	2.1%	1.3%	0.6%	0.3%	0.3%	12.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Watkins (2011) found that the LSI-R does not appear to predict re-offending quite as well with Aboriginal women as it does with Aboriginal men or non-Aboriginal offenders. In fact, there was a notable decline in the re-offending predictive power of the LSI-R when applied to Aboriginal females. This decline may have been due to the relatively low numbers of Aboriginal women in the study's sample ($n = 417$). Alternatively, it would seem likely that Aboriginal women have different or additional offence-related needs to those of Aboriginal males or non-Aboriginal offenders. CSNSW is not aware of any risk/need instrument that would better predict the offending of Aboriginal females.

Exploring the relatively poor LSI-R predictive reliability for Aboriginal females, Watkins (2011) found that for Aboriginal females, only two LSI-R sub-scales were statistically significant – education/employment and attitudes/orientation (see Table 5). This would seem to support the notion that Aboriginal women have different offence-related needs to those of Aboriginal males and non-Aboriginal offenders.

4. Principles for effective interventions

International research on 'what works' in reducing re-offending has grown substantially over the past two decades. There are three principles which frame current international and NSW 'best practice' in the management of all supervised offenders.

4.1 The Risk Principle

The key finding of international research is that interventions targeting those at higher risk of re-offending have greater impact. Logically, this practice is based on the fact that those at greater risk have, potentially, the most to gain. Targeting higher-risk offenders can have substantial benefits in reducing re-offending and costs in this space.

Lower-risk offenders do not benefit to the same extent as higher-risk offenders from intervention since they have relatively little to gain. For example, Ringland (2011) found that only some 10 per cent of men assessed as low-risk offenders committed a further offence in the 12 months after receiving a sentence of a supervised good behaviour bond or suspended sentence. On the other hand, more than 59 per cent of male offenders assessed as high risk committed a further offence while under the same sentence conditions.

Accordingly, even the best intervention would need to target large numbers of lower risk offenders to potentially reduce re-offending. Importantly, it has been shown that intrusive/intensive interventions applied to lower-risk offenders can substantially *increase* the risk of further offending (Andrews & Dowden, 1999; Bonta, Wallace-Capretta & Rooney, 2000; Lowenkamp & Letessa, 2002; Lowenkamp & Letessa, 2004). On this basis, the target group for intervention should always be those at higher-risk of further offending.

4.2 The Need Principle

Offence-related needs can be conceptualised as the dynamic subset of all factors linked to re-offending. The Need Principle states that interventions should target needs that are directly related to further offending as reducing dynamic risk factors directly reduces the risk of further offending.

Studies have identified factors linked to further re-offending (see Andrews & Bonta, 2006). Table 5 (below) outlines these factors, in order of how strongly they predict re-offending.

Table 5: Offence-related need domains and therapeutic targets/indicators (Andrews & Bonta, 2006)

Domain	Therapeutic targets/indicators
Antisocial associations	Association with pro-criminal others (social support for crime) and relative isolation from anti-criminal others. Intervention should reduce association with criminal associates and increase association with pro-social others.
Antisocial personality traits	Impulsive, adventurous pleasure-seeking, generalised trouble (multiple persons, multiple settings), restlessly aggressive, callous disregard for others, weak self-constraints, negative emotionality etc.
Antisocial attitudes	Attitudes, beliefs and values, rationalisations for offending and a personal identity that is favourable of crime. Justification of offending. Self-identification as criminal, negative attitude towards the criminal justice system, beliefs of entitlement, and a belief that crime will pay off and pride in the commission of criminal acts. Appropriate targets for change include building self-efficacy beliefs supporting reform ("I know what to do to avoid criminal activity and I know that I can do what is required"). Cognitive restructuring includes reducing antisocial thinking through building and practicing pro-social beliefs and behaviours.
Leisure/recreation	Low levels of involvement and satisfactions in anti-criminal leisure pursuits. Dynamic need and promising intermediate targets are to enhance satisfaction/rewards associated with goal directed, pro-social leisure activities and involvement with pro-social others.
Family/marital	Low-quality/dysfunctional multiple relationships (lack of mutual caring, respect, and interest) and partner's complicity with criminal activity.
Education/employment	History of alienation from the education system. Low levels of performance and involvement in the workforce and low levels of rewards and satisfactions with employment opportunities. Intervention may include training/further education and satisfying work opportunities
Substance abuse	Reduce/eliminate illicit substance abuse/dependence, reduce the personal and interpersonal supports for substance-oriented behaviour (including drug associations), enhance alternatives to substance abuse. Reduce/eliminate alcohol use where this had led to offending.

'Associations', 'personality traits' and 'antisocial attitudes/values/beliefs' are the strongest predictors of further offending and are therefore promising targets for interventions designed to reduce re-offending. According to Andrews and Bonta (1994) criminal sentiments can explain up to 40 per cent of the total variance in re-offending with three year follow up. Together with criminal history, these factors form 'The Big Four' risk factors for re-offending.

Moderate risk factors, such as 'leisure/recreation', 'family/marital', 'education/employment' and 'substance abuse' are also potentially favourable targets to reduce re-offending. However, research suggests that minor factors ('verbal IQ', 'social disadvantage', 'psychopathology' and 'personal distress', and 'fear of punishment') are not promising targets, with little relationship to further offending. For example, while large numbers of offenders are socially disadvantaged, most socially disadvantaged people do not offend. Consequently, social disadvantage is not a predictor of criminality.

Table 6: Offence-related needs for NSW offenders (Watkins, 2011)

Rank	Non-ATSI Females	Non-ATSI Males	ATSI Females	ATSI Males
1	Criminal History (Static factor)	Criminal History (Static factor)	Criminal History (Static factor)	Education/Employment
2	Alcohol/Drug Problems	Alcohol/Drug Problems	Education/Employment	Criminal History (Static factor)
3	Associations	Education/Employment	Attitudes/Orientation	Attitudes/Orientation
4	Education/Employment	Financial	Leisure/Recreation (ns)	Alcohol/Drug Problems
5	Accommodation	Associations	Financial (ns)	Associations
6	Financial	Attitudes/ Orientation	Alcohol/Drug Problems (ns)	Family/marital
7	Attitudes/Orientation	Accommodation	Family/marital (ns)	Financial
8	Family marital	Leisure/Recreation	Associations (ns)	Accommodation
9	Leisure/Recreation	Family/marital	Accommodation (ns)	Leisure/Recreation
10	Emotional/Personal	Emotional/ Personal	Emotional/Personal (ns)	Emotional/Personal

4.3 The Responsivity Principle

The Responsivity Principle of offender management seeks to maximise the offender's ability to learn from a rehabilitative intervention by tailoring the intervention to their learning style, motivation, abilities and strengths (Andrews & Bonta, 2006). Responsivity issues can also include barriers to change such as major mental health disorders (including schizophrenia, bipolar disorder and major depressive episodes), and stress/anxiety. Major mental health disorders are not offence-related needs in higher risk offender groups but have considerable implications for the offender's full participation in interventions to reduce re-offending. Stable accommodation is also an important responsivity factor; without a stable base it is difficult for offenders to establish and maintain links to services and programs which can address their risks factors for further offending.

5. Duration of intervention

The duration of the intervention should be logically linked to the most critical period following release, when intervention would have the greatest impact. The duration of the supervised, mandated parole period may also impact upon the duration of the intervention.

5.1 Survival

Government data suggests a parolee is 2.5 times more likely to return to custody in the first three months following release compared to nine to 12 months post release and this survival pattern is consistent across different years. Figure 1 illustrates the 'survival' term of high-risk, medium-high

risk and medium risk offenders for 2010/11 and 2011/12, demonstrating the critical nature of the first three months. However, there is potential for improvement past this initial period as the survival curves below demonstrate.

Figure 1: Return to custody rate for high risk offenders for 2010/11 and 2011/12

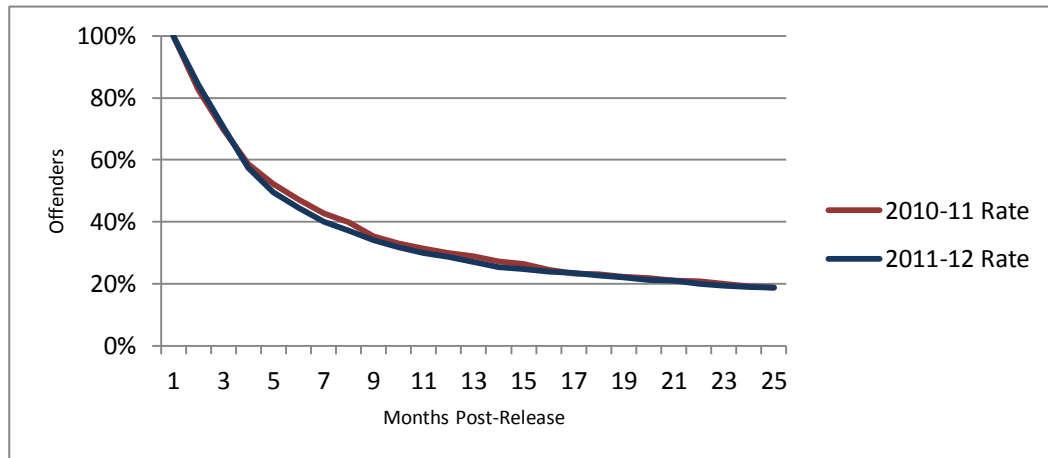


Figure 2: Return to custody rate for medium-high risk offenders for 2010/11 and 2011/12

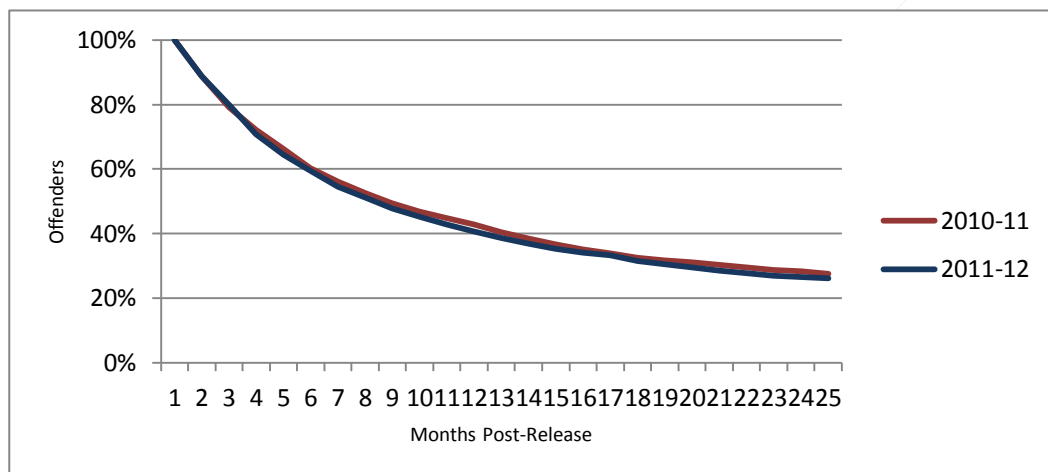
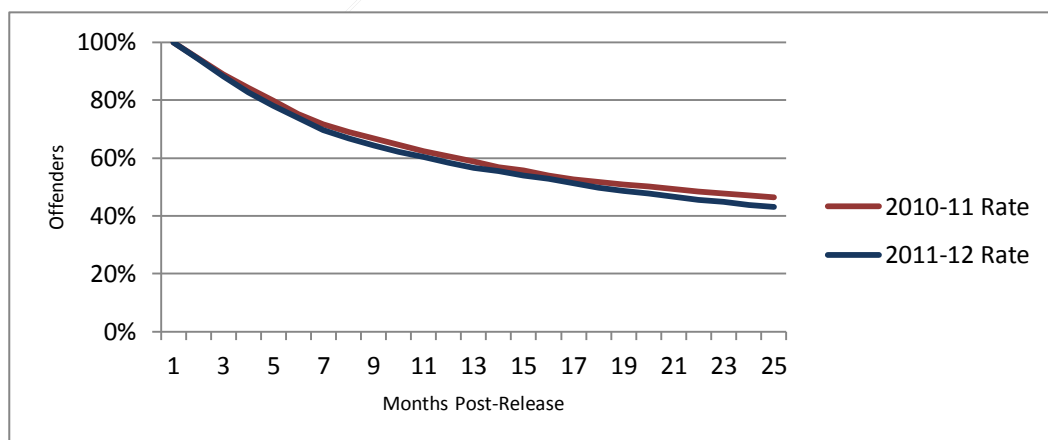


Figure 3: Return to custody rate for medium risk offenders for 2010/11 and 2011/12



5.2 Duration of parole terms

The duration of the intervention may also be impacted by parole duration. Table 7 provides a snapshot of parole terms for both those subject to court-based parole and those subject to SPA release.

Table 7: Duration of parole terms based on profile of all parole terms for all current parolees as at 1 December 2014

Parole term duration	State Parole Authority		Court-based parole		All parole orders	
	N	%	N	%	N	%
≤ 3 months	3	0.1	123	3.8	126	2.3
>3 and ≤ 6 months	26	1.2	773	23.7	799	14.6
>6 and ≤ 9 months	44	2.0	760	23.3	804	14.7
> 9 and ≤ 12 months	53	2.4	625	19.2	678	12.4
≥ 12 months	2085	94.3	975	29.9	3060	56.0
TOTAL	2211	100.0	3256	100.0	5467	100.0

6. Evidence-based practice

While a proposed social impact investment intervention need not include each of the principles of correctional “best practice” as outlined in this document, deviations to them should be supported by evidence. The extent of evidence for interventions involved in social impact investment mechanisms will determine the risk/return profile for stakeholders and is therefore an important factor for consideration.

The evidence for an intervention should identify the therapeutic target(s) to be addressed by the intervention, and the relationship of the therapeutic targets to offending. The strategy to deliver the therapeutic targets must be viable but creativity and innovation is encouraged. The government accepts that a unique strategy for delivery of the therapeutic targets may not have been subject to evaluation.

7. Opportunities for social impact investments

There are a number of readily apparent gaps in current service provision that could be met by a social impact investment initiative. These are listed below. However, proponents should not consider that investment opportunities are limited to those specified.

7.1 Support

Government-funded support services for medium-high and high risk parolees are available in 14 locations (those locations are shaded in Table 2). Possible attractive investment gaps in current service provision include:

- 14 locations where funded support services are available for medium-high and high risk parolees, but where demand exceeds supply
- 43 other locations where no funded support services are available for medium-high and high risk parolees but where parolees are supervised upon release
- 57 locations where medium-risk offenders are supervised on release but where no funded support services are currently available.

7.2 Interventions

Higher risk offenders require considerable levels of intervention. A challenge for Corrective Services NSW is the provision of sufficiently high levels of intervention to meet the needs of higher risk offenders. This gap occurs in spite of referral to a range of external services and programs to supplement Corrective Services NSW services. This gap in service provision provides an opportunity for the proponent to deliver programs/interventions targeting factors related to the offence.

The basis for the social impact bond at Rikers Island, New York is a therapeutic cognitive behavioural program. A similar program could be developed to 'boost' the impact of existing Corrective Services NSW programs for higher-risk parolees. The NSW Government is interested in any strategies that target evidence-based offence-related needs.

Importantly, the NSW Government would welcome suggestions for highly creative and innovative interventions. There are a number of opportunities for offence-related needs (including 'The Big Four') to be targeted in an alternative way to cognitive behavioural group-based programs.

7.3 Effect size

Cognitive behavioural programs can reduce re-offending since they target those variables which are the strongest predictors of further offending. However, this effect can be optimised by systematically addressing all variables which predict re-offending.

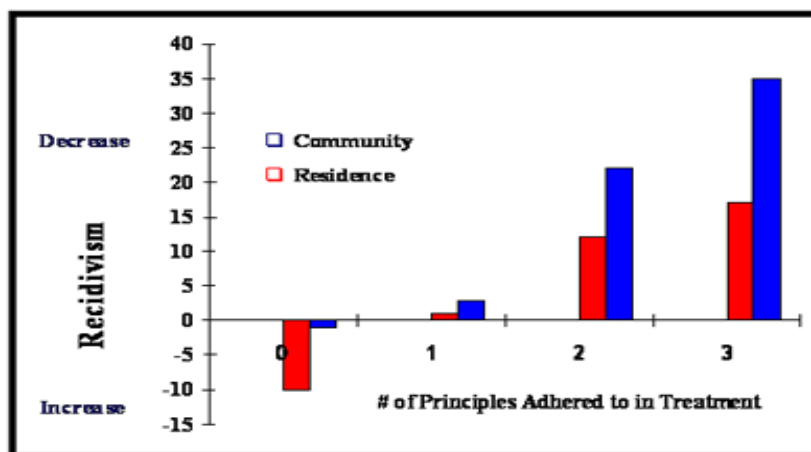
Based on the premise of proposals that "boost" service provision by Corrective Services NSW, we anticipate an intervention that encompasses the principles of Risk, Need and Responsivity to achieve a reduction in re-offending of approximately 10 per cent. The provision of post-release employment or post-release accommodation alone has not been shown to reduce re-offending (MacKenzie, 2013). For the intervention to be effective, proponents will need to work closely and collaboratively with Corrective Services NSW and complement existing service delivery.

There is considerable potential for improvement of current rates of re-offending despite the success being achieved by the government. Weatherburn and Ringland (2014) examined the rate of re-offending of 9,604 NSW parolees released during 2010 and 2011 and found:

- 29 per cent ($n = 3,412$) of medium risk parolees re-offended on parole
- 38 per cent ($n = 2,317$) of medium high risk parolees re-offended on parole
- 48 per cent ($n = 670$) of high risk parolees re-offended on parole.

Figure 4 shows the likely effect size from interventions that incorporate the Risk/Need and Responsivity Principles both in residential settings and in the community.

Figure 4: Benefits of adherence to the Risk/Need and Responsivity Principles in reducing re-offending (Andrews & Bonta, 2006).



It should be noted that interventions which fail to comply with the Risk/Need and Responsivity Principles can have a negative impact on further offending (see McCord 1978, 2003; Wilson et al., 2005). However, a well-designed and well implemented intervention can have substantial impact on rates of re-offending, particularly when delivered in the community setting (Andrews & Bonta, 2006).

7.4 Evaluation

In addition to measuring the outcomes for payment purposes, the intervention will be fully evaluated. Evaluation methodology will be determined by the type of intervention. Proponents will be expected to participate in the development of an evaluation plan and its execution.

8. Business as usual – The role of Community Corrections

Corrective Services NSW has a legislated responsibility to manage supervised parolees on release from custody. All supervised parolees are individually case managed.

8.1 Case management

An individualised case plan is prepared by Community Corrections based on LSI-R and other assessments. The case plan addresses the individual offence-related needs of the parolee at a level of intensity that matches the assessed level of risk. Interventions include standardised and accredited cognitive-behavioural programs to reduce denial and resistance, address the underlying attitudes and beliefs associated with offending as well as the development of new skills so that pro-social choices can be adopted. In addition, the parolee is referred to external government and non-

government services to address offence-related needs (e.g. methadone maintenance) and responsivity factors (e.g. mental health and housing).

It should be noted however, that the provision of services to address offence-related needs in some locations is limited by resource availability in that location.

8.2 Mandated participation

A further benefit of a social impact investment initiative which is framed by empirical evidence and that targets offence-related needs is that the initiative would become a component of the parolee's Corrective Services NSW case plan. The parolee would be required to attend and participate in the initiative under the direction of the Community Corrections Officer. This would mean that the parolee would not be required to volunteer for the social impact investment initiative and steps could be taken by the Community Corrections Officer to minimise drop-out and attrition. Therefore, the social impact investment initiative would serve to "boost" the level of success currently being achieved by Community Corrections in reducing re-offending.

There is no evidence that mandated intervention participants have different outcomes to those who volunteer. For example, Kelly, Finney, & Moos (2005) found that outcomes for men ordered by the court to attend a drug and alcohol program and who reported lower intrinsic motivation at the commencement of the program had the same outcomes as those who volunteered. Coviello and colleagues (2013) found that mandated offenders again reported less motivation at entry into intervention but were over 10 times more likely to complete the intervention compared to volunteers. In fact some studies, for example, Terlecki, Larimer and Copeland (2010), report enhanced outcomes for mandated participants.

8.3 Cognitive behavioural programs

Corrective Services NSW provides a range of cognitive behavioural programs/group-work interventions that directly target criminal thinking and criminal personality traits. These programs are listed in Table 8 (below).

Table 8: Cognitive behavioural and group-based programs provided by Corrective Services NSW

Program	Description	Duration	Eligibility
EQUIPS (Explore, Question, Understand, Investigate, Practice, Succeed)	EQUIPS is a therapeutic program developed by CSNSW to increase participation opportunities for both male and female offenders. <i>Can be followed by EQUIPS Addiction, or EQUIPS Domestic Abuse or EQUIPS Aggression</i>	20 x 2-hour sessions	Medium, medium-high and high-risk offenders (LSI-R) only and assessed as suitable based on pre-program interview
EQUIPS Addiction	Based on key SMART Recovery factors with an additional self-management module. Designed to address addictive behaviours and provide a pathway to SMART Recovery maintenance meetings, support groups for self-help or both. Modules are: motivation to abstain; urge coping skills; problem solving skills; lifestyle balance; and self-management planning for the future	20 x 2-hour sessions	Medium, medium-high and high-risk offenders (LSI-R) only and assessed as suitable based on pre-program interview
EQUIPS Domestic Abuse	Based on a psycho-behavioural framework, modules are: identifying abuse; managing emotions, beliefs and attitudes; offence-mapping; victim impact; and sexual respect, relationship skills and self-management strategies	20 x 2-hour sessions	Medium, medium-high and high-risk offenders (LSI-R) only and assessed as suitable based on pre-program interview
EQUIPS Aggression	Targets with expressive and instrumental aggression. Five modules are: emotional regulation; anger management skills, communication, relationships and values; offence-mapping; and self-management strategies	20 x 2-hour sessions	Medium, medium-high and high-risk offenders (LSI-R) only and assessed as suitable based on pre-program interview
Sober Driver	Assists repeat offenders to separate drinking from driving. Sober Driver does not address alcohol abuse as such but rather alcohol consumption in combination with driving.	9 x 2-hour sessions	Low, medium-low, medium, medium-high and high risk (LSI-R) repeat drink drivers
Pathways to Employment, Education and Training (PEET)	Operated in partnership with TAFE, assists offenders to identify opportunities for further education or employment opportunities. Participants become TAFE students for the duration of the program.	3 modules comprising 3 x 3-hour sessions	Low, medium-low, medium, medium-high and high-risk offenders (LSI-R), unemployed, drug and alcohol issues

Parolees may participate in multiple programs and may also be referred to external programs and services to address offence-related needs. However, resourcing for delivery of Corrective Services NSW programs to all eligible community-based offenders is a challenge. As a result, there are gaps in service delivery in both regional and metropolitan locations.

8.4 Support services

For the target group, in some locations, the NSW Government funds non-government agencies to support the parolee to access services specified in the Corrective Services NSW case plan. These agencies work closely and collaboratively with Community Corrections Officers to ensure that activities are directly linked to the offence-related and responsivity needs of the individual parolee as identified in the Corrective Services NSW case plan. The activities of these support agencies may include any, or any combination of the activities detailed in Table 9.

Table 9: Offender support service activities

Domain	Activities
<i>Accommodation Support</i>	Activities that assist parolees in gaining access to suitable community/private rental housing arrangements and to other appropriate community resources and services that will help maintain them in such accommodation. Activities are practice in nature as opposed to referrals.
<i>AOD service support</i>	Supporting the engagement with the AOD services and compliance with relevant care/case plans.
<i>Mental health</i>	Assist the parolee to access and engage with mental health treatment services and to help ensure that the parolee complies with prescription medication regime.
<i>Recreation / leisure</i>	Organising recreation/leisure activities for the purposes of supporting personal and social functioning, reinforcing positive behaviours and pro-social engagement and networks
<i>Navigating Centrelink services and other financial services</i>	Assisting offenders to navigate Centrelink services and to access financial services that may support vocational training and work development opportunities. This may include advocating on behalf of the offender to ensure appropriate streaming and/or assessment if a Disability Support Benefit is identified as a viable option.
<i>Assistance with Debt Reduction</i>	Assisting the offender to engage in services recognised as Work Development Order services.
<i>Access to Education</i>	Provision of assistance to access and participate in structured educational programs such as TAFE.
<i>Access to Educational support</i>	Provision of assistance to access and participate in remedial or transitional education programs or scholarships/grants.
<i>Job search skills development</i>	Provision of assistance in acquiring basic skills for obtaining employment
<i>Social and personal development</i>	Activities that promote personal, interpersonal and social development and a sense of belonging in the community
<i>Aboriginal and Torres Strait Islander cultural support</i>	Activities that promote connection to culture and heritage. These may be provided as structured classes or group activities on various aspects of personal development or active referral to appropriate services
<i>Cultural support for CALD offenders</i>	Activities that promote connection to culture and heritage. These may be provided as structured classes or group activities on various aspects of personal development or active referral to appropriate services

Domain	Activities
<i>Living skills development</i>	Provision or active referral to practical assistance and activities to develop or support the capacity for independent living, social interaction and community integration
<i>Transport assistance</i>	Provision of transport support to help offenders stay engaged in services related to their case plan, including assisting offenders to learn to coordinate public transport, meet the service provider at a central point to assist with transport or reminder telephone calls
<i>Development of family / household management skills</i>	Activities that re-establish and maintain family and household management skills
<i>Financial Advice and Guidance</i>	Provision or active referral for financial advice and guidance, for example, budgeting, paying fines and other commitments, financial management etc.

As members of the community, parolees have the same right of access to mainstream support agencies as any other member of the community. However, funded support services for supervised parolees are closely interlinked with the Community Corrections case plan and funded support service agencies work closely with the Community Corrections Officer who supervises the parolee. The target group for funded support services is medium-high/high-risk parolees in the 'top' 14 release locations throughout NSW. These locations are shaded in Table 2.

Resource constraints mean that not all of the target group in each location receive such support services since demand exceeds supply. In addition, the support services do not target medium-risk offenders and this may represent a gap in service provision. The 12-month re-offence rate for medium-risk males is 31 per cent and 25 per cent for females (Ringland, 2011) and so targeting this group may also appeal to proponents.

Funded support services are not only operating in limited locations but the duration of support is also constrained by resources. The first 12 weeks post-release is the initial duration for funded support services. This period can be extended if required and requested by the supervising Community Corrections Officer as a component of the parolee's case plan. This additional support is a relatively new funded service and has yet to be tested in terms of duration and intensity or the impact on rates of further offending and re-incarceration or revocation of parole due to non-compliance.

8.5 Compliance monitoring

Corrective Services NSW also assesses the harm that further offending may cause and the parolee's case plan also incorporates monitoring of compliance with the requirements of the parole order and the directions of the Community Corrections Officer. Such monitoring can include, any, or any combination, of the following:

- drug/alcohol testing
- scheduled home visits
- unannounced home visits
- reporting to the Community Corrections Office

- follow up on external referrals to ensure participation, compliance, and conditions of order/direction are being met, including discussions with service providers and case conferencing
- follow up on internal referrals to ensure participation, and compliance
- contact with victims to ensure safety (domestic violence offenders only) if cohabiting or in an ongoing relationship with the perpetrator
- police contact and exchange of information
- CSNSW Security and Investigations contact and exchange of information
- order conditions/direction in relation to antisocial associations and place restrictions and monitoring of compliance
- re-location accommodation checks
- visits to places of employment/contact with employers
- contact with family and significant others
- electronic monitoring (limited numbers)
- any other compliance and monitoring strategies deemed appropriate.

A pattern of failure to comply with the requirements of the parole order or the direction of the Community Corrections Officer may result in the parolee's order being revoked by the State Parole Authority (SPA). Unless the revocation is successfully appealed, the parolee will serve a further year, or the balance of the parole term (whichever is less), in custody. New legislation may provide SPA with the opportunity for greater flexibility in relation to revocation terms.

Parolees who are subject to the social impact investment intervention will also be subject to Corrective Services NSW programs and services, and monitoring by a supervising Community Corrections Officer. Supervision should be viewed as positive since international and NSW research has demonstrated that the relationship between the supervising Community Corrections Officer and the offender is directly linked to reduced re-offending. For example, Wan, Poynton, van Doon and Weatherburn (2014) found that supervising officers with frequent rehabilitative contact with offenders resulted in a statistically significant reduction in rates of re-offending. Overseas, Kennealy, Skeem, Manchak & Eno Loudon (2012) found that supervising Community Corrections Officers who balanced a working collaboration with procedural fairness (i.e. were firm, fair and caring) protected against re-arrest even after the offenders' pre-existing personality traits and risk of re-offending were accounted for.

9. References

- Allard, T. et al. (2014). The monetary cost of offender trajectories: Findings from Queensland (Australia). *Australian and New Zealand Journal of Criminology*, Vol. 47, p. 81–101.
- Andrews, D. A., & Bonta, J. (2010). Rehabilitating criminal justice policy and practice. *Psychology, Public Policy, and Law*, Vol. 16, 1, 39-55.
- Andrews, D. A., & Bonta, J. (2006) (4th Ed.). The psychology of criminal conduct. Cincinnati, OH: Anderson.
- Andrews, D. A. & Bonta, J. (1994). The psychology of criminal conduct. Cincinnati, OH: Anderson.
- Andrews, D. A., & Dowden, C. (1999). A meta-analytic investigation into effective correctional intervention for female offenders. *Forum on Corrections Research*, 11, 18-21.
- Bourgon, G., & Armstrong, B. (2005). Transferring the principles of effective treatment into a “real world” prison setting. *Criminal Justice and Behavior*, 32, 3.
- Coviello, D. M., Zanis, D. A., Wesnoski, S. A., Palman, N., Gur, A., Lunch, K. G., & McKay, J. R. (2013). Does mandating offenders to treatment improve completion rates? *Journal of Substance Abuse Treatment*, Vol. 44, 4, 417 – 425.
- Holtfreter, K., & Cupp, R. (2007). Gender and risk assessment. *Journal of Contemporary Criminal Justice*, Vol. 23, 363-382.
- Kelly, J. F., Finney, J. W., & Moos, R. (2005). Substance use disorder patients who are mandated to treatment: Characteristics, treatment process, and 1- and 5-year outcomes. *Journal of Substance Abuse Treatment*, Vol. 28, (3), 213-223.
- Kennealy, P. J., Skeem, J. L., Marchat, S. M., Eno Loudon, J. (2012). Firm, fair and caring officer-offender relationships protect against supervision failure. *Law and Human Behavior*, Vol. 36, 6, 496-505.
- Lowenkamp, C. T., & Letessa, E. J. (2002). *Evaluation of Ohio’s community-based correctional facilities and halfway house programs* (Technical Report). Cincinnati, OH: University of Cincinnati.
- Lowenkamp, C. T. & Letessa, E. J. (2004). Understanding the risk principle. How and why correctional interventions can harm low risk offenders (Technical Report. *Topics in community corrections, 2004*, (pp 3-8). Washington DC: US Department of Justice, National Institute of Corrections.
- MacKenzie, D. L. (2013). First do no harm: A look at correctional policies and programs today. *Journal of Experimental Criminology*, Vol. 9, 1-17.
- McCord, J. (1978). A thirty-year follow-up of treatment effects. *American Psychologist*, 33, 284–289.
- McCord, J. (2003). Cures that harm: unanticipated outcomes of crime prevention programs. *Annals of the American Academy of Political and Social Science*, 587, 16–30.
- Ministry of Justice, (2012) Proven re-offending statistics: definitions and measurement, Institute of Justice: UK.

- Reisig, M. D., Holtfretter, K., & Morash, M. (2006). Assessing recidivism risk across female pathways to crime. *Justice Quarterly*, Vol. 23, 384-305.
- Ringland, C. (2011). Improving the efficiency and effectiveness of the risk/needs assessment process for community-based offenders. *Crime and Justice Bulletin*, No. 154. Sydney
- Report on Government Services, (2014), Steering Committee for the Review of Government Service Provision, Productivity Commission.
- Select Committee on Regional and Remote Indigenous Communities Indigenous Australians Incarcerated and the Criminal Justice System (2010).
- Smith, P., Cullen, F. T., & Latessa, E. J. (2009). Can 14,737 women be wrong? A meta-analysis of the LSI-R and recidivism for female offenders. *Criminology & Public Policy*, Vol. 8, 1, 183-208.
- Terlecki, M. A., Larimer, M. E., & Copeland, A. L. (2010). Clinical outcomes of a brief motivational intervention for heavy drinking mandated college students: A pilot study. *Journal of Studies on Alcohol and Drugs*, Vol. 71, 1, 54 – 60.
- Wan, W-Y., Poynton, S., van Doorn, G., & Weatherburn, D. (2014). *Parole supervision and re-offending: A propensity score matching analysis*.
- Watkins, I. (2011). The utility of the Level of Service Inventory – Revised (LSI-R) assessments within NSW correctional environments. *Corrective Services NSW Corporate Research, Evaluation and Statistics, Research Bulletin No. 29*.
- Weatherburn, D., & Ringland, C. (2014). Re-offending on parole. *Crime and Justice Bulletin No. 178*. NSW Bureau of Crime Statistics and Research.
- Wilson, J. A., Cheryachukin, Y., Davis, R. C., Dauphinee, J., Hope, R., & Gehi, K. (2005). *Smoothing the Path From Prison to Home: An Evaluation of the Project Greenlight Transitional Services Demonstration Program*. New York, N.Y.: Vera.

C. Sample JDP agreement

[NSW Government letterhead]

To: [insert name of Authorised Representative of the Proponent]
 [insert Authorised Representative's title]
 [insert name of Proponent]
 [insert address of Proponent] ["Proponent"]

***Drafting note: This letter, as it is ultimately intended to form an agreement, would be addressed to someone within the Proponent's organisation that is senior and would have the authority to enter into a legally binding agreement, e.g. CEO.**

Attention: [insert name or delete if not applicable]

Date: [insert date letter issued]

Dear Sir/Madam

Request for Proposal Social Impact Investment (SII) Transaction

Background

- A. The Crown in right of the State of New South Wales, acting through NSW Treasury and NSW Department of Premier and Cabinet as lead agencies, (the **State**) wishes to undertake a Social Impact Investment (SII) transaction (**SII transaction**).
- B. The State issued a Request for Proposal entitled "[insert title of the RFP]" on [insert date of issue of the RFP] (**RFP**).
- C. The Proponent and others (**Consortium Members**) have submitted a proposal in response to the RFP.
- D. The Proponent has been selected by the State to participate in the SII development phase, as described in the RFP in accordance with the terms of this letter agreement and the RFP (**SII Joint Development Phase**).
- E. The Proponent has represented to the State that the Proponent has full authority to speak for and to represent the interests of Consortium Members in negotiations with the State during the SII Joint Development Phase.

2. Objectives, Purpose and scope of SII Joint Development Phase

- 2.1 The SII Joint Development Phase will commence on the date on which a signed copy of this letter agreement on behalf of the Proponent is received by the State (**Commencement Date**) and will terminate [6] calendar months from the Commencement Date unless otherwise extended by the State in writing or unless terminated earlier in accordance with the terms of this letter agreement.

Objectives

- 2.2 The objectives of the SII Joint Development Phase are:
 - (a) to further develop and/or design the overall approach to the implementation of a SII transaction;
 - (b) put agreements in place for the implementation of the SII transaction; and

- (c) ensure resource plans and other agreements are in place to support the SII transaction's implementation. (**Objectives**)

Purpose and Scope

- 2.3 The purpose and scope of the SII Joint Development Phase is to develop the Proposal submitted by the Proponent (**Proposal**) to a level of feasibility suitable for contracting including:

- (a) specification of the following matters for the SII transaction:
 - (i) cohort;
 - (ii) program outcome;
 - (iii) evidence base for program;
 - (iv) measurement of outcomes and unintended consequences;
 - (v) duration of the program, its assessment and the return to investor(s);
 - (vi) extension/variation provisions;
 - (vii) return to the State;
 - (viii) social benefits/impacts;
 - (ix) government relationship with investor(s), Proponent, Consortium Members and program provider (if different);
 - (x) risk allocation;
 - (xi) structure of the SII transaction;
 - (xii) process for appointment of independent evaluators or similar for both the program and payments;
 - (xiii) monitoring process;
 - (xiv) communication strategy;
 - (xv) risk management strategy;
 - (xvi) roles and responsibilities of the parties for the duration of the program;
 - (xvii) such other matters as the parties may reasonably agree; and
- (b) terms and conditions of the agreement to implement the SII transaction (as specified in accordance with clause 2.3(a)) to be entered into by the relevant government agency and the Proponent in the event that the Proposal is developed to an acceptable level of feasibility and the Proponent is chosen as a successful proponent under the RFP (**SII Implementation Agreement**).

Successful Proponent

- 2.4 At the conclusion of the SII Joint Development Phase, the State will review and evaluate the Proposal as developed in accordance with clause 2.3 (**Revised Proposal**), against the evaluation criteria set out in the RFP and without limiting the State's rights under the RFP or otherwise, determine whether the Proponent is selected as a successful proponent and within a reasonable time of having made a decision, notify the Proponent of its decision.
- 2.5 The State will be deemed to have given notification in accordance with clause 2.4 if the relevant parties execute the SII Implementation Agreement. If, following consideration of the Revised Proposal, the State actually notifies the Proponent in accordance with clause 2.4 that the Proponent is selected as a successful proponent then the parties will proceed to execute the SII Implementation Agreement as negotiated and settled as part of the Revised Proposal.
- 2.6 The Proponent acknowledges and agrees:
- (a) there is no guarantee that the Proponent, or any other proponent, or any Consortium Members, will be selected as a successful proponent;

- (b) the process for selecting a successful proponent, if that occurs, outlined in this letter agreement supplements the process contained in the RFP. If there is any inconsistency or ambiguity between this letter agreement and the RFP, that inconsistency will be resolved by the State in its absolute discretion;
- (c) nothing in this letter agreement may be construed as an indication or representation to the Proponent or the Consortium Members by the State that the Proponent or the Consortium Members will be selected as the successful proponent. The State is not liable for any loss or damage suffered by the Proponent or any Consortium Member arising out of or in connection with the Proponent or any Consortium Member not being selected as the successful proponent.

3. Commitments

Good faith, co-operation and collaboration

- 3.1 Each of the parties agrees to act in good faith during the SII Joint Development Phase. This means that the parties will act honestly and reasonably having regard to the terms of this letter agreement and the RFP and co-operatively by doing everything properly and reasonably within a party's control which is necessary to enable the other party to perform its obligations under this letter agreement.
- 3.2 The parties agree to work collaboratively throughout the SII Joint Development Phase in accordance with the following principles:
 - (a) all efforts by the parties will be open, transparent and collaborative;
 - (b) to the extent possible, all estimates of outcomes, milestones, measurements, timeframes and costs will be validated by competitive market testing or will otherwise be established by benchmarking by the Proponent to a standard reasonably acceptable to the State;
 - (c) all innovations and technical solutions identified by the Proponent will be incorporated into the SII Implementation Agreement and considered in evaluating the SII transaction;
 - (d) there will be a genuine commitment to innovation and continuous improvement in the development of the SII transaction, the SII Implementation Agreement and to satisfying the State's requirements as set out in the RFP and the Objectives;
 - (e) the terms of the SII Implementation Agreement will be developed as part of the SII Joint Development Phase but will as far as reasonably possible be consistent with relevant precedent documentation (if any) published by the State; and
 - (f) the SII transaction will be delivered in accordance with the SII Implementation Agreement.
- 3.3 The parties agree they will each exercise proper professional skill and due diligence in the SII Joint Development Phase and will ensure that their respective, officers, employees, contractors and agents, and additionally in the case of the Proponent, the Proponent will ensure that its Consortium Members and their respective, officers, employees, contractors and agents) are appropriately qualified, skilled and experience and also exercise professional skill, care and diligence.
- 3.4 Each party will as soon as reasonably practicable after the Commencement Date nominate in writing a working group to represent that party during the SII Development Phase.

Sharing of information

- 3.5 Each party will maintain and make their records and other information and documentation relevant to the SII Joint Development Phase and a SII transaction available to each other (and/or each other's nominated auditor) on request. A party will not be required to make records, information or documentation available if these are subject to confidentiality obligations or are unable to be lawfully disclosed by a party.

Negotiations with investors

- 3.6 It is the Proponent's responsibility to negotiate with the investors in the development of the SII, the SII transaction and the SII Implementation Agreement. The State may, where the State considers it reasonable and appropriate to do so, assist the Proponent in these negotiations.

Disputes

- 3.7 The Proponent acknowledges that the SII Implementation Phase is one of the steps in the procurement process set out in the RFP and this letter agreement is subject to the terms and conditions of the RFP.
- 3.8 If a dispute arises between the parties in relation to the SII Joint Development Phase and or this letter agreement each party agrees to use all reasonable efforts to settle the dispute by discussions between their nominated senior representatives. If the nominated senior representatives are unable to resolve the dispute then the dispute will be referred to the State's Steering Committee for the RFP for advice as to how the SII Joint Development Phase is to proceed, including in the event that the dispute cannot be resolved, whether the SII Joint Development Phase is to be terminated under clause 4.2.

Consortium Members

- 3.9 The Proponent is responsible to ensure that Consortium Members take all necessary action to enable the Proponent to fulfil its obligations in a timely manner under this letter agreement.

4. Term

- 4.1 Subject to clause 4.2, this letter agreement will commence on the Commencement Date and will terminate on the first to occur of the following dates:
- (a) if the Proponent is selected as a successful proponent in accordance with this letter agreement, the date the SII Implementation Agreement is executed by the relevant government agency and the Proponent;
 - (b) if the Proponent is not selected as a successful proponent, the date of written notification to the Proponent that it has been unsuccessful; or
 - (c) if the State and the Proponent by mutual agreement decide that this letter agreement is to terminate, the date agreed in writing as the termination date.
- 4.2 The State may at any time in its absolute discretion and with immediate effect terminate this letter agreement by giving the Proponent written notice of termination.
- 4.3 On termination or expiry of this letter agreement each party agrees to:
- (a) return to the other party all copies of information, documentation and material provided by the other party for the purposes of this letter agreement and in whatever form the information, documentation and material is held by that party; or
 - (b) alternatively, if permitted by the other party, destroy all copies of the information, documentation and material referred to in clause 4.3(a).
- 4.4 The State may, on termination or expiry of this letter agreement, at no cost, use any of the work, documentation or information developed under this letter agreement for any purpose whatsoever and the Proponent must provide any such work, documentation or information to the State, to enable the State's use, within 10 business days of a written request.
- 4.5 The Proponent must not do, or omit to do, anything which prevents the State from carrying out a SII transaction including without limitation, the State contracting with any other person or persons to implement a SII transaction.
- 4.6 Termination or expiry of this letter agreement does not affect the continued operation of clauses that by their nature should survive termination or expiry, including without limitation, consequences of termination or expiry, intellectual property, confidentiality and access to records.

5. Confidentiality

- 5.1 Each party (**Recipient Party**) agrees:
- (a) not to disclose the Confidential Information of the other party (**Disclosing Party**) to any person except:
 - (i) on a confidential basis to the officers, employees, contractors, subcontractors or agents of the Recipient Party requiring the information for the purposes of performing this letter agreement; and

- (ii) on a confidential basis to the Recipient Party's legal or professional advisers;
 - (iii) with the prior written consent of the Disclosing Party, or
 - (iv) if required to do so by law, government policy or in connection with legal proceedings;
- (b) to ensure that all Confidential Information of the Disclosing Party in the custody of the Recipient Party is protected at all times from unauthorised access or use by a third party or misuse, damage or destruction by any person.

5.2 For the purposes of this agreement "**Confidential Information**" means:

- (a) any information exchanged between the parties before, on or after the date of this letter agreement regarding the business affairs of either party that is not publicly available;
- (b) this letter agreement and its terms;
- (c) any information that is marked confidential by either party; and
- (d) any information disclosed to, or acquired by, the parties during the course of this letter agreement that is by its nature confidential.

5.3 For the purposes of this clause 5, Confidential Information of the Proponent includes Confidential Information of a Consortium Member.

6. Insurance

The Proponent must continue to maintain all existing insurances which it is required to hold and maintain under existing service provider agreements with government agencies.

7. Intellectual Property

7.1 This letter agreement does not assign ownership of any Intellectual Property existing on the Commencement Date and neither party may assert ownership of all or any part of the other party's pre-existing Intellectual Property.

7.2 If the Proponent has any pre-existing Intellectual Property as at the Commencement Date that are applied in the development or content of the SII transaction and/or the SII Implementation Agreement, the Proponent grants to the State by this letter agreement an irrevocable, non-exclusive, world-wide, perpetual, transferable, sub-licensable, royalty-free licence of that pre-existing Intellectual Property for use in relation to or in connection with an SII transaction and its implementation by the State, or on its behalf.

7.3 If any Intellectual Property is developed solely by, or on behalf of, the Proponent or jointly by or on behalf of, the parties in the course of the parties performing their obligations under this letter agreement, the State owns that Intellectual Property and such Intellectual Property on its creation vests, or otherwise is assigned or transferred to the State without the need for further assurance.

7.4 If ownership of Intellectual Property referred to in clause 7.3 is not capable of being vested in the State under clause 7.3 because the Proponent does not own or is unable at a reasonable cost to obtain ownership of that Intellectual Property, the Proponent must use reasonable endeavours to cause the State (at no cost to the State) to be suitably and irrevocably licensed to use and to sub-license the use of that Intellectual Property in relation to or in connection with an SII transaction and its implementation.

7.5 The Proponent must use reasonable endeavours to facilitate (at no cost to the State) all necessary consents from any individual that has Moral Rights in the Intellectual Property to its use, adaptation and all other actions by the State (or any of its officers, employees, contractors and agents) or the Proponent in the exercise of the rights conferred under this clause 7. Such consents must be without restriction and without any requirement to attribute authorship or performership, including any act of omission that might otherwise infringe the Moral Rights of any individual.

7.6 The State by this letter agreement grants to the Proponent an irrevocable, non-exclusive, perpetual, royalty-free licence of the Intellectual Property referred to in clause 7.3 for use:

- (a) if the Proponent is successful, in relation to the SII transaction and its implementation in accordance with the SII Implementation Agreement; and

- (b) in relation to a SII transaction or similar other products, services or programmes within Australia in association with other Australian Commonwealth, State and Territory, and local government agencies and instrumentalities.

7.7 If the Proponent requires a licence additional to those granted in or under clause 7.6 to use Intellectual Property referred to in clause 7.3, the Proponent must make a written request to the State stating the nature of the additional licence required and the reason why such licence is required. The State will consider the request in good faith and, if the State considers it reasonable to do so in the circumstances, grant a further licence subject to the parties entering into a written agreement as to the terms of any additional licence.

7.8 Without limiting any other rights which the State may have under this letter agreement or at law, the Proponent agrees to compensate the State and its officers, employees, contractors and agents (**those compensated**) against all damage, liability or loss incurred or suffered by any of those compensated (including legal costs on a solicitor client basis) arising directly or indirectly out of or in connection with:

- (a) a breach of this clause 7, whether by any act or omission and whether negligent, wilful reckless or unlawful; and/or
- (b) any claim for infringement or alleged infringement of any Intellectual Property and Moral Rights in relation to or in connection with a SII transaction and its implementation or any material provided or created under this letter agreement including any modifications, variations or adaptations to that material.

The Proponent's liability will be reduced to the extent the damage, liability or loss incurred or suffered was caused by those compensated.

7.9 For the purposes of this clause 7:

- (a) **Intellectual Property** means all intellectual and industrial property rights throughout the world, whether created before or after the Commencement Date, including copyright, trademarks, designs, patents, semiconductor or circuit layout rights, know-how, or other proprietary rights, whether or not registered or not registrable and any rights to register such rights;
- (b) **Moral Rights** means the rights of integrity and rights of attribution of authorship and performership and other rights of a similar nature which now exists or which may exist in the future, including without limitation moral rights under Part IX of the *Copyright Act 1968* (Cth) and performers' protection under Part XIA of the *Copyright Act 1968* (Cth); and
- (c) the Intellectual Property of the Proponent and the Moral Rights of the Proponent include those of the Consortium Members.

8. Costs

Each party will bear its own costs arising out of or in connection with this letter agreement.

9. Deed

This letter agreement is executed and takes effect as a deed.

10. Governing Law

This letter agreement is governed by the law applying in New South Wales.

11. Acceptance

Please sign and return to the State the enclosed copy of this letter to indicate agreement and acceptance of its terms.

