**IK Panel FAQ’s**

**Who is IP Australia?**

We're the Australian Government agency that administers intellectual property (IP) rights and legislation for patents, trade marks, design rights and plant breeder's rights.

**What is Indigenous Knowledge?**

IP Australia uses the term ‘Indigenous Knowledge’ or ‘IK’ to cover a range of knowledge held and continually developed by Aboriginal and Torres Strait Islander peoples. It includes Traditional Cultural Expressions (TCE), Traditional Knowledge (TK) and knowledge relating to Genetic Resources (GR).

**What is the purpose of the IK Panel Pilot?**

The Panel will contribute to policy and provide guidance to IP Australia on matters relating to IK, including IP applications that contain IK, and IP Australia’s engagement with Aboriginal and Torres Strait Islander peoples.

**What is meant by the term ‘pilot’?**

The term ‘pilot’ essentially means that it is a small-scale trial. It will allow IP Australia and the panel members the opportunity to test out different ideas and identify any unforeseen challenges before deciding whether to continue it on a more permanent basis.

**What is the assessment criteria?**

Overall value for money is the main consideration for government contracts. When assessing value for money we will consider the following for each applicant:

* Capability
* Capacity
* Diversity of experience and expertise
* Risk

**Am I the right candidate?**

The IK Panel will consist of three individuals; a Chair and two members, who are of Aboriginal and Torres Strait Islander descent, identify as such and are accepted by their communities.

We will be looking for the panel members to have a range of skills and a mix of appropriate expertise and experience across at least one of these areas:

1. intellectual property rights and legislation
2. lived experience of Aboriginal and Torres Strait Islander culture and associated traditional knowledge and traditional cultural expressions
3. involvement in contemporary Aboriginal and Torres Strait Islander issues, with strong community connections
4. experience in engaging Aboriginal and Torres Strait Islander stakeholders, including communities, businesses and Elders; or
5. business/legal expertise.

**Do I have to be Aboriginal or Torres Strait Islander to apply?**

Closing the Gap is underpinned by the belief that when Aboriginal and Torres Strait Islander people have a genuine say in the design and delivery of policies, programs and services that affect them, better life outcomes are achieved.

For the IK Panel to be genuine and effective, it must be led by Aboriginal and Torres Strait Islander expertise which can only come from the lived experiences of Aboriginal and Torres Strait Islander people.

So, if you are applying as an individual, you must be of Aboriginal and/or Torres Strait Islander descent (see additional information above).

Non-Indigenous businesses/organisations can also apply, but the individual/s that they nominate to be on the panel must be Aboriginal and/or Torres Strait Islander.

**Will there be both men and women on the Panel?**

Diversity on the panel will be very important to achieve the best results. Not just a mix of male and female members, but also geographic diversity (where the members come from) as well as a mix of different skills and experience. These factors will all be considered when assessing who will be engaged on the panel, but it will obviously also depend on who applies.

**How much work is anticipated?**

As the IK Panel is a new pilot or trial (for three years), it is difficult to determine exactly how much work will be involved before it is established. We have estimated a workload of up to 30 days per financial year. This is made up of five formal meetings (guaranteed working days) and up to 25 additional working days depending on priorities and business needs.

**Will I be paid?**

Service fees have been based on the Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No. 2) 2023, noting that the Panel does not come under the jurisdiction of the Remuneration Tribunal. Panel members will be paid a daily fee of up to:

a) $595 (GST inclusive) in the case of the Chairperson, and

b) $448 (GST inclusive) in the case of a panel member that is not the Chairperson.

For the purpose of above, all relevant preparation, travel, attendance and follow up related to a meeting day is included in the total daily fee.

**Will I need to pay tax on the payments, and will superannuation also be paid?**

Where IP Australia contracts directly with you, you would be considered an independent contractor. If you don’t have an ABN, tax may need to be withheld from your payment. It is also likely that you would also be paid superannuation payments. Further advice will be provided to the successful applicants.

If you are engaged through a third party (e.g. a labour hire company), tax would not be withheld, and additional superannuation would not be paid as different rules apply.

**Will I need to have any specific insurance coverage to be on the panel?**

IK Panel members who undertake travel to our premises, for meetings, are covered by our public liability policy. Coverage is also extended while panel members are in any premises and conducting business/working on behalf of IP Australia.

Given the type of work the panel will be doing, we don’t consider that professional indemnity insurance will be required.

**Will I have to travel, and will this be covered by IP Australia?**

Travel will not be required for all aspects of the work of the panel, as it is likely that much of the work will be able to be undertaken either at home or in your office.

However, some travel will be required for meetings, training, events etc, which will be determined by IP Australia. Where this is the case, all travel will be organised and paid for by IP Australia.

**What documentation will I need to include in my application:**

Satisfactory evidence confirming the Aboriginal and/or Torres Strait Islander Heritage of the Specified Personnel must be in the form of a confirmation from an incorporated Aboriginal or Torres Strait Islander community organisation or association.

Depending on the applicant’s entity type, you will also need an ABN, ACN, ARBN, trust deed or meet the Australian Taxation Office’s definition of an [independent contractor](https://www.ato.gov.au/business/employee-or-contractor/how-to-work-it-out--employee-or-contractor).

**What is an Approach to Market?**

This opportunity is being run through AusTender as an Open Approach to Market. This is the Governments way of notifying the public of an opportunity to participate in a procurement. The
IK Panel Pilot will be run through a procurement instead of a typical recruitment to ensure an open and transparent process to engage independent contractors.

The Approach to Market or ‘ATM’ sets out all the requirements for the positions we are looking to fill, including requirements, expectations, contracting obligations etc.

The Response to Approach to Market is your application and will need to include all relevant information to support the requirements of the Approach to Market.

**How do I apply?**

While tender processes can look complicated, this one is really simple.

1. If you don’t already have one, you will need to set up an [AusTender](https://help.tenders.gov.au/getting-started-with-austender/) account.
2. You will be able to access the IK Panel Pilot Approach to Market this contains the full details of what we’re looking for and how to apply.
3. Complete the Response to Approach for Market making sure you have included all the required information, and you meet all the eligibility criteria.
4. Submit your application no later than **3:00pm AEST Wednesday, 7 August 2024** electronically via the AusTender website. Acceptable file formats are: PDF (.pdf) and Microsoft Word (.docx).

**How will my application be assessed?**

Once the process has closed for applications, IP Australia will commence the assessment.

* Eligibility: You must meet the eligibility to be considered.
* Short-list: Short-listing may occur based on the number of Responses received.
* Response: An assessment of each Response will be conducted against the Requirements and Assessment Criteria of the Approach to Market.
* Interviews: Interviews may be conducted of applicants as necessary.
* Referees: Referees may be contacted for Applicants as necessary.
* Once the team receives and reviews the applications, they will contact suitable applicants to advise next steps.
* Unsuccessful applicants will be advised by email and debriefings will be provided upon request.

**24 July 2024 Addendum:**

**I am trying to understand what it is that IP Australia is seeking to answer via approach to market request and five questions for submission and consideration.**

Applicants will need to download the IK Panel – Response to Approach for Market document and complete all sections.

It is expected that the applicant will set out what their skills and experiences are in being able to deliver on the functions of the panel in Part 2 and 3 of the Response to Approach for Market document.

**When does the role actually start?**

Applications close on the 7th August 2024. The timeframe will depend on how many applications we receive and will determine how long the evaluation process is. However, we anticipate the panel members would start around mid to late October 2024.

**Is there a rationale for why a three-member panel?**

At this stage we are unsure of the what the workload for the panel looks like. We thought it best to start with a smaller group of panel members and grow from there. This will be re-evaluated once the panel has been up and running for a while and we know what the longer-term workload looks like.

**Is the advisory function of the panel in terms of providing advice as a panel or in the preparation of drafting documents as an advice?**

How the panel provides its advice is still to be determined once the panel is established. The advisory function of the panel is to provide advice on our internal policies and processes, how IP Australia assess applications that consider Indigenous Knowledge and also how we might be able to change legislation to better protect Indigenous Knowledge.

The government has committed to introducing standalone legislation to better protect Traditional Knowledge. The Office for the Arts has the lead on this, however the panel may assist by providing advice to IP Australia on elements of this as well.

As far as providing advice on applications, there is legislation around who can approve IP rights applications, but we anticipate the panel will have the ability to look at the applications that contain Indigenous Knowledge and provide advice on how this should be treated. This advice provided will be considered by the decision makers in the IP rights areas when they are making their decisions.

**What is the overall mindset of the Senior Executive around this work?**

We are very fortunate at IP Australia that we’re exceptionally well supported by our executive and they are all passionate about the Indigenous Knowledge work across the agency.

**Noting the distinction between shared decision making and informed decision making, what processes are in place or will be implemented to ensure there’s a really clear explanation as to why or what those parameters are around accepting advice from the panel or not.**

With the current IP legislation, in particular when it comes to considering applications that contain Indigenous Knowledge it cannot be a shared decision-making model. We want the panel members to help inform how we might be able to make changes in our legislation which may allow this to occur in the future. We’re also looking at setting up processes to work out how the panel members will feed information into the decision-making process and how we can include that in our internal policies and procedures.

We will be setting up protocols, with input from the panel on how their advice is received and handled. This will include what information comes back to the panel if its advice has not been implemented, which may happen for a number of reasons, such as legislative constraints.

**What is the intersection of this work and its relation to the APS data governance framework?**

The short answer is at the moment not quite sure, so we're still very much in the early days, but we have we've got a data team within IP Australia, and we'll be working with those teams to identify how we can factor that in. It's probably something that the panel members will be able to assist us with and provide advice on as well.

**What's the long-term intention for a Panel if it works out?**

We previously had an Indigenous Expert Reference group who helped advise us on various ways we were doing things internally at IP Australia. That group has been wound up and the IK Panel will essentially replace that group in a more formal way. Ideally, we would like the panel to come in and see how we’re doing certain things across the agency and advise on how we can do better on Indigenous Knowledge related matters. If it goes well in its pilot period, following an evaluation, it could become a permanent body with specified functions and perhaps supported by legislation as well.

**Regarding interface with communities, where does that sit in terms of IP now and how much is expected of the panel?**

With only having three panel members, we are not going to have representation into communities across the country, but we do want panel members to have good connections with their communities and knowledge on how to link into other communities. We’re looking for people who understand protocols around Indigenous Knowledge and can help guide us through those and how to engage with community better.

**Questions?**

If you have any questions, you have until 3:00pm AEST Wednesday, 31 July 2024 to send them through. Please email procurement@ipaustralia.gov.au.