Agency Guidelines SCM0005

Performance and Management Services Prequalification Scheme

December 2023



Acknowledgement of Country

We acknowledge that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples   
to Country and acknowledge their continuing custodianship of the land, seas and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices, and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes.

Artwork:   
*Regeneration* by Josie Rose

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# SCHEDULE OF DOCUMENT AMENDMENTS

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| **Revision Number** | **Date** | **Update Description** |
| 1 | July 2016 | General Reformat and removal of Legal Services from Scheme. |
| 2 | December 2016 | Policy Direction updates: Agency engagements outside Scheme. |
| 3 | February 2017 | Rollover of scheme for two years to 19 February 2019. |
| 4. | February 2018 | Revising the EARL close date until further notice |
| 5 | June 2018 | Amalgamation of Agency Guidelines in line with scheme update for new engagement types revised Scheme Rules and addition of new Engagement Type definitions. |
| 6 | August 2019 | Minor formatting, updating Scheme extension date, new Procurement Board Direction and policy links. Threshold GST change to exclusive, Department name change |
| 7 | October 2019 | In accordance with recommendations made from the NSW Audit Office Report on Probity Services the following changes have been made - See Clause 9. |
| 8 | November 2019 | Further engagement types added to Clause 9 regarding probity services provider requirements |
| 9 | February 2020 | Rollover of Scheme for 12 months to 19 February 2021 |
| 10 | February 2021 | Rollover of scheme for 12 months to 19 February 2022 |
| 11 | December 2021 | Updated according to the new branding guide and links to buy.nsw. |
| 12 | February 2022 | Rollover of scheme for 12 months to 19 February 2023 |
| 13 | November 2022 | Inclusion of the recommended Infrastructure Advisory Standard Commercial Framework for engagement type 15 – Infrastructure Advisory services only |
| 14 | December 2023 | Overall review and update to improve clarity, accuracy and incorporate Scheme Rules updates.   * Updated Section 8 - Financial Threshold for Base and Full Prequalification, Section 15 – Variation criteria and other minor updates. |

# CONTACT DETAILS

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Website: [Performance and Management Services Scheme | info.buy.nsw](https://info.buy.nsw.gov.au/schemes/performance-and-management-services-scheme)

# Introduction

In 2008, the NSW Department of Premier and Cabinet (DPC), in conjunction with the NSW Department of Finance and Services (DFS), established the Prequalification Scheme: Performance and Management Services (the Scheme). The full responsibility for the Scheme was transferred to DFS (now Department of Finance, Services & Innovation (DFSI) in April 2012. The Scheme creates a framework for the prequalification of organisations that provide performance and management services to NSW Government agencies and statutory corporations.

In 2018 the scheme was changed to enable the extension of the current engagement types and to streamline documentation and search capability.

In July 2019 NSW Procurement moved into NSW Treasury cluster.

Treasury maintains a list of individuals and companies with a demonstrated track record in one or more engagement types.

The Scheme has 15 engagement types as follows:

***1 - Government and Business Strategy*** – including Strategy Development and Planning, Strategic Business Case, Business Performance Reviews, Organisational Design/Transformation, Business Intelligence, Cost Management, Governance and Policy Review/Development.

***2 - Business Processes*** - advice and/or assistance regarding Business process mapping/re-engineering.

***3 - Project Management*** – leading and managing, best practice, planning and facilitations services.

***4 - Change Management*** – advice and/or assistance for significant change including communication planning and project management.

***5 - Financial Services*** – including accounting services, accounting standards, finance process reviews, asset management, Valuations, financial/economic advisory and forensic accounting.

***6 - Audit, Quality Assurance and Risk*** – including Internal/External Audits, Risk management and probity services. (6c Probity Services are only available to fully prequalified applicants).

***7 – Taxation*** – including Goods and services tax (GST) and other tax services.

***8 - Human Resources*** – including Human Capital Management, Culture, Work Health and Safety, remuneration, retention and diversity.

***9 - Procurement and Supply Chain*** – including Procurement/Sourcing, category management, procurement accreditation and supply chain.

***10 - Marketing and Customer*** – including Market Research, Customer/Customer Experience and pricing.

***11 - Actuarial Services*** – advice and assistance on financial risk modelling, assessing and planning.

***12 - Transaction Services*** – advice and assistance on Mergers and Acquisitions.

***13 – (not in use)*** – Telecommunications used to be covered by the P&MS Scheme under engagement type 13. It has now transferred over to the ICT Services Scheme.

***14 - Specialised Services*** – including Crisis Management, Environmental Impact Assessment, Fraud and Corruption Investigations, Training and Development, Internal communications, External Communications, Event Management and service delivery.

***15 - Infrastructure*** – including strategy and planning, risk, major project procurement/delivery and project management, contracting and communication.

Each of these has associated sub engagement types, the full list and descriptions are located on the Performance and Management Services webpage within the buy.nsw website.

These types of services are typically regarded as a ‘consultancy’, the Scheme, however, can be used by agencies regardless of whether suppliers are engaged as ‘consultants’ or as ‘professional or specialist contractors’.

In July 2012, the NSW Department of Finance, Services and Innovation (now NSW Treasury) established the Easy Access Registration List (EARL) to enable Applicants to register as EARL Suppliers for the provision of low-risk performance and management services valued at up to $50,000 (exclusive of GST), to NSW Government Agencies (Agencies). EARL Suppliers are not required to submit referee reports during the application process.

In 2018 the EARL Scheme Rules were withdrawn and combined into a single Scheme Rules document for all suppliers. The EARL classification of suppliers has been changed to Base level prequalification.

The Base prequalification aims to:

* provide a list of Suppliers that Agencies can use for low-risk engagements for listed capability services up to $50,000 excluding GST (and in certain limited circumstances through Variations to engagements up to $75,000 excluding GST)
* enabling opportunity of access to government work and experience.
* Encourage agencies to engage with base suppliers where appropriate and provide opportunity for industry development.
* encouraging agencies to provide opportunity to new Small to Medium business through the Base listing for services that are low risk and low value.
* enabling supplier development and transition to Full qualification.

Agencies are responsible for selecting the appropriate supplier, taking into account the potential business impact and the level of risk associated with the work to be undertaken by the Supplier.

# How does the Scheme operate?

The Scheme aims to:

* streamline the competitive tendering process by pre-qualifying suppliers with demonstrated track records in the provision of certain performance and management services; and
* enhance probity standards and quality assurance by allowing for third party assessment of suppliers.
* provides a standard commercial framework where applicable.

The NSW Treasury (Treasury) maintains a list of approved suppliers which offer services in one or more engagement types. Agencies may engage Suppliers in the capability areas listed and subject to the level of pre-qualification approved for each supplier. Please note the list of suppliers is updated on a regular basis.

The current list of approved suppliers on the P&MS Scheme is available online via the buy.nsw website at: [Performance and Management Services webpage](https://info.buy.nsw.gov.au/resources/engagement-types-under-the-performance-and-management-services-scheme).

# How do Applicants become qualified or listed?

Applicants must complete and submit an application using the online application form accessed by clicking “start an application” under the how to supply tab on [Performance and Management Services Scheme page on info.buy.nsw](https://info.buy.nsw.gov.au/schemes/performance-and-management-services-scheme).

Information submitted with an application will be treated as confidential by Treasury unless otherwise required by law but will be made available to NSW Government Agencies when seeking suppliers for services.

# Procurement Policy Framework

The NSW Government Goods and Services Procurement Policy Framework for NSW Government Agencies (‘Procurement Policy’) outline’s how the NSW Government will conduct its procurement activities when interacting with the private sector. The Procurement Policy establishes standards of behaviour expected from government agencies and suppliers.

These guidelines have been prepared to assist agencies and statutory corporations seeking to use the Scheme and should be read in conjunction with the Scheme Rules available on the buy.nsw website.

Applicants and Approved Suppliers must adhere to the NSW Procurement Policy Frameworkat all times. Any breach of the NSW Procurement Policy Framework by an Applicant or Approved Suppliermay result in an Application being rejected, the removal of an Approved Supplier from the Scheme Procurement List and/or termination of an Agreement.

Applicants and Approved Suppliers must adhere to the NSW Supplier Code of Conduct. Any breach of the NSW Supplier Code of Conduct may result in an Application being rejected, the removal of an Approved Supplier from the Scheme Procurement List and/or termination of an Agreement.

# What services does the Scheme cover?

The Scheme has 53 15 Engagement Types and over 50 Sub–Engagement Types. Please refer to [P&MS Scheme Engagement Types](https://buy.nsw.gov.au/resources/engagement-types-under-the-performance-and-management-services-scheme) on the buy.nsw website.

# What the Scheme does not cover?

The scheme is for services only – it doesn't cover provision of goods. The Scheme will not cover areas of procurement already addressed by other prequalification schemes or panel contracts, including but not limited to:

1. NSW Procurement (period) contracts
2. Construction-related consultants, covered by the [Consultants in Construction Scheme](https://info.buy.nsw.gov.au/schemes/consultants-in-construction-scheme)s
3. Contingent Workforce Prequalification Scheme SCM007
4. ICT goods and services, covered by the [ICT Services Scheme](https://info.buy.nsw.gov.au/schemes/ict-services-scheme) and Procurement Arrangements
5. legal services, covered by the [Legal Services Panel](https://info.buy.nsw.gov.au/schemes/legal-services-panel) and [Regional Legal Services Panel](https://info.buy.nsw.gov.au/schemes/regional-and-rural-legal-services-panel).
6. Other NSW Prequalification schemes

# Agency obligations under the standard commercial frameworks

## Obligations

Agencies are responsible for ensuring that they follow the Procurement Board Directions and Guidelines for the standard commercial frameworks where applicable, in particular:

1. [PBD 2021-03 Engagement of professional services suppliers](https://arp.nsw.gov.au/pbd-2021-03-engagement-of-professional-services-suppliers/) (for engagement types 1-12)
2. [PBD 2022-02 Engagement of Infrastructure Advisory Services suppliers](https://arp.nsw.gov.au/pbd-2022-02-engagement-of-infrastructure-advisory-services-suppliers) (for engagement type 15).

# Financial Thresholds for Base and Full Prequalification Engagements

## Standard Commercial Framework

The following standard commercial frameworks apply to the Scheme:

* + 1. The mandated Standard Commercial Framework (SCF), applicable to Engagement Types 1 – 12 only; and
    2. The Infrastructure Advisory Standard Commercial Framework (IA SCF), which is recommended for use by Agencies as guidance, and applicable to Engagement Type 15 only.

## Engagement of Approved Base Prequalified Suppliers

* + - * 1. Approved Base Prequalified Suppliers can only be engaged for low risk engagements of a value up to $50,000 (excluding GST) by inviting the Approved Supplier to provide one (1) written quotation.
        2. Engagements of Base Prequalified Suppliers should be undertaken for the provision of services that do not expose Agencies to a high level of risk, including the risk of exceeding an engagement cost of $50,000 excluding GST. Agencies should use their discretion and consider risk when determining the suitability of engaging a Base Supplier for work, as these Suppliers have not been assessed as rigorously as Suppliers with Full Prequalification

## Engagement of Approved Full Prequalified Suppliers

1. Where the estimated cost of an Engagement is less than or equal to $250,000 (excluding GST), the Agency may directly engage an Approved Full Prequalified Supplier by inviting the Approved Supplier to provide one (1) written quotation.
2. Where the estimated cost of an Engagement is more than $250,000 (excluding GST), the Agency may engage an Approved Full Prequalified Supplier by inviting a minimum of three (3) Approved Suppliers from the Scheme to provide written quotations.

## Engagement of Approved Full Prequalified Suppliers that have not accepted the mandated Standard Commercial Framework (OSCF Suppliers)

A more stringent engagement approvals and ongoing governance arrangements apply when engaging Approved Full Prequalified Supplier that have not accepted the Standard Commercial Framework, as specified in [Procurement Board Direction 2021-03](https://arp.nsw.gov.au/pbd-2021-03-engagement-of-professional-services-suppliers/).

Where the Agency financial thresholds are more stringent than the thresholds in these Scheme Rules the Agency thresholds will apply.

# Engagement of Probity Services

In accordance with recommendations from the NSW Audit Office Review of Probity Services under the P&MS Scheme some changes have been implemented.

Engagement Type 6c Probity Services is restricted to Approved Full Prequalified Suppliers with Specified Personnel for Engagement Type 6c Probity Services. Employment screening checks are required for all Specified Personnel and are performed by NSW Procurement using NSW Government contract C0011.

Suppliers approved for Engagement Type 6c Probity Services are limited to providing services in the following assurance-related engagement types:

1g Governance

5b Accounting standards

5g Forensic advisory

6a Internal/external audit

6b Risk management

6c Probity services

7a Goods and Services Tax

7b Other Tax services

9a Procurement/Sourcing

9b Category Management

9c Procurement Accreditation

14a Crisis Management

14c Fraud and corruption investigation

15b Risk

15c Major Project Procurement/Delivery and Project Management

All Probity suppliers will be required to report to NSW Procurement on engagements with agencies.

Details of the changes are noted in the Scheme Rules.

# What if an Agency is unable to obtain the required number of quotations?

The requirement to obtain three quotations/proposals may not always be achievable. If an agency anticipates that this may be an issue at the time of seeking quotations, they should invite the number of quotations most likely to result in the minimum number of quotations being received. Agencies may also confirm with potential tenderers prior to quotations being sought, that the suppliers are willing to submit a quotation. Exemption from this requirement will only be allowed in circumstances when an agency has applied their best endeavours to obtain the minimum number of quotations required but the industry has not responded favourably.

In these cases, the course of action taken by the agency and the justification for obtaining less than the required number of quotations should be documented. Record keeping requirements should include details on the number of quotations sought, the number of responses received and an indication as to why the suppliers have declined to participate. Further, the requirement for determining how value for money has been established must be fully documented for consideration by the approving officer.

The engagement must be approved by the Minister, the Board, Chief Executive Officer or authorised person at the agency in line with delegations for this particular purpose. Please note that these are not necessarily the same as the financial delegations at the agency. The agencies must comply with their own internal authorities and delegations in relation to the engagement of consultants.

# Terms of Engagement

## On what terms are Suppliers to be engaged?

During the application process to join the Scheme, applicants agree that, if prequalified under the Scheme, the terms and conditions of any engagement made under the Scheme will be those of the Standard Form of Agreement – Terms and Conditions contained within the “Scheme Rules” applicable to the level of registration and agree that it is not necessary to sign the Standard Form of Agreement – Terms and Conditions for each or any engagement; instead, parties will complete a form of Agreement Details in respect of each engagement.

The details of scope of work, fees and other requirements for the engagement will be set out within Standard Form of Agreement - Agreement Details between the parties. Where the parties want to sign a document, the parties may sign the Agreement Details.

Agencies should not modify the terms of the agreement unless there are exceptional circumstances which warrant modification and should seek the approval of their respective Legal Services divisions.

An editable version of the Standard Form of Agreement– Agreement Details is available on the buy.nsw website for both Full and Base Prequalified Suppliers.

# Can an Agency engage consultancy services outside the Scheme?

Performance and Management Services Scheme (P&MS Scheme – SCM0005) is Recommended Scheme. However, some Clusters have mandated the use of P&MS Scheme. All NSW Government agencies must check agency specific arrangement. All NSW Government agencies and statutory corporations may refer work to suppliers outside the Scheme in circumstances where they consider specialist advice can be provided more efficiently and effectively. Agencies who seek to engage consultants outside the Scheme will be required to comply with the Goods and Services Procurement Policy Framework for NSW Government Agencies and other relevant Policies and Board Directions.

The NSW Government Small and Medium Enterprise and Regional Procurement Policy was adopted on 1 February 2019 and sets out the methods by which procurement must be undertaken to improve access for Small and Medium Enterprises (SME) to government goods and services procurement via Whole of Government contracts and prequalification schemes.

# Insurances

Approved Suppliers on the scheme are to have policies of insurance that are required by law. Minimum levels for public liability are noted within the terms and conditions of engagement. Professional Indemnity is not mandated for the scheme however as default minimum levels have been noted in the terms and conditions of engagement.

Note insurances are not checked upon entry to scheme. For this scheme, the suppliers are not required to provide evidence of insurance at prequalification stage.

Agencies are responsible for determining the appropriate types and levels of insurance by completing a risk assessment. Once determined the types and levels of insurance should be noted within the quote issued to selected Approved Supplier/s.

The standard form of agreement should be completed to ensure the determined levels and types of insurance are noted. Agencies should evidence prior to execution of engagement that these required insurances are in place.

Applicants are to maintain insurance policies for Public Liability and Workers' Compensation in accordance with the Scheme Rules and otherwise where required by law.

Professional Indemnity Insurance is not mandatory but may be required for some engagements. The adequacy of the insurance coverage to meet the risk and any monetary limit that is set for the nature of an engagement will be determined by agencies at the time the service provider is engaged.

Prior to engagement, agencies should request that suppliers provide proof of insurance.

# Indemnity

## Full Prequalified Indemnity

Clause 10 of the Standard Form of Agreement – Terms and Conditions – Full Prequalification within the “Scheme Rules” provides that the Approved Supplier agrees to indemnify agencies against any losses caused by, among other things, the negligence of the Approved Supplier.

Agencies are given the option of limiting or ‘capping’ the Approved Supplier’s liability under Clause 10.4 to a monetary amount, which has to be specified within the Standard Form of Agreement - Agreement Details.

The appropriateness of any cap on the Approved Supplier’s liability under Clause 10 of the agreement is a risk management matter for the agency to consider. Any such cap should comply with the Treasury Managed Fund’s contract of coverage. If there is any doubt, the advice of the Fund Manager should be sought by the agency.

When an agency engages a supplier, it must check that (where required) the Approved Supplier has valid Professional Indemnity insurance and that the level is adequate to meet any monetary limit that is set for that type of engagement (see Clause 4.18 of the Standard Form of Agreement – Terms and Conditions – Full Prequalification within the “Scheme Rules”).

## Base Prequalified Indemnity

Clause 10 of the Base Standard Form of Agreement – Terms and Conditions – Base Prequalification within the “Scheme Rules” provides that the Approved Supplier agrees to indemnify agencies against any losses caused by, among other things, the negligence of the Approved Supplier.

Agencies are given the option of limiting or ‘capping’ the Approved Supplier’s liability under Clause 10.3 to a monetary amount, which has to be specified within the Agreement Details – Base Prequalification.

The appropriateness of any cap on the Approved Supplier’s liability under Clause 10 of the agreement is a risk management matter for the agency to consider. Any such cap should comply with the Treasury Managed Fund’s contract of coverage. If there is any doubt, the advice of the Fund Manager should be sought by the agency.

When an agency engages an Approved Supplier, it must check that (where required) the Approved Supplier has valid Professional Indemnity insurance and that the level is adequate to meet any monetary limit that is set for that type of engagement (see Clause 13 of the Base Standard Form of Agreement – Terms and Conditions – Base Prequalification within the “Scheme Rules”).

# Does the Scheme allow for Variations to Engagement?

## Engagement value and Variation criteria for Approved Base Prequalified Suppliers

1. Approved Base Prequalified Suppliers can only be engaged for low-risk engagements of a value up to $50,000 (excluding GST) by inviting the Approved Supplier to provide one (1) written quotation.
2. In certain limited circumstances, Engagements of an Approved Base Prequalified Supplier may exceed $50,000 (excluding GST) because a Variation becomes necessary. The total value of the initial Engagement and related Variations are not to exceed $75,000 (excluding GST).

Variations for Approved Base Prequalified Suppliers are subject to the following requirements:

1. the Variation has demonstrated value for money;
2. the risk profile for the Variation has been reviewed by the Agency;
3. the scope of work for the Variation is related to the initial Engagement; and
4. if the total value of the initial Engagement and any Variations exceeds $75,000 (excluding GST), the Agency must approach a different Approved Supplier for a quote for the further work, unless the Agency’s appropriate financial and / or procurement delegate determines that there are exceptional circumstances justifying engaging the same Approved Supplier and approves the Variations.

## Engagement value and Variation criteria for Approved Full Prequalified Suppliers.

* + 1. Where the estimated cost of an Engagement is less than or equal to $250,000 (excluding GST), the Agency may directly engage an Approved Full Prequalified Supplier by inviting the Approved Supplier to provide one (1) written quotation.
    2. Where the estimated cost of an Engagement is more than $250,000 (excluding GST), the Agency may engage an Approved Full Prequalified Supplier by inviting a minimum of three (3) Approved Suppliers from the Scheme to provide written quotations.
    3. Engagements with an Approved Full Prequalified Supplier may exceed the initial contract value (excluding GST) because a Variation becomes necessary. The total value of the initial Engagement and any Variations for Approved Full Prequalified Suppliers is not to exceed three times the initial contract value, or $500,000 (excluding GST), whichever is the lesser amount.
    4. All Variations for Approved Full Prequalified Suppliers are subject to the following requirements:
    5. the Variation has demonstrated value for money;
    6. the risk profile for the Variation has been reviewed by the Agency;
    7. the scope of work for the Variation is related to the initial Engagement; and
    8. a clear and specific justification is provided for the Variation including why the Variation/s was not captured in the initial Engagement scope.
    9. Where the total cost of the initial Engagement and any proposed Variation will exceed $500,000 (excluding GST) or three (3) times the initial contract value, the Agency Secretary or Executive Agency Head may approve the Variation as an exception if they are satisfied that the following requirements are met, in addition to the requirements stated in clause 15.2(d) above:
    10. the initial Engagement was awarded as the result of a competitive procurement process involving a minimum of three (3) Approved Full Prequalified Suppliers; and
    11. the Variation is compliant with the EPP Direction.
    12. the Agency Secretary or Executive Agency Head is satisfied that the above requirements have been met and approves the Variation as an exception.

Where the requirements set out above in 15.2(d) and 15.2 (e) are not met, the Agency must invite at least three (3) Approved Suppliers from the Scheme to provide written quotations for the proposed scope of work.

Where the Agency financial thresholds are more stringent than the thresholds in these Scheme Rules the Agency thresholds will apply.

The following examples are provided to help agencies comply with the Scheme Rules on Variations. All fees in the examples are exclusive of GST.

## 15.2.1 Scenario 1

Agency X has engaged Supplier A for a complete review of its operations, functions and reporting, including all of its controlled entities, and the possible implementation of a new corporate structure with a total fee of $500,000. As a result of this review, several options have been identified and Agency X now requires a review on the most efficient and effective structure to be implemented. The estimated total fee for this additional review (**Variation**) is $100,000.

***Can Agency X offer this additional work (Variation) directly to Supplier A?***

**No.** The fee for the initial engagement is already $500,000.

The additional work (**Variation**) may only be given to Supplier A if:

* an exemption was sought for this engagement and this has been approved by the Agency Secretary or Executive Agency Head meeting the criteria addressed in clause 15.2 (d) and 15.2 (e) at Agency X in line with delegations for this particular purpose.

Otherwise, Agency X has to apply the minimum level of competition and invite at least three (3) Approved Prequalified Suppliers under the Scheme, to submit written quotations. Quotations/proposals received must be assessed against the evaluation criteria including the quotations/proposals received from Supplier A.

## 15.2.2 Scenario 2

Agency X has engaged Supplier A for an internal audit on its payroll process with fees totalling $60,000. As a result of this review, weaknesses were noted on the payroll system and Agency X now requires a review on general computer controls including system security to be conducted. The estimated total fee for this additional review **(Variation)** is $40,000.

***Can Agency X offer the additional work (Variation) directly to Supplier A?***

**Yes.** Agency X can offer the additional work (Variation) directly to Supplier A if criteria/requirements outlined under clause 15.2(d) are satisfied, as the fees for the initial engagement and the subsequent Variation total $100,000 which is:

* less than $500,000 and
* less than three (3) times the initial contract value.

## 15.2.3 Scenario 3

Agency X has engaged Supplier A for an internal audit on its payroll process with fees totalling $80,000. As a result of this review, weaknesses were noted on the payroll system and Agency X further engaged Supplier A (after meeting all the relevant Variation criteria) to conduct a review on general computer controls including system security with total fees of $100,000.

As a result of the findings from the two previous reviews, Agency X now decided to have a fraud control review performed across the entire agency. The estimated fee for this review is $75,000.

***Can Agency X offer the work directly to Supplier A provided that the criteria/requirements outlined in clause 15.2(d) has been met?***

**No.** The total fees for the initial engagement and the two Variation engagements are $255,000; which is less than $500,000 however it is greater than $240,000 (Three (3) times the value of the initial engagement).

The additional work (**Variation**) may only be given to Supplier A if:

* an exemption was sought for this engagement and this has been approved by the Agency Secretary or Executive Agency Head meeting the criteria addressed in clause 15.2 (d) and 15.2 (e) at Agency X in line with delegations for this particular purpose;

Otherwise, Agency X has to apply the minimum level of competition and invite at least three (3) Approved Prequalified Suppliers under the Scheme, to submit written quotations. Quotations/proposals received must be assessed against the evaluation criteria including the quotations/proposals received from Supplier A.

**Please Note:** Successive engagements (Variation/s) constitute a form of direct negotiation between an agency and a supplier. For further guidance, agencies should refer to the Independent Commission Against Corruption publication [Direct Negotiations: Guidelines for Managing Risks in Direct Negotiations August 2018.](https://www.icac.nsw.gov.au/ArticleDocuments/232/Direct%20Negotiations%20-%20guidelines%20for%20managing%20risks%20in%20direct%20negotiations%203Aug18.pdf.aspx)

# How is performance monitored and reported on?

For each engagement, it is the responsibility of each relevant Agency to monitor and ensure compliance with the Scheme by the Agency and the Approved Supplier.

Quality assurance, value for money, and performance improvement are key objectives of the Scheme. To help meet these objectives, agencies are required to submit a Performance Report in circumstances where:

1. a supplier’s performance is considered unsatisfactory.;
2. or the total cost of the engagement (and any related Variations) is more than $150,000 (excl GST)

A Performance Report template is set out as Schedule 1 of this document. Performance Reports are required to be submitted at the completion or termination of the relevant engagement, or whenever a critical aspect of performance is unsatisfactory. A copy of the performance report should be provided by the agency to the Approved Prequalified Supplier.

At the end of the engagement, complete the performance report template available on the how to buy tab, at [Performance and Management Services Scheme page on info.buy.nsw](https://info.buy.nsw.gov.au/)

**Email the completed report to** [**professionalservices@treasury.nsw.gov.au**](mailto:professionalservices@treasury.nsw.gov.au)

Where an agency considers that an Approved Prequalified Supplier’s performance has been unsatisfactory, the Approved Supplier must be kept informed and afforded an opportunity to show cause as to why it should not be rated ‘unsatisfactory’.

Agencies should follow the steps outlined in the “Scheme Rules” (Performance Reporting Behaviour) to ensure that they observe procedural fairness during performance reporting.

Treasury may collect feedback from Agencies from time to time to evaluate supplier performance and compliance with the Standard Commercial Framework.

# Are there compliance requirements for engagements made under the Scheme?

Agencies utilising the Scheme are required to understand and comply not only with the “Scheme Rules” but also with the requirements of the following:

1. Goods and Services Procurement Policy Framework for NSW Government Agencies
2. NSW Government Small and Medium Enterprise and Regional Procurement Policy
3. Aboriginal Procurement Policy
4. [How to engage an external probity adviser or auditor | info.buy.nsw](https://info.buy.nsw.gov.au/resources/engaging-probity-advisers-and-auditors)
5. Board Directions:
6. PBD – 2021-03 – [Engagement of professional services suppliers](https://arp.nsw.gov.au/pbd-2021-03-engagement-of-professional-services-suppliers/).
7. PBD – 2022-02 – [Engagement of Infrastructure Advisory Services suppliers](https://arp.nsw.gov.au/pbd-2022-02-engagement-of-infrastructure-advisory-services-suppliers)

# Are there any additional reporting requirements?

Additional reporting and disclosure requirements apply to NSW Government agencies who engage suppliers under:

1. the Government Information (Public Access) Act 2009 (the “GIPA Act”); and
2. NSW annual reporting legislation

# Disclosure obligations under the Government Information (Public Access) Act 2009 (GIPA Act).

Under section 27 of the GIPA Act, agencies entering into a contract with an estimated value of $150,000 or more (known as a “Class 1 contract”) are required to disclose certain information, including:

1. the name and business address of the contractor
2. the date on which the contract became effective and its duration
3. the particulars of the project to be undertaken
4. the estimated amount payable to the contractor
5. Must be entered in the register within 45 working days after the contract becomes effective.

Additional information is required to be disclosed by agencies entering into Class 2 and Class

3 contracts. Details of what constitutes a Class 2 and Class 3 contract are set out in sections 30 and 31 of the GIPA Act.

Under the GIPA Act, agencies must maintain Government contracts register on which the relevant information is published. A copy of an agency’s Government Contracts register is to be published on the Government tenders website at <https://tenders.nsw.gov.au>.

Nothing in the GIPA Act requires the disclosure of:

1. the commercial-in-confidence provisions of a contract;
2. or details of any unsuccessful tender;
3. or any matter that could reasonably be expected to affect public safety or security; or
4. a copy of a contract, a provision of a contract or any other information in relation to a contract that is of such a nature that its inclusion in a record would result in there being an overriding public interest against disclosure of the record.

Detailed information about the disclosure obligations of agencies is also set out in the guidelines published by the Office of the Information Commissioner. These guidelines can be accessed at the Office of Information and Privacy Commission website at: <http://www.ipc.nsw.gov.au/privacy/ipc_index.html>

# Disclosure obligations under NSW annual reporting legislation

Agencies are required to report consultant expenditure in accordance with the Annual Report Regulation 2015 including the following information:

For consultancies costing equal to or more than $50,000 ex GST:

1. the name of the consultant the title of the project (shown in a way that identifies the nature of the work)
2. the actual costs of engaging the consultant.

For consultancies costing less than $50,000 ex GST:

1. the total number of engagements costing less than $50,000 ex GST; and
2. the total cost of all such engagements.

Procurement Board Direction 2021-03 includes the definition of a consultant for annual reporting purposes.

# How long will the Scheme operate for?

The P&MS Scheme commenced in 2008. NSW Treasury rolls over this scheme on an annual basis. Modifications to the Scheme may be made at the discretion of Treasury whilst the Scheme remains in operation. Please refer the scheme page for current dates - [Performance and Management Services Scheme | info.buy.nsw](https://info.buy.nsw.gov.au/schemes/performance-and-management-services-scheme)



# Schedule 1 - Performance Report Template

**Prequalified Supplier Performance Report**

PREQUALIFICATION SCHEME: PERFORMANCE AND MANAGEMENT SERVICES

Under the Scheme Rules, all engaging agencies are required to submit a Supplier Performance Report for each engagement where the consultancy services where:

the total value of the relevant engagement is more than $150,000 (excluding GST); or



the performance of, and the services provided by, the Supplier are considered by the agency to be unsatisfactory.



The reports are due at the completion date of the engagement or whenever a critical aspect of performance is unsatisfactory. For further guidance on the requirement, agencies can refer to the Guidelines for Agencies and Scheme Rules document.

**Project Details**

|  |  |
| --- | --- |
| **Supplier’s Organisation Name:** |  |
| **Supplier’s Contact Person:** |  |
| **Supplier’s Contact Phone:** |  |
| **RFx No.:** |  |
| **Engagement/Project No.:** |  |
| **Engagement/Project Name:** |  |
| **Engagement Description:** |  |
| **Date Engagement Commenced:** |  |
| **Date Engagement Completed:** |  |
| **Total Fee for this engagement (excluding GST):** | $ |

**Assessment**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **As the client who paid for this service, how well did the SUPPLIER meet your expectations?** | **N/A** | | **Unsatisfactory** | **Marginal** | **Acceptable** | | **Good** | **Superior** |
| 1. **Time Management**   *E.g., meeting milestones, resourcing, planning, reporting* |  | |  |  |  | |  |  |
| 1. **Management & Suitability of Personnel**   *E.g., skills, experience, sufficient number, appropriate seniority used* |  | |  |  |  | |  |  |
| 1. **Standard of Service**   *E.g., meeting brief, budget, value for money, no rework, supervision, no over servicing or under servicing* |  | |  |  |  | |  |  |
| 1. **Quality Outcomes**   *E.g., accuracy, usability, and effectiveness of results* |  | |  |  |  | |  |  |
| 1. **Cost**   *Actual cost did not exceed cost estimate without prior agreement* |  | |  |  |  | |  |  |
| 1. **Communications**   *Appropriate level of reporting* |  | |  |  |  | |  |  |
| 1. **Information Technology**   *IT used where appropriate to increase efficiency and reduce costs* |  | |  |  |  | |  |  |
| 1. **Cooperative Relationships**   *E.g., Cooperative approach, commitment, resolving issues* |  | |  |  |  | |  |  |
| 1. **Recommendation for Future Work**   *Would you recommend the Service Provider for similar type of work?* | Yes ► |  | | | No ► |  | | |
|  | | | | | | | | |
| **Additional Comments on the Supplier’s Performance** | | | | | | | | |
| *<Comments may be extended on next page* | | | | | | | | |

Signature by Referee e.g., General Manager, Director, Senior Project Manager

**\*Please Note:** Referee Reports must be signed and dated or will not be considered

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** | **Signature:** | | |
| **Title:** |  | | |
| **Date:** |  | | |
| **Tel No.:** |  | **Mobile No.:** |  |
| **E-mail:** |  | | |
| **Signature:** |  | | |

Please email completed form to:[**professionalservices@treasury.nsw.gov.au**](mailto:professionalservices@treasury.nsw.gov.au)

Sydney NSW 2000

GPO Box 5469

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