

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Industry and Science

Industry Research and Development Act 1986

Industry Research and Development (Space Literacy and Workforce Program) Instrument 2024

Purpose and Operation

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

The statutory framework provided by section 33 of the IR&D Act enables a level of flexibility to provide authority for Commonwealth spending activities in relation to industry, 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 by the Minister 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 Commonwealth entity, or by their delegate (under section 36).

The *Industry Research and Development (Space Literacy and Workforce Program) Instrument 2024* (the Legislative Instrument) prescribes the Space Literacy and Workforce Program (the Program). The funding for the Program has been secured through the Department of Industry, Science, and Resources (the Department) 2023-2024 Budget, expected forward budgets, and the transfer of funds as agreed by the Department – Department of Defence (Defence) Memorandum of Understanding (DISR-Defence MOU). The Program provides \$3.4 million (total within 2024-25 budget) as part of the Australian Government's commitment to communicate, in partnership with other government agencies, community, industry, and First Nations organisations, the value and benefits of space, including through the Australian Space Discovery Centre (ASDC) in Adelaide.

The purpose of the Program is to enable delivery of the following:

1. Expand the ASDC's digital tools for online outreach capability e.g., streaming of events, outreach programs and 'why space matters' delivery into communities around Australia.
2. Digitise the ASDC's space infrastructure wall, showing space-related assets across Australia, and update the content to include appropriate Defence-related assets, with assistance from Defence to identify additional assets and write appropriate content to

support the exhibition. This activity may allow for semi-permanent installations within other science centres or institutions that could include the space infrastructure interactive, criticality of space videos, or similar installations.

3. Develop new ASDC exhibits and maintain relevance of existing exhibits to promote ‘why space matters,’ with efforts where relevant to include Defence and whole of government-related information.
4. Complement delivery of the Department’s Inspiring Australia and related programming, including ‘why space matters’ Science, Technology, Engineering and Mathematics (STEM) engagement by commissioning portable exhibits for the ASDC.
5. Develop digital and other merchandise for use in the ASDC, the Agency and partners to use in outreach efforts that promote ‘why space matters’.
6. Deliver in partnership or sponsorship, nationally significant projects, hands-on STEM skills development programs, internships, participation in international competitions and the like, for students and early career professionals. Encourage diversity of applicants from all over Australia. Potential for funding multi-year programs.
7. Support and bolster events and initiatives focused on education and learning within the space sector.
8. Improve the availability of STEM-related career resources promoting pathways and jobs in the space sector, with a focus on underrepresented groups. The Agency will work across government to get more reach and continue to distribute space career information through networks.
9. Fast-track young emerging Indigenous Australian STEM students by providing internship or placement opportunities at world-leading institutes.
10. Enable education-sector focussed STEM activities through sponsorship of programs. For example, the Kids in Space Program, which targets primary school students across Australia, including in regional and remote parts of Australia, highlighting why space matters, encouraging innovative STEM learning, and professionally developing teachers to continue the work after the program is completed.

To help deliver the Program, funding will be made available to successful grantees or third parties through either a grant or procurement process. A summary of each deliverable and the way that it will be procured is outlined below.

Procurements

Digital Capability Tools – This procurement will fund the building of a new soundproof media room within the centre. The purpose is to establish a production facility for online outreach, streaming events online, or develop digital content to extend ASDC programmes into hard-to-reach communities around Australia.

Digitalise Space Infrastructure Wall – This procurement will engage a supplier to create a digital space infrastructure map of Australia for the ASDC. The purpose is to allow the public to interact with the map and associated data, building an appreciation for the Australian space

sector. Specifically, it will display buildings and locations that support and identify the space industry such as launch sites, communication sites and science centres.

Why Space Matters Exhibition – This procurement will support the ASDC to create a public exhibition that seeks to explore the science and technology of earth observation and explain why this is important, and showcase the industries, research, and critical services it enables. In addition to the exhibit there will be the development of communications merchandise. The purpose is to present the exhibition material within the ASDC, the Agency and the Department of Defence to utilise in outreach efforts promoting ‘why space matters’ to industry and community.

Museum in a Box – This procurement will create mobile space education products for the ASDC, for distribution around Australia. The purpose of the product will be to educate participants on robotics and critical technologies in space and to enhance the physical delivery to underrepresented groups around the nation.

Lot Fourteen Artistic Mural – This procurement will commission an artistic mural, to be painted on one of the high foot traffic buildings which can be viewed by the public, within the Lot Fourteen precinct (where the Agency office and ASDC are located.) The purpose is to raise awareness of the presence of the ASDC, thereby encouraging people to visit it. It would also create a point of engagement to increase awareness of the importance of space for Australia’s society, prosperity, and security.

Grants

Kids in Space – This grant opportunity aims to promote the role space can play in inspiring and encouraging primary school students to engage in STEM. The purpose of this grant is to help build a strong workforce pipeline to support the current and future needs of science and industry. It is designed to encourage primary school students across Australia including in regional, rural, and remote communities to engage with the nation’s growing space ecosystem, introduce them to STEM technology and diverse jobs within the space industry to spark their interest in a career in space. This grant opportunity will also provide professional development for teachers, providing support to develop learning programs for students to engage in STEM and innovation-based learning using 3D design and printing.

National Indigenous Space Academy – This grant opportunity supports a unique First Nations internship program founded and delivered by a First Nations academic. It provides rich learning and mentoring in a variety of space sector disciplines including artificial intelligence and robotics. Applications are available to Australian Indigenous tertiary students who are studying a degree in STEM at any university in Australia. The grant’s purpose is to support successful efforts that pave the way for First Nations STEM students to fast-track a STEM or related career, by attending an internship at the National Aeronautics and Space Administration’s (NASA) Jet Propulsion Laboratory in the United States of America.

Funding and administration

Funding authorised by this Legislative Instrument comes from:

- 2023-24 Industry and Science Portfolio Budget Submission, under the New Policy Proposal, A Strong and Sustainable Space Industry (AA23/0265/CAB of 23 May 2023 refers).

- Industry, Science and Resources Portfolio Program 1.2, Outcome 1, as set out in the Portfolio Budget Statements 2024-25, Budget Related Paper No. 1.11, Industry, Science, Energy and Resources Portfolio (<https://www.industry.gov.au/sites/default/files/2024-05/2024-25-department-of-industry-science-resources-pbs.pdf>) at page 41.
- Memorandum of Understanding between the Department of Defence and the Department of Industry, Science and Resources regarding support to the Australian Space Discovery Centre (ASDC) and related outreach and STEM activities (as updated 01 June 2023) (DISR-Defence MOU).

The Program will be delivered through processes most appropriate to each specified outcome, including competitive, ad-hoc, and merit-based grant programs, targeted or restricted competitive programs, procurements, or in partnership.

The Program expenditure will be administered by the Department in accordance with:

- the Commonwealth Procurement rules (<https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>)
- the Commonwealth Grant Rules and Guidelines (<https://www.finance.gov.au/government/commonwealth-grants/commonwealth-grants-rules-and-guidelines>)

The Program will involve the allocation of finite resources; with a preference for open, competitive procurement processes, with ad-hoc grants occasionally awarded for unique and/or proven ability to deliver on Program objectives. In addition, there will be clear assessment, enquiry, and feedback processes, and the existing Departmental complaints mechanism for applicants. Therefore, external merit reviews do not apply to decisions about the provision of ad-hoc or targeted grants under the Program.

Grants to deliver the Program, when assessed as the most appropriate pathway, will be up to a maximum of \$650,000.00. Grants will have eligibility criteria and fund limitations to ensure government outcomes are agreed and achievable.

Grant applications will be assessed against the eligibility criteria and merit criteria set out in the Program guidelines. Applications will be assessed by the Business Grants Hub against the eligibility criteria. When appropriate, an assessment conducted by a committee will then consider eligible applications against the merit criteria. This will include comparing the applications and scoring each application out of 100. The committee will comprise relevant representatives from the Australian Government, state and/or territory governments, and other independent technical experts.

Applications must address the eligibility and assessment criteria and provide relevant supporting information. The amount of detail and supporting evidence will be relative to the project size, complexity and funding amount requested. Larger and more complex projects should include more detailed evidence. To be competitive, applications must score highly against each assessment criterion.

After considering applications, an independent assessment committee will make recommendations regarding those applications suitable for funding to the Program Delegate, who is the accountable SES Band 1. The Program Delegate will make the final decision about which procurements or grants to approve, taking into consideration relevant factors, including any independent assessment committee's recommendations, and the availability of funds. The Program Delegate will not approve funding if there are insufficient Program funds available across relevant financial years for the Program.

Both successful and unsuccessful applicants will be informed in writing. Unsuccessful applicants have an opportunity to discuss the outcome with the Department and can submit a new application for the same or similar project in future funding rounds. Where this occurs, applicants should include new or more information to address the weaknesses identified in their previous application.

Persons who are otherwise affected by decisions or who have complaints about the Program will also have recourse to the Department. The Department investigates any complaints about the Program in accordance with its complaints policy and procedures. If a person is not satisfied with the way the Department 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 powers of the Parliament to make laws with respect to the following are specified for the Program prescribed by the Legislative Instrument:

- the communications power in section 51(v) of the Constitution;
- the astronomical and meteorological observations power in section 51(viii) of the Constitution;
- the races power in section 51(xxvi) of the Constitution;
- the external affairs power in section 51(xxix) of the Constitution;
- the express incidental power in section 51(xxxix) of the Constitution and the executive power in section 61 of the Constitution.

Communications power

Section 51(v) of the Constitution empowers the Parliament to make laws with respect to 'postal, telegraphic, telephonic, and other like services'. In this regard, funding provided under the Program will support the ASDC to improve its capacity to engage communities around Australia online.

Astronomical and meteorological observations power

Section 51(viii) of the Constitution empowers the Parliament to make laws with respect to 'astronomical and meteorological observations'. In that regard, some funding under the Program will support educational activities and projects that are directed towards skill development and documenting astronomical and meteorological phenomena, as well as recording and analysing data.

Races Power

Section 51(xxvi) of the Constitution empowers the Parliament with respect to ‘the people of any race for whom it is deemed necessary to make special laws’. In that regard, the Program includes measures to support Indigenous Australians to establish space-related careers.

External affairs power

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to ‘external affairs’. The external affairs power supports legislation with respect to matters or things outside the geographical limits of Australia. In that regard, some expenditure under the Program will relate to matters outside Australia, for example it may support student participation in international competitions, and international internships with the National Aeronautics Space Administration.

Executive power and express incidental power, including the nationhood aspect

The express incidental power in section 51(xxxix) of the Constitution empowers the Parliament to make laws with respect to matters incidental to the execution of any power vested by the Constitution in the Parliament or in either House thereof, in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth. Section 61 of the Constitution supports activities that are peculiarly adapted to the government of a nation and cannot be carried out for the benefit of the nation otherwise than by the Commonwealth.

In that regard, funding provided under the Legislative Instrument will be related to the field of space discovery which is an area in which the Commonwealth has a paramount interest. This Program will be a national initiative in science and related fields that promotes engagement with space activities and the space industry generally. The Program is and will be carried out for the benefit of the nation.

Further details of the Legislative Instrument are set out at **Attachment A**.

Authority

Section 33 of the IR&D Act provides authority for the Legislative Instrument.

Consultation

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

Regulatory Impact

It is estimated that the regulatory burden is likely to be minor (Office of Impact Analysis reference number OIA24-06738.)

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out at **Attachment B**

Details of the *Industry Research and Development (Space Literacy and Workforce Program) Instrument 2024*

Section 1 – Name of Instrument

This section specifies the name of the Legislative Instrument as the *Industry Research and Development (Space Literacy and Workforce Program) Instrument 2024*.

Section 2 – Commencement

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

Section 3 – Authority

This section specifies the provision of the IR&D Act under which the Legislative Instrument is made.

Section 4 – Definitions

This section provides for definitions of terms used in the Legislative Instrument, namely *Act*, *program* and *space-related learning*.

Section 5 – Prescribed Program

This section prescribes the Program for the purposes of section 33(1) of the IR&D Act.

The Program is part of the Australian Government’s commitment to communicate, in partnership with other government agencies and First Nations organisations, the value and benefits of space, including through the ASDC. This Program will advance national initiatives in space-related learning and education, development of space-related skills, and promotion of space-related careers.

Section 6 – Specified Legislative Power

This section specifies that, for the purposes of subsection 33(3) of the Act, the powers of the Parliament to make laws with respect to the following are specified:

- postal, telegraphic, telephonic, and other like services (within the meaning of section 51(v) of the Constitution);
- astronomical and meteorological observations (within the meaning of section 51(viii) of the Constitution);
- the people of any race for whom it is deemed necessary to make special laws (within the meaning of section 51(xxvi) of the Constitution);
- external affairs (within the meaning of section 51(xxix) of the Constitution); and

- enterprises and activities that are peculiarly adapted to the government of a nation and cannot otherwise be carried on for the benefit of the nation (see section 51(xxxix) and section 61 of the Constitution).

Statement of Compatibility with Human Rights

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

Industry Research and Development (Space Literacy and Workforce Program) Instrument 2024

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 *Industry Research and Development (Space Literacy and Workforce Program) Instrument 2024* (the Legislative Instrument) provides legislative authority to commit Commonwealth funding for the Space Literacy and Workforce Program (the Program).

The Program is part of the Australian Government's commitment to communicate, in partnership with other government agencies and First Nations organisations, the value and benefits of space, including through the Australian Space Discovery Centre. The Program will advance national initiatives in space-related learning and education, development of space-related skills, and promotion of space-related careers.

Human rights implications

This Legislative Instrument engages the right to self-determination, the rights to work and the rights in work, the right to enjoy the benefit of scientific progress, and the rights to equality and non-discrimination.

This Legislative Instrument supports young emerging First Nations Australian Science, Technology, Engineering and Mathematics students by providing internship or placement opportunities at world-leading institutes.

Article 1 of the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) recognises the right to self-determination, which provides that all peoples may freely determine their political status and freely pursue their economic, social and cultural development.

Article 6 of the ICESCR recognises the right to work and provide that the steps to be taken by a State Party to the present Covenant to achieve the full realisation of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to the individual.

Article 15 of the ICESCR recognises the right of everyone to enjoy the benefits of scientific progress and its applications, as well as the benefits to be derived from the encouragement

and development of international contacts and co-operation in the scientific and cultural fields.

Articles 1 and 2 of the International Labour Organization's Conventions concerning [Employment Policy](#) require Members to promote full, productive and freely chosen employment, and to decide on and apply measures to obtain that object within the framework of a co-ordinated economic and social policy. This Program is consistent with both Articles 1 and 2.

These rights are positively engaged through this Legislative Instrument, particularly at clause 5(2)(c). This Program provides measures to support First Nations Australians to further their space-related education and establish space-related careers, thereby engaging the aforementioned rights.

Article 2 of the International Covenant on Civil and Political Rights requires State Parties to ensure that the rights recognised in the Covenants are exercised without discrimination of any kind. Article 2(2) of the ICESCR, and Articles 2 and 5 of [International Convention on the Elimination of All Forms of Racial Discrimination](#) prohibit discrimination on the basis of race.

However, the Committee on the Elimination of Racial Discrimination, in its General Recommendation No. 14, at chapter VIII B, observed that 'differentiation of treatment will not constitute discrimination if the criteria for such differentiation, judged against the objectives and purposes of the Convention, are legitimate'. As such, the availability of grants and programs specifically targeted at First Nations Australians will not constitute discrimination.

Conclusion

This Legislative Instrument is compatible with human rights as it has a positive effect on human rights.

The Hon Ed Husic MP
Minister for Industry and Science