

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Climate Change and Energy

Industry Research and Development Act 1986

*Industry Research and Development (Grid Enhancing Technologies Grants Program)
Instrument 2025*

Purpose and Operation

Section 33 of the *Industry Research and Development Act 1986* (the Act) provides a mechanism for the Minister to prescribe programs, by disallowable legislative instrument, in relation to industry, innovation, science or research, including in relation to the expenditure of Commonwealth money under such programs.

The Minister for Industry and Science has delegated, under subsection 33(6) of the Act, the Minister's power under subsection 33(1) to prescribe the Grid Enhancing Technologies Grants Program (the Program) to the Minister responsible for administering the *Australian Energy Market Act 2004*. This is currently the Minister for Climate Change and Energy.

The statutory framework provided by section 33 of the Act enables a level of flexibility to provide authority for Commonwealth spending activities in relation to industry, innovation, science and research programs. This allows the Government to respond quickly and appropriately to the need to implement innovative ideas and pilot programs on an ongoing basis and as opportunities arise. Prescribing programs in legislative instruments provides transparency and parliamentary oversight of Government programs and spending activities, whilst reducing administrative burden on the Commonwealth.

Once a program is prescribed under section 33, subsection 34(1) allows the Commonwealth to make, vary or administer arrangements in relation to activities under the prescribed program. Arrangements may include contracts, funding agreements or other arrangements, and may provide for money to be payable by the Commonwealth to one or more third parties. The power conferred on the Commonwealth by subsection 34(1) may be exercised on behalf of the Commonwealth by a Minister or an accountable authority of a non-corporate entity, or by their delegate (under section 36).

The purpose of the *Industry Research and Development (Grid Enhancing Technologies Grants Program) Instrument 2025* (the Legislative Instrument) is to prescribe the Program.

The funding for the Program has been secured through the Department of Climate Change, Energy, the Environment and Water (the DCCEE) *2024-25 Mid-Year Economic and Fiscal Outlook, Climate Change, Energy, the Environment and Water Portfolio* at page 223 (<https://budget.gov.au/content/myefo/download/myefo2024-25.pdf>). The Program provides \$30 million as part of the Australian Government's commitment to optimise and expand Australia's energy grid and accelerate connection times for new renewable and storage projects.

The Program will deliver competitive grants for electricity Network Service Providers (NSPs) and other applicants including other network businesses or stakeholders, and software and technology companies, to apply grid enhancing technologies to existing electricity transmission and distribution networks or deliver further evidence of the commercial and technical viability of grid enhancing technologies. An NSP means an electricity transmission or distribution network service provider.

Grid enhancing technologies encompass a broad range of technological solutions which can maximise the transmission of electricity across existing networks by increasing the carrying capacity and utilisation of networks. They include a group of hardware and software solutions, analytical tools and techniques, including sensors, power flow control devices, network augmentations, advanced materials, virtual transmission, battery firming techniques and analytical tools.

The Program's purpose is to deliver benefits for energy consumers and reduce emissions by accelerating the application of these technologies across Australian transmission and distribution networks. The program aims to derisk the commercial application of grid enhancing technologies in Australian networks and develop an expanded evidence base for their use.

The Program is expected to consider grid technologies and network optimisation opportunities across transmission and distribution networks. The DCCEEW will encourage network businesses, including but not limited to NSPs and network operators, and other applicants including technology or software companies to apply.

The transmission and distribution network refers to, but is not limited to, all transmission and distribution assets and any other enabling infrastructure or information and communications technology systems which support networks. It is also intended to include sub-transmission assets and transmission-distribution connect points.

Funding is available to successful organisations including network businesses, technology or software providers, academic or research institutions and others to undertake eligible projects.

The Program is a competitive, merit-based grants program. The Program is administered by the Business Grants Hub in the Department of Industry, Science and Resources, supported by the DCCEEW as the policy lead, in accordance with the requirements of the Commonwealth resource management framework, including the *Public Governance, Performance and Accountability Act 2013* and the *Commonwealth Grants Rules and Principles 2024*.

The Program is expected to deliver one round of funding to a total of \$30 million over 4 financial years from 2025-26.

Eligibility is expected to include businesses registered in Australia with the capacity and capability to undertake eligible projects. For example, projects may involve Australian network businesses, technology or engineering companies and research or academic organisations. Support and/or involvement of the relevant State or Territory government is envisaged.

Joint applications may be made from, for example, a network business in partnership with a technology provider or other organisation.

Detailed grant guidelines (the Grant Opportunity Guidelines), including eligible and ineligible activities, will be published on GrantConnect (<https://www.grants.gov.au/>) once finalised.

Assessment criteria will be developed in detail and included in the Grant Opportunity Guidelines once published.

Spending decisions will be made by the Minister for Climate Change and Energy or the Program Delegate, taking into account the recommendations of an assessment by the DCCEEW officers against the Grant Opportunity Guidelines.

The Program Delegate would be a Senior Executive Service employee from the area of the DCCEEW responsible for administering the Program and executing individual contracts on behalf of the Commonwealth, and in accordance with decisions of Government.

The Program will not be subject to merits review because the decisions made in connection with the grant relate to an allocation of a finite resource between competing applications and an allocation already made to a party would be affected by overturning the original decision. The Administrative Review Council has recognised that it is justifiable to exclude merits review in relation to decisions of this nature (see items 4.11 to 4.19 of *What decisions should be subject to merits review?* <https://www.ag.gov.au/legal-system/publications/what-decisions-should-be-subject-merit-review-1999>). This instrument will instead be subject to parliamentary scrutiny.

The review and audit process undertaken by the Australian National Audit Office also provides a mechanism to review Australian Government spending decisions and report any concerns to the Parliament. These requirements and mechanisms help to ensure the proper use of Commonwealth resources and appropriate transparency around decisions relating to making, varying or administering arrangements to spend relevant money.

Further, the right to review under section 75(v) of the Constitution and review under section 39B of the *Judiciary Act 1903* may be available. Persons affected by spending decisions would also have recourse to the Commonwealth Ombudsman where appropriate.

Persons who are affected by decisions or who have complaints about the Program will also be able to provide feedback to the DCCEEW. The DCCEEW investigates any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way the DCCEEW handles the complaint, they may lodge a complaint with the Commonwealth Ombudsman.

Statement of the Relevance and Operation of Constitutional Heads of Power

For the purposes of subsection 33(3) of the Act, the Legislative Instrument specifies the legislative powers of the Parliament to make laws with respect to external affairs (within the meaning of section 51(xxvii) of the Constitution).

External affairs power

Section 51(xxix) of the Constitution gives the Commonwealth Parliament power to make laws with respect to ‘external affairs.’ The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party. Australia has obligations relevant to this legislative instrument under the following treaties:

- (i) the United Nations Framework Convention on Climate Change done at New York on 9 May 1992 ([1994] ATS 2) (United Nations Framework Convention on Climate Change), particularly Article 4.
- (ii) the Kyoto Protocol to the United Nations Framework Convention on Climate Change done at Kyoto on 11 December 1997 ([2008] ATS 2) (Kyoto Protocol), particularly Article 10;
- (iii) the Paris Agreement done at Paris on 12 December 2015 ([2016] ATS 24) (Paris Agreement), particularly Article 4; and

The United Nations Framework Convention on Climate Change includes a range of obligations on Australia to take domestic actions that reduce Australia’s emissions of greenhouse gases. Relevantly, it provides that parties shall:

- formulate, implement, publish and regularly update national and, where appropriate, regional programs containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol on Substances that Deplete the Ozone Layer done at Montreal on 16 September 1987 ([1989] ATS 18)), and measures to facilitate adequate adaptation to climate change;¹
- promote and cooperate in the development, application and diffusion of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases in all relevant sectors including energy, transport, industry, agriculture, forestry and waste management sectors;² and
- adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs.³

The Kyoto Protocol includes obligations on Australia to take action to reduce emissions. For example, Article 10(b) requires parties to formulate, implement and report upon climate change mitigation and adaptation programs.

The Paris Agreement was entered into by the parties to the United Nations Framework Convention on Climate Change to enhance its implementation. Under the Paris Agreement, Australia has a “nationally determined contribution”, comprising a 2030 emissions reduction target of 43 per cent below 2005 levels and net zero emissions by 2050. Australia’s greenhouse gas emission reduction targets, which reflect its nationally determined contribution, have been legislated in the *Climate Change Act 2022*. Relevantly, Article 4.2 of

¹ See Article 4.1(b).

² See Article 4.1(c).

³ See Article 4.2(a).

the Paris Agreement provides that “[e]ach Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve” and that “[p]arties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions”.

The Program prescribed by the Legislative Instrument will facilitate the achievement emissions abatement obligations, including by facilitating the decarbonisation of energy systems. The Program aims to derisk the development, trialling and application of grid enhancing technologies in Australian electricity networks. These technologies help support the most efficient use of Australia’s electricity network, allowing more renewable energy to enter the electricity network earlier.

Further details on the Legislative Instrument are set out in Attachment A.

Authority

Section 33 of the Act provides authority for the Legislative Instrument.

Consultation

In accordance with section 17 of the *Legislation Act 2003*, the Attorney-General’s Department and the Department of Industry, Science, and Resources have been consulted on this Legislative Instrument.

In 2024 and 2025, the DCCEEW conducted consultation with industry stakeholders, including network businesses. The DCCEEW identified barriers to faster deployment of grid technologies including short-term additional costs, the need to “road test” and observe performance to build confidence in technologies, and the need to de-risk approaches to ensure adherence to legislation and compliance programs. The Program will deliver an evidence base to deliver a pathway for future industry-led application of these technologies.

The DCCEEW’s consultation with industry identified that funding these technologies through a targeted grants program will help accelerate their uptake by network businesses, and that businesses are likely to see value in the Program.

As the Program has undergone extensive consultation with industry stakeholders, it was considered unnecessary to undertake additional consultation with industry stakeholders in relation to the Legislative Instrument.

Impact Analysis

The Office of Impact Assessment advises that the regulatory burden is likely to be minor and no Regulation Impact Statement is required (OIA reference number OIA24-07889).

Other

The Legislative Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Industry Research and Development (Grid Enhancing Technologies Grants Program) Instrument 2025*

Section 1 – Name

1. This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Grid Enhancing Technologies Grants Program) Instrument 2025* (the Legislative Instrument).

Section 2 – Commencement

2. This section provides that the Legislative Instrument commences on the day after registration on the Federal Register of Legislation.

Section 3 – Authority

3. This section specifies that the Legislative Instrument is made under section 33 of the *Industry Research and Development Act 1986* (the Act).

Section 4 – Definitions

4. This section provides for definitions of terms used in the Legislative Instrument.

Section 5 – Prescribed Program

5. This section prescribes the Grid Enhancing Technologies Grants Program (the Program) for the purposes of subsection 33(1) of the Act.
6. The purposes of the Program are to provide competitive grants to eligible applicants, including but not limited to electricity network service providers and other applicants such as software or technology companies, to apply grid enhancing technologies to existing networks or derisk the commercial application of grid enhancing technologies in Australian networks and deliver evidence of commercial and technical viability of grid enhancing technologies.

Section 6 – Specified Legislative Power

7. This section specifies that the legislative power in respect of which the Legislative Instrument is made is the power of the Parliament to make laws with respect to external affairs.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

*Industry Research and Development (Grid Enhancing Technologies Grants Program)
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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Industry Research and Development (Grid Enhancing Technologies Grants Program) Instrument 2025* (the Legislative Instrument) is to prescribe the Grid Enhancing Technologies Grants Program (the Program). The purpose of the Program is to provide competitive grants to eligible applicants who have partnered with, or consulted with, the relevant state or territory government to apply grid enhancing technologies to existing networks or deliver evidence of commercial and technical viability of grid enhancing technologies.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Chris Bowen MP
Minister for Climate Change and Energy**