



CONTRACTOR PREQUALIFICATION AND BEST PRACTICE
ACCREDITATION SCHEME

SCM1461 Agency Guidelines

For construction and related works valued \$1M to \$9M

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More information

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What's changed?

From 29 November 2020 Agencies can no longer use Scheme SCM1461 for procurements above \$9M ex GST because of the introduction of the Enforceable Procurement provisions by the NSW Procurement Board (PBD-2019-05 Enforceable procurement provisions).

To facilitate procurements above \$9M ex GST, a separate Procurement List was established. Agencies are encouraged to use that Procurement List for procuring General Construction Works above \$9M.

PWA further has incorporated feedback received in October 2020 from Agencies using SCM1461 in relation to improving the Scheme.

This Scheme SCM1461 was consequently amended to

- Only operate between \$1M and \$9M
- Include a new work category: Demolition Works. Suppliers are encouraged to submit a new application to become prequalified for this category
- Updated guidelines and conditions
- Updated performance management and reporting.

Transition Process

Suppliers currently prequalified under SCM1461 for works between \$9M and \$10M are invited to apply to be included on the Procurement List, if desired by the Supplier. If such a Supplier does not apply for inclusion on the Procurement List, Agencies will no longer be able to use SCM1461 to include the Supplier in procurements above \$9M ex GST from 29 November 2020. However, the Supplier will continue to be prequalified under SCM1461 and Agencies can continue to include the Supplier in procurements above \$1M and below \$9M.

Suppliers currently prequalified under SCM1461 for works above \$10M have been contacted by the NSW Government with an invitation to automatically transition to the Procurement List. No immediate action is required from these Suppliers unless they disagree with the Procurement List Conditions and would like to opt-out of the automatic transition to the Scheme. For clarity Suppliers automatically transitioning to the Procurement List will not be required to submit an Application. Suppliers will be required to update their Supplier information by 31 August 2021.

All Suppliers prequalified under SCM1461 will be contacted using their contact information available in NSW eTendering. Suppliers will be notified of the changes and what actions are required.

Where to start

Buy.NSW

All relevant documents related to SCM1461 can be found on Buy.NSW <https://buy.nsw.gov.au/schemes>, including:

- Scheme Conditions
- Guidelines for Applicants
- Guidelines for Agencies (this document).

Terms and definitions

Some terms and words used in this document have a defined meaning (refer to Attachment A)

eTendering

To view and select Suppliers included on the Scheme, log in to [eTendering Domain Admin \(Scheme Explorer\)](#)

Enquiries

For enquiries please contact: construction.suppliers@pwa.nsw.gov.au or contact the NSW Procurement Service Centre (details inside front cover).

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1 SCM1461 for General Construction Works between \$1M and \$9M ex GST

These guidelines are for Agencies procuring general construction works between \$1M and \$9M (ex GST) from SCM1461 Contractor Prequalification and Best Practice Accreditation Scheme (Scheme). This document should be read in conjunction with the Scheme Conditions.

The following table provides a summary of the key features of the Scheme:

Item	Description
Scope of the Scheme	General Construction Works above \$1M and below \$9M ex GST
Work Categories:	<ul style="list-style-type: none"> • Building Works: Multi-trade building works for new buildings and additions to existing buildings. • Heritage Building Works: include restoration and conservation works and or associated stonemasonry, carving & fixing, roofing, carpentry, plastering and painting • Modular Building Works: include portable buildings, prefabricated buildings, modules or sections manufactured off-site and amenable to on-site expedited delivery or modular assembly. • Fitout and Refurbishment: Fitout and refurbishment work, as well as the final preparation of internal areas for occupation by the client in new and existing buildings. • Civil Works: For civil engineering works including excavation and bulk earth works, minor roads and related works. • Water Infrastructure: include reservoirs, dams and or associated pipelines, pumping stations, balance tanks, surge tanks, storage tanks and discharge structures • Wastewater infrastructure: include sewage treatment plants and or associated pipelines and pumping stations • Demolition Works: Includes demolishing or dismantling a structure or part of a structure that is either load bearing or related to the physical integrity of the structure.
Compliance with provisions of the Enforceable Procurement Provisions (EPP)	<p>No</p> <p>Procurements from this Scheme fall below the EPP threshold for construction works.</p>
Application deadline	<p>None.</p> <p>The Scheme is always open for Applications</p>

Item	Description
Duration of the Scheme	31 December 2025
Minimum number of quotes to be sought from Suppliers	Three The above minimum number of Suppliers to be invited does not override any approved procurement governance requirements developed for an Agency's business. Agencies should check the relevant policies for allowable variances from the quote rules

2 Benefits of the Scheme

The key benefits for Agencies using this Scheme include:

- Easy identification of Suppliers to be included in tenders for General Construction Works. This reduces the time, cost and risk to agencies
- A centralised prequalification assessment based on objective criteria to appoint suitable Suppliers to the Scheme
- Sharing of performance related information and volume allocation to construction Suppliers across the NSW Government.

3 Procurement planning

3.1 Link to NSW Government Procurement Framework

This Scheme is relevant to [NSW Procurement's Plan-Source-Manage approach](#) to procurement. It assists Agencies in the planning phase to identify Suppliers who are suitability qualified to tender for General Construction Works between \$1M and \$9M.

Please note:

- the source and manage phases of procurement are outside of the scope of the Scheme
- Agencies using this Scheme are encouraged to develop their own sourcing strategies in accordance with the NSW Procurement Policy Framework.

3.2 Estimating the value of the procurement

Agencies need to assess the estimated value of their procurement to correctly determine if they can use Scheme SCM1461 for procuring General Construction Works.

The estimated value of a procurement is an estimate of the maximum value (ex GST) of the proposed procurement contract made by the Agency, and is to include the value of the following:

- the goods or services to be procured,

- all forms of remuneration payable by the government Agency, including any premiums, fees, commissions, interest and other revenue streams that may be provided for in the proposed contract,
- any options, extensions, renewals or other mechanisms that may be executed over the life of the contract.

If a procurement is to be conducted in multiple parts with a number of proposed procurement contracts awarded either at the same time or over a period of time, with one or more Suppliers, the estimated value of the procurement must include the estimated value of all of the proposed procurement contracts.

A procurement must not be divided into separate parts if a purpose of the division is to avoid a relevant procurement threshold.

If the maximum value of a proposed procurement cannot be estimated, the procurement is taken to have an estimated value that exceeds the relevant EPP procurement threshold for the procurement. In this case, Agencies must either approach the open market or use the Construction Procurement List instead of SCM1461.

Agencies are to note that the threshold for a procurement of construction services is \$9.584 million. This Scheme can be used for procurements up to \$9M. The lower threshold of \$9M has been chosen as it is easier to communicate to Agencies and Suppliers and allows for adjustments to the EPP threshold which may occur in the future.

Agencies undertaking procurement with a value below \$1M, Agencies must use [SCM0256](#).

4 Work Categories and Contract Systems

4.1 Building Works

This category is for multi-trade building works for new buildings and additions to existing buildings.

Includes some design coordination and design management and may also involve minor heritage works, associated civil works and elements of fitout and refurbishment work, as well as the final preparation of internal areas for occupation by the client in new and existing buildings.

4.2 Heritage Building Works

Heritage building include restoration and conservation works and or associated stonemasonry, carving & fixing, roofing, carpentry, plastering and painting.

4.3 Modular Building Works

Modular building include portable buildings, prefabricated buildings, modules or sections manufactured off-site and amenable to on-site expedited delivery or modular assembly.

4.4 Fitout and Refurbishment

This category is for fitout and refurbishment work. It further includes the final preparation of internal areas for occupation by the client in new and existing buildings.

4.5 Civil Works

This category is for civil engineering works including excavation and bulk earth works, minor roads and related works, and drainage works.

4.6 Water Infrastructure

Water supply infrastructure include reservoirs, dams and or associated pipelines, pumping stations, balance tanks, surge tanks, storage tanks and discharge structures.

4.7 Wastewater Infrastructure

Wastewater infrastructure include sewage treatment plants and or associated pipelines and pumping stations.

4.8 Demolition Works

Demolition work includes demolishing or dismantling a structure or part of a structure that is either load bearing or related to the physical integrity of the structure. This category includes the removal of hazardous materials other than asbestos.

Total or partial demolition of buildings/structures can be potentially dangerous. Suppliers undertaking this work are therefore required to hold applicable licenses. Under the NSW Work Health and Safety (WHS) Regulation 2017, there are two types of demolition licences:

- a demolition license (DE1)
- restricted demolition license (DE2)

Suppliers of this category in SCM1461 must possess one of the above licences issued by SafeWork NSW and can be engaged as the Principal Contractor under the WHS legislation.

4.9 Contract systems

Procuring entities may approach Suppliers for the provision of services under the following contract systems:

- **Construction (C):** The Supplier may be responsible for completing the Principal's design and carrying out design documentation and design coordination to the extent specified and for construction using designs and documentation prepared by the Principal. The Supplier's design obligation may include preparation of fabrication drawings and may include completion of other design details. This includes the contract system often called Design Development and Construct.
- **Design and Construct (DC):** The Supplier is responsible for a significant part of the design, design development, and documentation and design coordination, as well as construction.

5 Using the Scheme

5.1 Suppliers who are included on the Scheme

Agencies can view a current list of Suppliers included on the Scheme when using their [eTendering Admin login](#). NSW agencies, local councils and universities can also obtain such information via request to construction.suppliers@pwa.nsw.gov.au

5.2 Conditions that Suppliers on the Scheme meet

Agencies can have confidence that Suppliers included on the Scheme demonstrated the following capacities and abilities. For further information please refer to the Scheme Conditions document.

5.1.1 Legal capacity

Suppliers have the legal capacity to enter into contracts with the NSW Government. This includes that they registered for an ABN, that the Supplier indeed is the entity for which that ABN was registered and that the Supplier agreed to the NSW Supplier Code of Conduct.

5.1.2 Financial capacity

Suppliers have the financial capacity to deliver contracts for the NSW Government up to the stated upper contract value. Their financial viability has been demonstrated during the Application process and is monitored annually through the services of an external assessor

5.1.3 Commercial ability

Suppliers have demonstrated that they have:

- Key personnel trained in cooperative based contracting, conflict resolution and alternative dispute resolution
- Appropriate business management systems, including Quality Management System (QMS), Workplace Health and Safety (WHS) systems and Project Management Systems.

5.1.4 Technical ability

Suppliers and their key personnel have demonstrated their technical ability to deliver contracts for the NSW Government within their nominated work category. They demonstrated at least two years' of relevant experience delivering projects and provided client referees or performance reports for completed contracts for these projects.

6 Inviting submissions from Suppliers

6.1 Market approaches guide

Refer to the [Market Approaches Guide](#) on buy.nsw for approaching the Supplier market.

6.2 Tendering rules

Agencies inviting tenders/submissions can approach a limited number of Suppliers on the Scheme as it may be inefficient for both the Agency and the Suppliers to invite all eligible Suppliers to participate in every procurement.

At a minimum the Agency **must seek submissions from three Suppliers**.

The key principle of obtaining value for money in the procurement **must** be addressed by the procuring officer in all cases.

Unaccredited agencies are reminded that they must comply with the [assurance process for construction procurements](#) valued over \$1.3 million (ex GST).

Agencies may consider inviting Suppliers who had previously expressed interest with the Agency for a particular procurement listed in the Agency's annual procurement plan.

The above minimum number of Suppliers to be invited does not override any approved procurement governance requirements developed for an Agency's business. Agencies should check the relevant policies for allowable variances from the quote rules.

6.3 eTendering

An Agency must use the eTendering Admin Domain, <https://www.tenders.nsw.gov.au/?event=admin.login>, NSW agencies to release a tender to the market.

6.4 Contractual agreements

The contractual agreement between the Agency and the contractor is outside the scope of this Scheme. However, agencies should use NSW Government's standard construction contracts such as GC21 where appropriate. Using standard contracting documents reduces risk to NSW Government Agencies and reduces the administrative burden for Suppliers.

6.5 Trusts and trustees

Trusts (e.g. Smith Family Trust) are not eligible for inclusion on the Scheme. Suppliers trading under a Trustee company arrangement (e.g. Trustee for the Smith Family Trust) are eligible to apply if, under the terms of the trust deed, they have power to enter into a contract on behalf of the trust. Trusts (e.g. Smith Family Trust) are not eligible for prequalification, as they cannot enter into a contract for services with an agency.

6.6 Insurances

For this Scheme, Applicants are not required to provide evidence of insurance at the time of prequalification. However, Agencies should ask for a proof of works insurance, public liability, workers compensation and/or professional indemnity insurance (as required) at the tendering and contract award stages.

6.7 Relevant occupational licences or certification

Applicants provide evidence of all necessary licenses for work categories which have this as a mandatory requirement. The type of license will be determined by the NSW Government licensing Agency (or equivalent) and various work categories under this scheme prescribe the mandatory licensing requirements.

Agencies are advised to apply their own due diligence at the tendering stage to ensure the contractor's license is current.

Please note that Agencies will need to verify that the Supplier remains to be an Aboriginal business during the evaluation of submissions.

7 Contractor performance

7.1 Monitoring of Supplier performance

Suppliers included on the Scheme are subject to a process of continuous monitoring and review in all matters related to the Scheme including the Supplier's performance and project outcomes.

Agencies are encouraged to support PWA, which is the Agency responsible for the Scheme, in administering the Scheme by monitoring the performance of the Suppliers.

Specifically, this includes the development of Contractor Performance Reports (CPR) and their regular provision to PWA.

Agencies are further encouraged to monitor the following items and report any findings to PWA:

Legal Capacity

- Ethical business practices, including compliance with NSW Government Supplier Code of Conduct
- SafeWork NSW notices or on-the-spot fines issued to the Supplier on any of its contracts
- Convictions or prosecutions for workplace safety or environmental law breaches
- If the Supplier has been found guilty of professional misconduct
- Failure to obey an adjudicator's determination under Building and Construction Industry Security of Payment Regulation 2020 (NSW), subject to other legal rights
- If the Independent Commission Against Corruption (or an equivalent body in a jurisdiction in Australia), within the previous 10 years, has made a finding or has been of the opinion that the Supplier has engaged in corrupt conduct
- If the Supplier has made one or more false declarations.

Financial Capacity

- Financial Performance, specifically if the Supplier remains a financially viable business
- Whether the Supplier is bankrupt or insolvent.

Commercial Ability

- Tendering Performance on submissions including whether the Supplier has:
 - declined submission opportunities offered without providing valid reason
 - failed to make a submission without providing any valid reason after having accepted the submission opportunity
 - made late submissions
 - made qualified, non-complying or uncompetitive submissions.
- The preparation of proper and conclusive accident and incident reports on any of the Supplier's contracts in NSW

- The level of appropriateness of corrective actions implemented by the Supplier following the report of a serious WHS event on the Supplier's sites
- Results of any Quality Assurance Audit or WHS Management System Audit conducted for or on behalf of any NSW Government Agency or by any properly credentialed Auditor or Auditor group
- The Supplier's compliance with its own business management systems, and whether these systems are kept updated in line with certification/accreditation requirements

Technical Ability

- Project outcomes of projects delivered by the Supplier
- Client satisfaction on projects delivered by the Supplier
- Contractor Performance Reports (CPR)
- Deficiency or persistent deficiencies in the performance by the Supplier of any substantive requirement or obligation under a contract.

7.2 Supplier suspension and removal from Scheme

The NSW Government may suspend a Supplier from the Scheme for any non-compliance with the Scheme Conditions. Reasons for suspension specifically include that the NSW Government has reasonable belief regarding any of the following:

- That the Supplier has acted in contravention to the NSW Supplier Code of Conduct
- That the Supplier did not submit financial viability information or annual reporting
- That the Supplier experienced an adverse change in capacity or capability
- Failure to obey an adjudicator's determination under Building and Construction Industry Security of Payment Regulation 2020 (NSW), subject to other legal rights
- That the Supplier is bankrupt or insolvent
- That the Supplier has made one or more false declarations
- That there has been a significant deficiency or persistent deficiencies in the performance by the Supplier of any substantive requirement or obligation under a prior contract
- The Independent Commission Against Corruption (or an equivalent body in a jurisdiction in Australia), within the previous 10 years, has made a finding or has been of the opinion that the Supplier has engaged in corrupt conduct.

In the above, a reference to Supplier includes, if the Supplier is a body corporate, a director and any other person involved in the management of the affairs of the body corporate.

If a Supplier was suspended from the Scheme and the reason for the suspension cannot be resolved to the satisfaction of the NSW Government within 90 days the Supplier will be removed from the Scheme.

8 Review and Development of the Scheme

PWA provides a small, dedicated team to administer the Scheme and assist agencies and Suppliers with enquiries and feedback for continuous improvement. Contact construction.suppliers@pwa.nsw.gov.au

9 NSW Procurement Policy Framework

This section provides context about the applicable legislative and policy framework within which the Scheme operates.

Suppliers and Agencies must at all times comply with all relevant laws and policies, including but not limited to those listed in this section. A Supplier's breach of any relevant policies and/or laws may result in suspension or removal from the Scheme.

The [NSW Procurement Policy Framework](#) provides a consolidated view of government procurement objectives and the Procurement Board's requirements as they apply to each step of the procurement process.

9.1 Procurement Board Directions

From time to time the NSW Procurement Board issues Directions under the [Public Works and Procurement Act 1912](#). These Directions determine the rules and guidelines around public sector procurement within the NSW Government. A library of all current Directions in force can be found on [the buy.nsw website](#).

9.2 Enforceable Procurement Provisions

The NSW Government issued a Direction in response to its obligations under international procurement agreements. The [Procurement \(Enforceable Procurement Provisions\) Direction 2019](#) under the Public Works and Procurement Act 1912 includes provisions about how Government must engage with its Supplier market in a way that is fair, open and transparent to all Suppliers, including international Suppliers.

9.3 NSW Government Action Plan: A ten point commitment to the construction sector

The NSW Government recognises that it can only achieve its infrastructure objectives in partnership with the private sector, and that this depends on healthy ongoing competition between a capable field of construction firms, sub-contractors and the industry supply chain – not just now, but for years to come.

The NSW Government aims to be a “best in class” client for the construction industry and its Suppliers. In return, it expects industry to meet the highest standards of integrity, quality, innovation, diversity and inclusiveness.

In 2018 it issued [A ten point commitment to the construction sector](#) to achieve these goals.

9.4 NSW Government Supplier Code of Conduct

The NSW Government strives to conduct sustainable and inclusive government procurement.

Our Suppliers are our partners in delivering the best social and commercial outcomes for the state of NSW and its citizens.

The NSW Government requires all Suppliers to comply with relevant standards of behaviour and must report findings of dishonest, unfair, unconscionable, corrupt or illegal conduct to the NSW Procurement Board. These requirements are essential to business confidence in the NSW Government's procurement regime as well as public trust more broadly in the Government's decision-making processes.

A minimum set of expectations and behaviours for doing business with NSW Government has been articulated in the [Supplier Code of Conduct](#). All Applicants and Suppliers to this Scheme must comply with it and must have a satisfactory record of compliance with the Code. This also includes ensuring that Suppliers and their subcontractors, consultants, and contractors comply with their legal obligations regarding their employees.

Applicants and Suppliers must further comply with the [NSW Industrial Relations Guidelines: Building and Construction](#).

9.5 Financial Assessment

[Financial assessments](#) are part of the due diligence process in awarding NSW Government contracts. They are used to check the financial capacity of the Supplier to complete works or supply goods. Financial assessments are further undertaken during a contract to identify and assess any changes in the financial position and risks associated with the solvency of the contractor.

The Agency responsible for this Scheme uses financial assessments during the Application process and at regular intervals on Suppliers that are included on the Scheme (refer Scheme Conditions section 4.5.1). The NSW Government may engage a service provider prequalified under the Financial Services Pre-qualification Scheme SCM2491 to undertake such assessments.

9.6 Small and Medium Enterprise (SME) and Regional Procurement

The NSW Government is seeking to strengthen its construction supply chain to accommodate its [Small and Medium Enterprise and Regional Procurement Policy](#). This will provide greater opportunities for SMEs and local businesses in regional NSW.

The Scheme Application process will identify small and medium businesses with the appropriate capability and capacity to participate in construction projects. Applicants are expected to select only those regions that their current capacity and capability can support.

For further information refer to [the Procurement Board Direction PBD2019-03](#) on Buy.NSW

9.7 Aboriginal Procurement Policy (APP)

This Scheme is aligned to the principles of NSW Government's [Growing NSW's First Economy](#) framework. The framework is a key element of [Opportunity, Choice, Healing, Responsibility and Empowerment \(OCHRE\)](#).

The APP recognises that industry has a key role to play in broadening opportunities for Aboriginal people and that the NSW Government can use its relationship with business to deliver positive social outcomes.

The APP has been developed to create opportunities for Aboriginal owned businesses and encourage Aboriginal employment and training through the supply chain of NSW Government contracts. The Scheme Application process will ask applicants if they are an Aboriginal business, as defined by the [APP](#).

9.8 Skills and training in construction

The NSW Government has minimum levels of training for all major Government construction projects consistent with targets in the [Infrastructure Skills Legacy Program \(ISLP\)](#).

The ISLP provides an opportunity to create an on-going legacy for the people of NSW for employment, skills development and diversity in the construction workforce. The ISLP also contributes to improving productivity by building capability and capacity of the construction workforce.

For [further information refer to NSW Procurement Board Direction PBD-2020-03 on Buy.nsw](#)

9.9 Modern Slavery Legislation

The [Modern Slavery Act 2018 \(NSW\)](#) came into effect on 01 January 2022. The Act recognises that modern slavery is prevalent around the world and in NSW, and sets out steps to ensure NSW is not contributing to these crimes.

Applicants and Suppliers to the PL are expected to comply with the [Commonwealth Modern Slavery Act 2018](#) and the [Modern Slavery Act 2018 \(NSW\)](#). Refer to the following link for more information about Modern Slavery and Procurement:

<https://buy.nsw.gov.au/resources/modern-slavery-and-procurement>

9.10 Disability organisations

An Australian Disability Enterprise (ADE) is a not-for-profit organisation that employs people with disabilities. ADEs have the same working conditions as other employers and they empower the disabled to contribute to their communities.

NSW Government agencies [are encouraged to buy from ADE organisations](#) where possible

Attachment A Terms and definitions

Term	Definition
ABN	Australian Business Number (ABN) is a unique number issued by the Australian Business Register (ABR) which is operated by the Australian Taxation Office (ATO) Under the A New Tax System (<i>Australian Business Number</i>) Act 1999. It identifies the business and is used in commercial transactions and dealings with the ATO.
ACN	Australian Company Number (ACN) is a unique number issued by the Australian Securities and Investments Commission (ASIC) to every company registered under the Commonwealth Corporations Act 2001 as an identifier.
Agency	NSW Government agencies, and other clients using the Scheme. This includes State owned corporations, universities, local councils etc. (Agencies)
Applicant	An entity that has applied for inclusion on the Scheme
Buy.NSW	The central repository for all NSW Government procurement, https://buy.nsw.gov.au
Construction Services	Services relating to construction of buildings or works, including <ul style="list-style-type: none"> a) pre-erection works b) construction works c) repairs, alterations and restorations.
Contract system	A system for managing contracts, based on the type of services provided by the Supplier
Contractor performance report (CPR)	A report completed using the NSW Government's CPR template or accepted method
EPP Enforceable Procurement Provisions	The Procurement (Enforceable Procurement Provisions) Direction 2019 under the Public Works and Procurement Act 1912
Framework	NSW Procurement Policy Framework - the suite of legislation, policies, Board Directions and other rules that apply to procurement in NSW (including construction procurement)
Government	New South Wales Government
PL Procurement List	A list established in accordance with Part 6 of the EPP that includes Suppliers who have met the conditions of participation. A Scheme is intended to be used more than once for procurements by one or more Agency

Term	Definition
Regional NSW	includes all areas within NSW outside the Newcastle, Sydney and Wollongong metropolitan areas
SCM1461	Supplier Prequalification Scheme for Construction Works above \$1 million and below \$9 million (ex GST)
Small or Medium Enterprise	An Australian or New Zealand based enterprise with fewer than 200 full time equivalent (FTE) employees
Supplier	An entity that has been included on the Scheme to provide construction works above \$9 million (ex GST)
Supplier Hub (formerly eTendering)	The NSW Government's repository for past, current and future tenders. Suppliers can apply for prequalification schemes, manage their scheme Application and change contact details. Agencies use the site to select prequalified Suppliers for tendering opportunities.
The government Agency responsible for the Scheme	Department of Regional NSW
Work Categories	A system to classify similar types of work, e.g. building works, civil works and fitout
Works	Construction works including building works, fitout and civil works but excluding construction related consultancy services, architectural design and heritage conservation