



Calculating, Invoicing and Reporting Volume Discounts

In order to ensure a consistent and accurate approach to NSW Government Legal Services Panel (NSWLSP) and iCare Panel Volume Discount reporting, below is some guidance:

The quarterly Volume Discount Report requires completion by NSWSLP and iCare Panel firms if the firm has been engaged to perform work and billed an “Agency” (see definition below) by completing Columns A-I, irrespective of whether a volume discount threshold has been met. Once the panel firm has reached a volume discount threshold of either \$1m, \$10m, \$50m or \$75m, the additional Columns of **J**, **L**, **N** and **P** require completion.

- If the panel firm has not performed work for any “Agency” in the quarter, a nil return is required by emailing the legal_reporting@transport.nsw.gov.au mailbox. The new SharePoint reporting platform is currently being changed so that “nil returns” can also be submitted via the portal.

There are a number of firms that are appointed to both the NSWLSP and iCare Panels. If your firm is one or both of them, please consolidate your data into one report and upload it into the following area in SharePoint:

NSWLSP

NSWLSP / iCare Volume Discount
Report

 Legal NSWLSP Reports Volume Discount

1. Definitions

As part of this guidance note, the following definitions apply:

Agency means a department, agency, separate agency, statutory body, State-owned corporation of the NSW Government, other NSW Government business entity or local government body either in existence at the Commencement Date or that comes into existence during the Term.

Volume Discount Amount means the percentage discount amount contained in the below table:

Threshold	Volume Discount
\$1 million	2%
\$10 million	3%
\$50 million	4%
\$75 million	5%

Volume Discount Calculation Date means:

- (a) for billings under the NSWLSP, 1 July 2021
- (b) for billings under the iCare Panel for Workers Compensation, 1 January 2021
- (c) for billings under the iCare Panel for General Lines, 1 July 2021
- (d) for billings under the iCare Panel for Debt Recovery, 1 January 2022
- (e) for any other legal billings, 1 July 2021

Volume Discount Threshold means the threshold amounts outlined below at which a Volume Discount Amount will be applied.

- a) \$1,000,000
- b) \$10,000,000
- c) \$50,000,000
- d) \$75,000,000

iCare Panel means the iCare Panel for Workers Compensation, iCare Panel for General Lines and iCare Panel for Debt Recovery.

Term means the term of the relevant agreement, including any extensions.

2. Volume Discount Application and Activation

The NSWLSP and the iCare Panel Deeds are aligned in relation to:

1. Activation of the Volume Discount
2. Application of the Volume Discount
3. Exclusions for the Activation of the Volume Discount
4. Exclusions for the Application of the Volume Discount

2.1 Activation of the Volume Discount

Refer to NSWLSP Deed – Clauses 9.7 and 9.8 and “Volume Discount Threshold” definition above

- **All eligible billings** that are billed to an “Agency”, whether under the NSWLSP, iCare Panel, another NSW Government panel or any other contract or engagement, from the Volume Discount Calculation Date and calculated cumulatively for the duration of the Term, **will contribute to the activation of the Volume Discount Threshold.**
- The following fees and disbursements are **excluded** for the purpose of activating the Volume Discount Threshold:
 - Core legal engagements with Crown Solicitor’s Office
 - Third Party disbursements, **but not Related Entity disbursements**
 - Counsel fees
- Activation of the Volume Discount Threshold will occur when the total amount of all eligible billings from the Volume Discount Calculation Date (and calculated cumulatively for the duration of the Term) exceeds the relevant Volume Discount Threshold at \$1m, \$10m, \$50m or \$75m.

2.2 Application of Volume Discounts

Refer to NSWLSP Deed – Clauses 9.6 and 9.9 and “Volume Discount Amount” definition above.

- Once the volume discount threshold has been reached, volume discounts are to be applied to all eligible billings (ex GST) classified as “Panel” under the:
 - NSWLSP that commenced on 1 July 2021
 - iCare Panel for Workers Compensation that commenced on 1 January 2021
 - iCare Panel for General Lines that commenced on 1 July 2021
 - iCare Panel for Debt Recovery that commenced on 1 January 2022

for the duration of the Term once the applicable Volume Discount Threshold has been activated.

- The following fees and disbursements are **excluded** for the purpose of **application** of the Volume Discount Amount once the Volume Discount Threshold has been activated:
 - Third Party disbursements **but not Related Entity disbursements**
 - fees that are fixed by legislation
 - off panel engagements
 - Counsel fees
 - secondment fees
 - previous panel engagements
 - core legal engagements with the Crown Solicitor's Office

For firms that were on the **previous NSWLSP panel** and are still working on matters that **did not transition to the current NSWLSP**, the terms of the previous NSWLSP engagement apply. If a volume discount saving was applied to a matter under the **previous NSWLSP** and the matter is current and ongoing, then the respective volume discount under the **previous NSWLSP applies**.

3. Invoicing and Reporting Volume Discounts

Refer to Volume Discount references and clauses in the NSWLSP Deed and iCare Panel Deed.

3.1 NSWLSP - Invoicing Volume Discounts

When providing an invoice, **volume discounts must be included as a separate line item on the invoice. Volume discounts must not be embedded within the hourly rates included on the invoice.** The rate on the invoice must be aligned and match the agreed NSWLSP rates at the commencement of the panel on 1 July 2021 (and agreed CPI increases in Year 4 and Year 7).

3.2 Reporting of Volume Discounts

- With the introduction of a new SharePoint reporting platform and the requirement to use the latest version of the reporting template, NSWLSP and iCare Panel suppliers, must download the Quarterly Volume Discount Report from either:
 - SharePoint - [Legal Services Panel - Report Templates - All Documents \(sharepoint.com\)](#); **OR**
 - NSW Buy website - [Legal Services Panel | info.buy.nsw](#)

to ensure the current version is being used when completing the report for upload into the SharePoint reporting platform.

- The reporting platform is sensitive and will only accept data compatible with the values in each of the columns in the template. Panel firms extracting data from financial systems must:
 - download the current reporting template
 - copy the data from the financial system
 - select "Paste Special" to include values.
- The quarterly Volume Discount Report is **NOT** cumulative.
- The Volume Discount Savings referred to in columns **R – T** of the Quarterly Volume Discount Report are to be included as **positive** numbers.

3.3 How to complete the NSWLSP/iCare Quarterly Volume Discount Report

Column A: Agency Name:

Select the Agency name from the dropdown list that your firm has billed during the quarter. Refer above “agency” definition in Item 1.1 above.

If the Agency is not listed, email legal_reporting@transport.nsw.gov.au mailbox and advise the NSWLSP, Manager, Data and Reporting and request that the Agency be added to the dropdown list. The change will be made and panel firm will be notified accordingly. All NSWLSP reporting templates will be amended to reflect the change in the next quarter.

Column B: Law Firm Name:

Select the name of your firm name using the dropdown list

Column C: Report Due Date:

The NSWLSP/iCare Volume Discount Report is due by:

- Quarter 1 – 1 July to 30 September reporting period – due 7 October
- Quarter 2 – 1 October to 31 December reporting period – due 7 January
- Quarter 3 – 1 January to 30 April – due 7 April
- Quarter 4 – 1 May to 30 June – due 7 July

Select the report due date from the dropdown list only. Using other date formats will create an error when the report is being uploaded into SharePoint.

Column D: Panel Type:

NSWLSP firms and iCare panel firms complete this report. Below outlines the definition of “Panel Types”:

- **Panel:** NSWLSP matter engaged on or after 1 July 2021 (when the current panel commenced) OR a previous NSWLSP matter that was engaged prior to 1 July 2021, however, was transitioned to the current NSWLSP on 1 July 2021.
- **Previous Panel:** Previous NSWLSP matter engaged before 1 July 2021 that did not transition to the current NSWLSP on 1 July 2021 and remain on previous panel rates.
- **Off Panel:**
 1. A matter briefed to a NSWLSP firm under a Sub Panel for which the firm is not recommended to perform work. Eg. Firm ABC is appointed to NSWLSP Sub Panel 1 Construction only, however, an agency across government engages the firm to perform work on NSWLSP Sub Panel 2 Commercial. This is considered to be NSWLSP “Off Panel” work.
Note: If a Panel Firm is recommended to perform work for one Area of Law under the NSWLSP Sub Panel, the firm may do work across any of those Areas of Law within that Sub Panel without it being considered “Off Panel”.
 2. For NSWLSP firms who were appointed to the previous NSWLSP that lapsed on 30 June 2021 and are appointed to the current NSWLSP on 1 July 2021, however, the panel firm is not appointed to the same Area of Law/Sub Panel on the current panel, then the work is considered to be “Off Panel”.

3. For NSWLSP firms that are also appointed to the Rural & Regional Legal Services Panel (RRLSP) and are engaged to perform work under the RRLSP, then the work is considered to be “Off Panel” for the purposes of this reporting.
 4. For NSWLSP firms or iCare Panel firms where they have been engaged to perform work not under either of these two panels, ie under a separate agreement or separate panel is considered to be “Off Panel” for the purposes of this reporting.
- **iCare Panel:** Matters engaged under the iCare Panel, ie General Lines, Workers Compensation and Debt Recovery Sub Panels

VOLUME DISCOUNT ACTIVATION – COLUMNS – E-H:

Columns E-H must be completed if your firm has performed work for an Agency in the quarter.

Column E: Total of All Eligible Agency NSWLSP and Previous Panel Billings (ex GST):

For panel firms appointed to the NSWLSP: Insert *eligible* billings relating to matters engaged under the previous NSWLSP and current NSWLSP for the quarter for the respective “Agency” that *contribute to the activation of the volume discount threshold*. See item 1.2 above for billings that are excluded.

It should be noted that:

- Eligible billings relating to matters engaged **by Local Government Bodies (including Councils) under the NSWLSP contribute to the activation of the Volume Discount Threshold**. These billings are to be included in Column E (Total of All Eligible Agency NSWLSP and Previous Panel Billings ex GST) in the Quarterly Volume Discount Report.
- Eligible billings relating to matters engaged under the NSWLSP that are paid by, and invoiced to, third parties that do not meet the definition of Agency under the deed (eg. property developers, tenants etc.) do **not** contribute to the activation of the volume discount threshold. These billings do **not** have to be included in the NSWLSP/iCare Quarterly Volume Discount Report (Volume Discount Activation column) in Column E. However, application of the volume discount is applicable to these billings and should be included in the NSWLSP/iCare Quarterly Volume Discount Report (Volume Discount Savings column) in Column R (Total NSWLSP Panel Volume Discount (\$) applied (ex GST)).

However, eligible billings relating to matters engaged under NSWLSP for which an invoice is issued in the agency’s name and reimbursed by the third party (to pay the government’s costs), or are issued directly to a third party that does meet the definition of Agency under the deed (i.e. local council, NSW Government Agency etc.) do contribute to the **activation** of the volume discount threshold and are to be included in the NSWLSP/iCare Quarterly Volume Discount Report (Column E), however **do not need to be included in the Quarterly Agency Summary Billing Report**. Application of the volume discount **is applicable to these billings** and should be included in the Quarterly Volume Discount Report in Column R (Total NSWLSP Panel Volume Discount (\$) applied (ex GST)).

Column F: Total of All Eligible Agency Rural & Regional Legal Services Panel (RRLSP) Billings (ex GST):

For NSWLSP panel firms who are also appointed to the whole of government RRLSP: Insert *eligible* billings relating to matters engaged under the RRLSP for the quarter for the respective “Agency” that *contribute to the activation of the volume discount threshold*. See item 1.2 above for billings that are excluded.

Column G: Total of All Eligible Agency iCare Panel Billings (ex GST):

For panel firms appointed to the iCare Panel: Insert *eligible* billings relating to matters engaged under the iCare Panel for the quarter for the respective “agency” that *contribute to the activation of the volume discount threshold*. See item 1.2 above for billings that are excluded.

Column H: Total of All Other Eligible Agency Billings (ex GST):

For NSWLSP panel firms and iCare panel firms that have been engaged to perform work not under either of these panels, however, under a separate agreement including any off panel engagements (and engagements with Local Councils under their own panels): Insert “eligible” billings relating to off panel matters, ie matters engaged outside of the NSWLSP or iCare Panel arrangements under separate agreements or a separate panels (excluding the RRLSP as those billings are inserted in Column F).

It should be noted that eligible billings relating to matters engaged by Local Government Bodies (including Councils) **that are not engaged under the NSWLSP contribute to the activation of the volume discount threshold**. These billings are to be included in Column I (Total of All Other Eligible Agency Billings (ex GST) in the Quarterly Volume Discount Report.

VOLUME DISCOUNT THRESHOLD – COLUMNS – J-Q:

NSWLSP panel firms and iCare Panel firms are required to advise when their combined eligible billings (as per Item 1.2 above) for “Agencies” across government reach the set volume discount thresholds of \$1m, \$10m, \$50m and \$75m and will apply the respective 2%, 3%, 4% or 5% saving.

Insert the date that each threshold was met and confirm that that respective saving is being applied to all eligible agency billings across government by using ‘Y’ or ‘N’ in columns K, M, O, Q. **Please note that these 4 columns should always be filled out regardless of whether your firm has reached a volume discount threshold or not.**

VOLUME DISCOUNT APPLICATION (Savings) – COLUMNS – R-S:

Volume Discount savings are applied to eligible billings for all Agencies across government once the volume discount threshold has been reached (see Item 1.3 above) for the following:

- Matters that are engaged under the NSWLSP from 1 July 2021
- Matters that were engaged under the NSWLSP prior to 1 July 2021 and transitioned to the current NSWLSP on 1 July 2021
- Matters engaged under the iCare Panel

It should be noted that whilst NSWLSP off panel matters, RRLSP matters or any matters engaged under a separate agreement or panel **contribute to the activation** of the volume discount threshold, however, **application of the volume discount saving is not applied**

Column R: Total NSWLSP Panel Volume Discount (\$) applied (ex GST):

Insert the volume discount saving amount (positive numbers) that was provided to the Agency for the quarter for matters that were engaged under the:

- NSWLSP from 1 July 2021
- previous NSWLSP **and transitioned** to the current NSWLSP on 1 July 2021
- previous NSWLSP **and did not transition** to the current NSWLSP on 1 July 2021, noting that the saving applied will be in line with the terms of the engagement under the previous NSWLSP

Column S: Total iCare Panel Volume Discount (\$) applied (ex GST):

Insert the volume discount (positive numbers) that was provided to the Agency for the quarter for matters that were engaged under the iCare Panel (General Lines, Workers Compensation or Debt Recovery).

If you have any queries, please do not hesitate to contact us by emailing legal_reporting@transport.nsw.gov.au.

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