



INDEPENDENT
TRANSPORT
SAFETY AND
RELIABILITY
REGULATOR

ITSRR

Expressions of Interest

Establishment of Legal Panel

Current arrangements for ITSRR's Legal Panel expire on 30 June 2007. Expressions of Interest are invited from suitable applicants to be appointed to a new Legal Panel to be established by ITSRR from 1 July 2007. Successful applicants appointed to the Legal Panel may be engaged from time to time to assist in the provision of legal advisory services to ITSRR. The Legal Panel will remain current for 3 years or such further period as ITSRR in its absolute discretion determines or agrees with the effected panellists.

Expressions of Interest must address the requirements contained in the "Information Package for Legal Panel" which can be accessed at **www.transportregulator.nsw.gov.au**. Persons without internet access who require an Information Package and those who seek further information should contact Frances Bonaddio on (02) 8263 7184.

Expressions of Interest must be received by ITSRR by 5.00pm on 26 February 2007.

“Information Package for Legal Panel”

INDEPENDENT TRANSPORT SAFETY AND RELIABILITY REGULATOR

Establishment of Legal Panel

1. Introduction

The Independent Transport Safety and Reliability Regulator (ITSRR) is an independent entity responsible for regulating rail safety and advising Government on reliability of publicly funded rail, bus and ferry services.

Rail operators throughout NSW are required to be accredited by ITSRR under the *Rail Safety Act* to operate. ITSRR assesses and monitors rail operator's terms of accreditation, safety management systems and compliance with the *Rail Safety Act* through audits and inspections. Where necessary ITSRR will undertake compliance investigations of accidents and breaches of accreditation or the *Rail Safety Act* and will enforce compliance through use of sanctions.

The State of NSW has a large and complex rail system. A key challenge for ITSRR is working to build credibility with the public and the rail industry in clearly demonstrating that the safety regulatory model is effective. ITSRR aims to achieve a high standard of rigor and transparency in regulating the rail industry to assure the Government, public and passengers that they are receiving the best possible safety outcomes from the rail system.

ITSRR aims to provide open and meaningful consultation with rail industry operators through communication of standards, feedback on audit results and debriefing on safety compliance investigations. Establishing this professional working relationship will assist in facilitating longer-term risk management strategies that systematically focus on improving safety management systems.

ITSRR works collaboratively with the Office of Transport Safety Investigations (OTSI) which is formed as a separate NSW Government entity. This collaboration involves receiving advice of safety incidents that occur on the rail network, liaison on certain information received in the confidential reporting system and provision of Investigations Reports conducted by OTSI under S67 of the *Rail Safety Act*. ITSRR has the obligation to monitor implementation by rail operators of recommendations contained in investigations completed by OTSI.

The management team within ITSRR plays a fundamental role in anticipating, leading and managing policy, regulatory and procedural changes through coordinated strategic policy and planning. It focuses on continuous reform and improvement, productive partnerships, open communication and demonstrable improvements in rail safety.

Complementary to ITSRR's rail safety regulatory role, the Service Reliability Division researches and analyses reliability standards of publicly funded transport operators in order to provide advice to government about the sustainable management of transport services.

The ITSRR is seeking Expressions of Interest for suitably qualified legal advisers to be appointed to a new Legal Panel to be established by ITSRR. Successful applicants appointed to the Panel may be engaged from time to time by the ITSRR to assist in the provision of legal advisory services to it.

2. Currency of Legal Panel

The Legal Panel, once established, will remain current for a period of 3 years. After this time the ITSRR may call for new Expressions of Interest or it may, in its absolute discretion, extend the appointment of panellists for such period as it sees fit.

Existing panellists should note that if they wish to be considered for inclusion on the new panel, they will need to reapply. The ITSRR reserves the right to determine at its sole discretion as and when it will select panel members for legal work. Before referring legal work to the panel the ITSRR may request one or more panel members to provide an estimate of fees for the provision of the legal advice.

3. Expressions of Interest requirements

Proposals are required from interested parties. Proposals should not exceed 5 pages, but appendices may be attached. Each proposal should provide:

- details of the name, address and legal status of the firm or individual;
- a response to the selection criteria specified in section 4;
- details of previous experience of the key staff to be nominated as advisers;
- the names and contact details of three referees;
- details of relevant insurances held by the firm/individual;
- details of any potential conflict of interest and method to resolve that conflict; and

- a schedule of fees for nominated personnel.

Expressions of Interest that do not address the above requirements may be deemed non-conforming and will not be considered by the selection panel.

As part of the probity requirements for the Panel, the successful firms will be required to enter into a contract of appointment, including provisions covering confidentiality, copyright and the use and ownership of materials. A draft of this contract is appended to this Information Package.

4. Selection Criteria

The criteria that will be used for the selection of advisers to the Panel is as follows:

Part A:

- demonstrated understanding and knowledge of the NSW rail safety regulatory framework applying in NSW;
- demonstrated knowledge and understanding of the key legal issues to be faced by ITSRR, including issues relating to the transition to, and implementation of, the National Model Legislation;
- capacity and experience in advising the rail industry, including knowledge of all relevant legislation applying to the industry;
- demonstrated ability to assign dedicated staff to provide legal services of appropriate experience and qualifications, including nomination of a principal contact;
- value for money in the proposed fee structure; and
- absence of, or ability to satisfactorily manage, existing or potential conflicts of interest.

Part B:

In addition applicants will need to satisfy one or more of the following criteria.

- broad experience in advising the public sector on a range of matters, including contracting, commercial and administrative areas of law;
- broad experience in, or capability to acquire experience in, drafting statutory instruments, such as Notices of Accreditation; and/or
- capability and experience in the conduct of civil and criminal enforcement proceedings, including the conduct of matters in the Administrative Decisions Tribunal.

Other criteria may be used in assessing Expressions of Interest.

The ITSRR is under no obligation to accept the lowest or any Expressions of Interest.

No applicant is entitled to be reimbursed for any expense or loss incurred in the preparation and submission of its Expressions of Interest or for any costs incurred in attending meetings with the ITSRR during the Expressions of Interest evaluation process.

5. EOI Timetable

The proposed timetable for selection of advisors is as follows:

15-16 December 2006	Initial issue of request for EOI for appointment of Legal Advisory Panel. It is proposed that these requests will be repeated in January 2007.
COB 26 February 2007	Written EOI received from interested parties.
26 March 2007	Shortlisted applicants notified.
2-6 April 2007	Interviews with shortlisted applicants.
16 April 2007	Announcement of successful applicants.

Please note that shortlisted applicants may be required to attend an interview with members of ITSRR (dates will be advised on notification of shortlisting.) Interviews will be for a duration of approximately 20 minutes.

6. Time and place for lodgement

Four bound copies and one unbound copy of the written proposal must be submitted to:

Frances Bonaddio
Legal Support Officer
Independent Transport Safety and Reliability Regulator
Level 22, 201 Elizabeth Street
Sydney NSW 2000

Copies of proposals may also be provided via email (contact frances.bonaddio@transportregulator.nsw.gov.au).

The deadline for proposals is 5pm Monday, 26 February 2007. Expressions of Interest may be delivered from 9am. The ITSRR may, at its discretion, refuse to consider EOIs received after this deadline.