

INVITATION TO APPLY FOR INCLUSION ON A MULTI- USE LIST FOR THE PROVISION OF COACHING SERVICES TO THE AUSTRALIA COUNCIL FOR THE ARTS

REFERENCE NO: **MUL 2020/2021 001**

This document is available until the closing date.

The Australia Council for the Arts is the Australian Government's principal arts funding and advisory body. Each year, we deliver more than \$180 million in funding for arts organisations and artists across the country. As a statutory authority, our powers and functions are set out in legislation under the *Australia Council Act 2013*. We have approximately 106 employees.

We are currently seeking expressions of interest ('EOI') from coaching service providers to join a Multi-User List (MUL).

LODGEMENT OF APPLICATIONS

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

Applicants are to submit an original application by the closing time.

Applications should be sent by a secure email and lodged/received by the closing time of **2:00 pm Australian Eastern Standard Time (AEST) on 24 August 2020**. The application should state the above reference number and submit:

By email: tenders@australiacouncil.gov.au

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

Faxed, posted and hand-delivered applications will not be accepted.

PART A - APPLICATION INFORMATION

1 OVERVIEW OF REQUIREMENT

The overall objective is to seek expressions of interest from coaching service providers (applicants) to join a Multi-User List (MUL), for the provision of career coaching and/ or personal development and/or executive coaching services to the Australia Council.

2 INFORMATION FOR APPLICANTS

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

3 SUMMARY OF REQUIREMENT

- 3.1 This MUL process aims to provide the Australia Council with a pool of prequalified providers who have satisfied the conditions for inclusion on the list and who can provide one or more of the services outlined in the Statement of Requirement.
- 3.2 Once the MUL is established, we may seek submissions for specific scopes of work from members of the MUL. A more detailed description of the type of Services the Council anticipates and is likely to require are detailed in the Statement of Requirement.
- 3.3 In seeking submissions from members of the MUL we will aim to identify a provider with whom we will enter into a contract for the provision of those specific Services.
- 3.4 We may, at our discretion, conduct either an open tender process, where inclusion on the MUL may be used as an essential criterion or condition of participation, or approach a select number of providers from the MUL where such an approach is commensurate with the value of the contract to be entered into. We may also exercise our discretion and approach just a single member of the MUL for a specific requirement and enter into a contract.
- 3.5 We may, at our discretion and as part of our due diligence, conduct financial checks on any of the members of the MUL.

4 APPLICATIONS

- 4.1 Applicants should respond to this MUL by completing Part B and providing a response to the selection criteria.
- 4.2 Applicants are required to read the Multi-Use List Rules before completing and submitting their Application Form (Part B).

STATEMENT OF REQUIREMENT

Providers that successfully meet the requirements outlined in this statement may be included on a list of pre-qualified (the MUL) providers for coaching services to the Australia Council.

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

1 SERVICE REQUIREMENTS

Services will fall into the following broad categories:

- Career Coaching
- Professional Development
- Executive Coaching

2 TECHNICAL AND MANAGEMENT CAPABILITIES

Members of the MUL are expected to have and maintain significant knowledge and experience in the following:

- coaching techniques and organisational psychology
- market conditions and trends, including the arts sector and government
- relevant legislation, regulations and frameworks, in particular the *Fair Work Act 2009*, and the *Work Health and Safety Act 2011*

3 QUALITY AND STANDARDS

Any services provided must be to the standard that would be expected of an experienced and professional contractor and provider of similar services and any other standard specified by the Australia Council. For any particular scope of work, we may set a level of quality or standards which must be adhered to in performing the services. These quality standards, where applicable, will be used as performance indicators in assessing the work provided by a member of the MUL.

4 TIMING

Members of the MUL may be asked to provide the services within timeframes set by us or agreed with us. Members of the MUL may be asked to provide services in urgent timeframes or over a planned program of work including milestones or phases.

5 LOCATION OF SERVICES

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

6 PERIOD OF SERVICES

It is anticipated the MUL will be operational for two years. The MUL will take effect on 14 September 2020 and conclude on 13 September 2022, or at such time that the MUL is renewed after this date. At this time, we will advise all members on the list that the MUL is to be terminated.

7 GOVERNMENT LEGISLATION AND POLICIES AFFECTING THE SERVICES

Members of the MUL will be required to adhere to all relevant Australian Government legislation as outlined in the Multi-Use List Rules below. This legislation covers areas such as work health and safety, privacy, record keeping and confidentiality. Failure to adhere to all relevant Government legislation will prevent an applicant from being included on the MUL.

MULTI-USE LIST RULES

1 PRIVACY LEGISLATION

The MUL will require successful applicants to comply with the Australian Privacy Principles contained in the *Privacy Act 1988* (Cth), in relation to personal information handled by the applicant.

2 GENERAL DATA PROTECTION REGULATION (GDPR) (EU) 2016/679

Where required a provider may be asked to comply with the General Data Protection Regulation (GDPR) (EU) 2016/679 and to use adequate safeguards with respect to the protection of privacy and the fundamental rights and freedoms of individuals whose personal data they process under a services agreement with the Australia Council.

3 DISCLOSURE OF INFORMATION

- 3.1 We will keep all applications submitted confidential unless required by law to disclose information.
- 3.2 Applicants should note that we may disclose any information contained in or regarding an application without your written authority to:
 - (a) Parliamentary Committees;
 - (b) Employees and advisers engaged by the Commonwealth; and
 - (c) Commonwealth departments, agencies, bodies, enterprises, authorities and Ministers,

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

4 FREEDOM OF INFORMATION

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

5 MODERN SLAVERY ACT 2018

In performing the obligations under any services agreement with the Australia Council, the provider will (and will ensure that each and any of its subcontractors will):

- (a) comply with the *Modern Slavery Act 2018*; and
- (b) take reasonable steps to ensure that there is no modern slavery or human trafficking in the provider's or subcontractors supply chains or any part of their business.

6 COMPLIANCE WITH COMMONWEALTH POLICIES AND LEGISLATION

- 6.1 The successful applicants must, when using our premises or facilities, comply with all reasonable directions and procedures relating to occupational health (including its smoke-free workplace policy), safety and security in effect at those premises or in regard to those facilities, as notified by us, or as might reasonably be inferred from the use to which the premises or facilities are being put.
- 6.2 Applicants should be in compliance with their obligations under the *Workplace Gender Equality Act 2012* (Cth) and not be proposing to enter into any subcontracting arrangements with a subcontractor named by the Equal Opportunity for Women in the Workplace Agency as an employer currently not complying with the Act. It is also an Australian Government policy not to contract with parties engaging illegal workers.

7 AUSTRALIAN BUSINESS NUMBER (ABN)

Your ABN must be stated in Part B.

8 APPLICABLE LAW

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

9 OWNERSHIP OF APPLICATION

All documents submitted in response to this MUL shall become our property. We may use, reproduce, communicate or modify any application for assessment, but will keep applications confidential (unless required by law to disclose information)

10 FINANCIAL VIABILITY

- 10.1 Successful providers may be asked to provide financial data so that the Australia Council may conduct detailed evaluations of your financial position. For this purpose, you should be prepared to provide details of relevant financial data when requested by us.
- 10.2 In agreeing to supply relevant financial data, you also agree that the information supplied will represent a true and fair statement of your affairs.

11 APPLICANTS TO MEET OWN COSTS

An applicant's participation in any stage of the EOI is at your sole risk, cost and expense. The onus is on you to inform yourself appropriately.

12 RIGHT TO TERMINATE

We may terminate this EOI at any time.

13 RIGHT TO REQUEST FURTHER INFORMATION

- 13.1 Notwithstanding any other requirement of the EOI, we may require you to submit additional information to allow further consideration of your application.
- 13.2 Should you fail to submit any of the information we require by the date and time stipulated, your application may be excluded from further consideration.
- 13.3 Any request by us for further information is not, nor deemed to be, a representation by us that the application is, or is likely to be, accepted.

14 COUNCIL'S RIGHT TO NEGOTIATE

- 14.1 We may negotiate the contents of an application with any applicant.
- 14.2 Any request by us to negotiate all or any part of an application is not, nor deemed to be, a representation by us the application is, or is likely to be, accepted.

15 NO CONTRACT

Nothing in this EOI shall be construed to give rise to any contract between us and any applicant until a contract is entered into with a successful applicant.

16 REMOVAL FROM THE MULTI-USE LIST

We may at any time after the establishment of the MUL, exercise our discretion to remove a successful applicant from the MUL if we become aware that the successful applicant ceases to meet the conditions for participation.

PREPARING APPLICATIONS

Applicants must respond to the EOI by completing Part B and addressing the matters identified.

1 SUBCONTRACTS

Any subsequent contract entered into requires that you not subcontract the whole of your obligations under a contract. You may, with our prior consent, subcontract part of your obligations, but you will still be responsible for the performance of that subcontracted work.

2 GENERAL CONDITIONS OF CONTRACT

- 2.1 We expect successful providers to provide the services in accordance with our contract terms and conditions.
- 2.2 We reserve the right to negotiate the terms and conditions of any contract entered into with any or all of the providers. If we and a provider cannot agree on the terms and conditions to be applied to the contracts created under the MUL, we reserve the right to remove the applicant from the MUL.
- 2.3 We do not warrant or make any representation that a successful applicant will be invited to participate in a tender process for any work or will be guaranteed any or any quantity of work.
- 2.4 We may, at our discretion, procure any of the types of services covered by this EOI without using any of the providers listed on the MUL.
- 2.5 We operate on 30-day payment terms from the date of invoice for all services provided under the MUL.

3 INSURANCE

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

EVALUATING APPLICATIONS

1 EVALUATION PROCESS

Applications will be assessed by the Australia Council's Human Resources representatives in strict compliance with the requirements of this EOI and the Australia Council's Procurement Guidelines. Non-compliant applications may be precluded from further consideration.

Completed templates as provided at Part B will only be considered and assessed. You must provide the evidence required at a particular item and confirm compliance with Part A to be considered for inclusion on the MUL.

2 NOTIFICATION TO APPLICANTS

We will advise successful applicants that they have been included on the MUL in writing at the end of the evaluation process.

Where we reject an application for inclusion on the MUL or cease to recognise a potential provider as having satisfied the conditions for inclusion on the MUL, we will inform the potential provider at the earliest opportunity and, on request, provide the potential provider with an explanation of the reasons for our decision.