



REQUEST FOR TENDER (RFT) NO. HBCF/150617/2017

ESTABLISHMENT OF DISTRIBUTOR PANEL

FOR **icare hbcf**

CLOSING DATE: 10:00 AM/PM (SYDNEY TIME) WEDNESDAY 12 JULY, 2017

Contact Officer

Tenderers should refer any questions regarding this RFT to the Contact Officer. All questions are to be submitted in writing via email and should be submitted not later than COB Thursday 13 July 2017. Questions submitted after that date will be answered solely at the discretion of the Principal.

Contact Officer:

CONTACT NAME	Angela Burrell
CONTACT PHONE	02 4321 5606
CONTACT EMAIL ADDRESS	hbcfprocurement@icare.nsw.gov.au

Any information given to a Tenderer to clarify any aspect of this RFT will also be given to all other Tenderers if in the opinion of the Principal it would be unfair not to do so.

RFT PART A

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RFT OVERVIEW

1. Scope of RFT

1.1 Scope

- 1.1.1 This RFT <Insert Number> seeks Tenders from suppliers to supply the Services described in the Statement of Requirements of this RFT under a panel arrangement.
- 1.1.1.1 In submitting a response to the RFT the agrees that it will at all times in distributing and arranging HBCF Insurance, act towards icare hbcf and its servants, agents, employees and assigns with the utmost good faith;

1.2 Contract and Duration

- 1.2.1 The supply of the Services specified in the Statement of Requirements is covered under the proposed Agreement and RFT.

2. RFT Structure

2.1 This RFT comprises the following:

2.2 Part A - RFT Conditions and Statement of Requirements

- 2.2.1 It provides the terms, conditions and processes governing the RFT. The Statement of Requirements is a detailed description of the Services to be provided by the successful Tenderer(s) including technical specification, service levels and performance framework. Taken together with the accepted parts of the Tenderer's response, it will form part of the Agreement.

2.3 Part B – Tender/Response Document

- 2.3.1 This is the response document prepared by the Tenderer(s) in response to the RFT, which once completed becomes the Tender to enable the Principal to evaluate the Tenderer's offers. It comprises Part B – Response/Tender.

2.4 Part C - Agreement

- 2.4.1 This is a deed which contains the terms and conditions of the contractual arrangement proposed to be made between the successful Tenderer(s) and the Principal to enable the supply of Services to Builders on behalf of the Principal.

RFT CONDITIONS

3. Definitions

3.1.1 Unless the context indicates otherwise, the following terms, where used in this RFT Parts A and B shall have the meanings set out below.

“ABN” means an Australian Business Number as provided in GST law.

“Addendum” means an addition to this RFT made by the Principal before the Closing Date and Closing Time.

“Agreement” means the proposed agreement or deed to be entered into between the Principal and the successful Tenderer.

“Alternative Tender” means a Non-Conforming Tender that is intended to offer a different method of meeting the object and intent of the requirement.

“Closing Date” and **“Closing Time”** means the Closing Date and Closing Time for receipt of Tenders specified in the cover sheet of this RFT.

“Conforming Tender” means a Tender that conforms in all material aspects to:

- (a) the Statement of Requirements;
- (b) the terms and conditions of the Agreement at Part C;
- (c) other Parts of this RFT; and
- (d) is in the prescribed form.

“Services” means the services sought under this RFT, as detailed in the Statement of Requirements.

“GST” means a goods and services tax and has the same meaning as in the GST Law.

“GST Law” means any law imposing a GST And includes *A New Tax System (Goods & Services Tax) Act 1999 (C'th)* or if that Act does not exist, means any Act imposing, or relating to a GST and any regulation made under those Acts.

“GST Free Supplies” and **“Input Taxed Supplies”** have the same meaning as in the GST Law.

“HBCF Insurance” means insurance under the Home Building Compensation Fund issued by the NSW Self Insurance Corporation (or icare on its behalf).

“icare” means Insurance and Care NSW.

“Non-Conforming Tender” means a Tender that does not conform in all material aspects to:

- (a) the Statement of Requirements;
- (b) the terms and conditions of the Agreement at Part C;
- (c) other Parts of this RFT; and/or
- (d) is not in the prescribed form.

“NSW Government Procurement Policy Framework” means the NSW Procurement Board Goods and Services Policy Framework as amended from time to time, and which can be viewed and downloaded from: <http://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-board/nsw-government-procurement-policy-framework>

“Price” includes a price detailed in the pricing schedule at Part B.

“Price Schedule” means the list of Services offered by the Tenderer, together with the corresponding pricing information at Part B.

“Principal” means the party executing the proposed Agreement with the successful Tenderer(s).

“Tender (s)” means the completed Response Document submitted in response to this RFT.

“Tenderer(s)” means the entity/entities submitting a Tender in response to this RFT.

“Service Provider” means a Tenderer who has entered into an Agreement with the Principal.

“Statement of Requirements” means the detailed description of the Goods/Services in Section 7 of this RFT.

4. RFT Preparation

4.1 Tenderer to inform itself

Before submitting its Tender, a Tenderer must:

- 4.1.1 Examine all information relevant to the risks and contingencies and other circumstances having an effect on its Tender; and
- 4.1.2 Satisfy itself:
 - (a) that its Tender and reasonable fees are correct; and
 - (b) that it is financially and practically viable for it to enter into and perform the proposed Agreement.
- 4.1.3 Ensure it obtains all financial, legal and other professional advice required for it to understand its putative rights and obligations.

4.2 Price Basis

- 4.3.1 The Tenderer can charge the Builder reasonable fees for the provision of the Services. The pricing the Distributor proposes to charge the Builder and proposed mechanism for review of prices in years 2 and 3 is to be provided in the Pricing Schedule at Part B.

4.3 Assumptions made by Tenderer

- 4.3.1 Where a Tenderer has made assumptions in preparing its Tender, such assumptions should be set out in a supporting statement and submitted with the Tender.

4.4 Information Supplied

- 4.4.1 The information contained in the Statement of Requirements has been provided with due care and is intended only for the Tenderer's guidance, but is not guaranteed as being accurate for future needs and expenditure by icare.

5. Eligibility to Respond

5.1 Legal Entity of Tenderer

- 5.1.1 Tenders must be submitted by a legal entity or, if a joint Tender, by legal entities, with the capacity to contract. The Principal will only enter into a contract with such legal entity or entities.
- 5.1.2 The Principal may ask a Tenderer to provide evidence of its legal status or capacity to contract. If a Tenderer is a trust and proposes that its trustees execute the Agreement in their capacity as trustees, such evidence may include copies of the relevant trust deeds. Any evidence requested is to be provided within 3 working days of the request.

5.2 Financial Capability of Tenderer

- 5.2.1 The Principal reserves the right to reject any Tender if the Principal judges the Tenderer not to have appropriate financial capability.

5.3 ABN Requirements

- 5.3.1 The Principal will not enter into an Agreement with a company that does not have an Australian Business Number and is not registered for GST. Tenderers must be registered for GST and state their ABN in their Tender.

5.4 Licensing Requirements

- 5.4.1 Tenderers must have, and maintain at all times, an Australian Financial Services Licence (AFSL). icare hbcf may, at its absolute discretion, allow Tenders from Tenderers who trade as an authorised representative of the holder of an AFSL. icare hbcf will only exercise this discretion when it is satisfied that the structure, expertise, experience, business efficacy and value are such that the Tenderer, operating in its own right, is unaffected by the lack of an AFSL in its own name or, alternatively, there is an important business reason for the licensing arrangement which does not affect icare hbcf or the fulfilment of its objectives.

6. RFT Process

6.1 Provisional RFT Timetable

6.1.1 The following activities and timeline is indicative only, and may be varied by icare at its sole discretion:

Date	Event
15 June 2017	Tender issued to the market
12 July 2017	Tender Closes
31 August 2017	Evaluation of Tenders finalised
1 September 2017	Tenderers Notified
1 October 2017	Agreement will commence

6.2 Conformity of Tenders

6.2.1 The Principal seeks Conforming Tenders. Non-Conforming Tenders may be excluded from the RFT process without further consideration at the Principal's discretion.

6.3 Alternative Tenders

6.3.1 Tenderers may, if they choose, submit an Alternative Tender. Alternative Tenders will only be considered if submitted in conjunction with a Conforming Tender. An Alternative Tender must be clearly marked "Alternative Tender".

6.4 Tender Lodgement

6.4.1 Tenders (including all supporting information, if any) must be fully received by the Closing Date and Closing Time. Tenderers should complete all of the Response Document to this RFT and should not amend any of the questions provided. Prices, Tender responses and other information provided in the Tender must be in writing and in English. The quoted Price must be in Australian dollars.

6.4.2 The Tender must be submitted electronically to the electronic tender box for this RFT via the icare tenders website at: <https://tenders.nsw.gov.au/dfs> (Login in as a system user, locate the web page for this RFT, and follow the on screen instructions to lodge the Tender. The lodgement can only be made by a registered system user of the NSW Government eTendering system.

6.4.3 Tenderers should notify the Contact Officer in writing on or before the Closing Date and Time if they find any discrepancy, error or omission in this RFT.

6.5 Electronic Tenders

6.5.1 A Tender submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000 (NSW)*.

6.5.2 A Tenderer, by electronically lodging a Tender, is taken to have accepted conditions shown in the conditions and rules on the icare tenders website at <https://tenders.nsw.gov.au/dfs>.

6.5.3 Electronically submitted Tenders may be made corrupt or incomplete, for example by computer viruses. The Principal may decline to consider for acceptance a Tender that cannot be effectively evaluated because it is incomplete or corrupt. Tenderers should note that:

- (a) To reduce the likelihood of viruses, a Tenderer should not include any macros, applets, or executable code or files in a Tender Response.

- (b) A Tenderer should ensure that electronically submitted files are free from viruses by checking the files with an up to date virus-checking program before submission.

6.5.4 The Principal will not be responsible in any way for any loss, damage or corruption of electronically submitted Tenders

6.6 Tender Validity Period

6.6.1 The Tender will remain open for acceptance by the Principal for a period of 6 months from the Closing Date and Closing Time for Tenders.

6.7 Late Tenders

6.7.1 Late Tenders will not be considered, except where the Principal is satisfied that the integrity and competitiveness of the RFT process has not been compromised. The Principal shall not penalise any supplier whose Tender is received late if the delay is due solely to mishandling by the Principal.

6.8 Extension of Closing Date and Closing Time

6.8.1 The Principal may, in its discretion, extend the Closing Date and Closing Time.

6.9 Corruption or Unethical Conduct

6.9.1 In submitting its Tender, the Tenderer signifies agreement to comply with the NSW Government Procurement Policy Framework and must disclose any conflicts of interests in its Tender.

6.9.2 A Tenderer's Tender may not receive further consideration if a Tenderer, or any of its officers, employees, agents or sub-contractors is found to have:

- (a) offered any inducement or reward to any public servant or employee, agent or subcontractor of the Principal or the NSW Government in connection with this RFT or the submitted Tender Response;
- (b) committed corrupt conduct in the meaning of the *Independent Commission Against Corruption Act 1988*;
- (c) a record or alleged record of unethical behaviour is available at: <http://www.finance.nsw.gov.au/about-us/business-ethics>.

6.9.3 The Principal may, in its discretion, invite a relevant Tenderer to provide written comments within a specified time before the Principal excludes the Tenderer on this basis.

6.9.4 If the Principal becomes aware of improper conflict of interests by a successful Tenderer after an Agreement has been executed, then the Principal reserves the right to terminate the Agreement.

6.10 Addenda to RFT

6.10.1 If, for any reason the Principal, at its sole discretion, requires the RFT to be amended before the Closing Date and Time, an Addendum to the RFT will be issued. Any Addendum becomes part of the RFT. It is the obligation of the Tenderer to verify if any Addenda were issued prior to the Closing Date, even if a Tender has already been submitted.

6.11 Costs of Tenderer participating in the RFT

6.11.1 The Principal shall not be in any circumstances responsible for any costs incurred by any Tenderer in preparing and submitting a Tender.

6.11.2 The Tenderer acknowledges that the Principal will not be liable to it for any expenses or costs incurred by it as a result of its participation in this RFT, including where the RFT has been discontinued.

6.12 Ownership of Tender

- 6.12.1 All Tenders become the property of the Principal on submission. The Principal may make copies of the Tenders for any purpose related to this RFT.

6.13 Discontinuance of RFT Process

- 6.13.1 Where the Principal determines that awarding a contract would not be in the public interest, the Principal reserves the right to discontinue the RFT process at any point, without making a determination regarding acceptance or rejection of Tenders.

6.14 Variations to Tenders

- 6.14.1 At any time after the RFT Closing Date and before the Principal accepts any Tender received in response to this RFT, a Tenderer may, subject to 6.14.2, vary its Tender:

- (a) by providing the Principal with further information by way of explanation or clarification;
- (b) by correcting a mistake or anomaly; or
- (c) by documenting agreed changes negotiated.

- 6.14.2 Such a variation may be made either:

- (a) at the request of the Principal, or
- (b) with the consent of the Principal at the request of the Tenderer; but only if,
 1. in the case of variation requested by the Tenderer under clause 6.14.1(a)-(b), it appears to the Principal reasonable in the circumstances to allow the Tenderer to provide the information or correct the mistake or anomaly; or
 2. in the case of variation under (c), the Principal has confirmed that the draft-documented changes reflect what has been agreed.

- 6.14.3 If a Tender is varied in accordance with clause 6.14.1(a) or 6.14.1(b) the Principal will provide all other Tenderers whose Tenders may have similar characteristics with the opportunity of varying their Tenders in a similar way.

- 6.14.4 A variation of a Tender under clause 6.14 will not be permitted if in the Principal's view:

- (a) it would substantially alter the original Tender; or
- (b) in the case of variation under clause 6.14.1(a) or 6.14.1(b) it would result in the revising or expanding of a Tender in a way that would give a Tenderer an unfair advantage over other Tenderers.

6.15 Evaluation Process

- 6.15.1 Tenderers will be assessed against the evaluation criteria as outlined in section 6.16 in this RFT.

- 6.15.2 Information supplied by the Tenderer in their Tender will contribute to the assessment against each criterion.

- 6.15.3 Tenderers are advised to respond clearly to all the evaluation criteria listed in this RFT. Tenders that do not include fully completed Response Document, in particular those Tenders which do not contain sufficient information to permit a proper evaluation to be conducted, or electronic Tenders that cannot be effectively evaluated because the file has become corrupt, may be excluded from the RFT process without further consideration at the Principal's discretion.

- 6.15.4 The Principal may assess an Alternative Tender against the evaluation criteria where submitted with a Conforming Tender.

6.16 Evaluation Criteria

- 6.16.1 The Evaluation Criteria listed below will be used in the assessment of Tenders received. The criteria are not necessarily exhaustive, in order of significance or to be given equal weight.
- A. Demonstrated understanding of icare and HBCF and its requirements including legislative requirements.
 - B. Willingness to comply with NSW Government and icare applicable policies.
 - C. The following commercial considerations are to be demonstrated;
 - a. Compliance with: Conditions of RFT, Agreement Conditions, relevant legislations and standards,
 - b. Compliance with the Statement of Requirements,
 - c. Absence of any conflict of Interest or satisfactory management of conflicts of interest,
 - d. Record of ethical behaviour,
 - e. Financial viability and stability based on ongoing fee earnings from HBCF activity in NSW without cross subsidisation. (Tenderers are to set out the basis of establishing compliance with this requirement.)
 - D. Australian Financial Services Licence (AFSL) details, this shall include details of license, and authorisation to trade as a representative of the holder of the AFSL
 - E. Demonstrated expertise in the distribution of HBCF Insurance. Tenderers shall provide details of the experience of individual managers and staff directly distributing HBCF ensuring that they address the criteria detailed below:
 - i. knowledge of the underwriting requirements, Eligibility Reviews, profile changes and the process of issuing the Certificate of Insurance
 - ii. assist Builders to lodge notifications of Completed Projects,
 - iii. issue tax of invoices and remit Premium collected from Builders,
 - iv. Building Contract Review Program (BCRP) service providers liaison,
 - v. offer customer-centric service standards.
 - F. Infrastructure, capability-and resources available to provide the services this shall include but not limited to:
 - i. have State wide coverage for NSW and wholesale capability,
 - ii. have a Centralised hub with a dedicated team to manage HBCF,
 - iii. Quality Management Framework and ability to provide compliance reports,
 - iv. have an established staff support framework.
 - G. Demonstrated IT & technology knowledge, capabilities and systems;
 - i. Broadband connection to the internet sufficient to support high speed simultaneous access by all staff, through an appropriate browser, to the icare CIMS (Claims and Insurance Management System) Policy Center and the BEAT (Builder Eligibility Assessment Tool) with devices that meet at least icare's minimum system configuration.
 - ii. An electronic customer management system (CMS) that supports electronic communication to Builders and the electronic transfer of information between the CMS and icare systems. At a minimum it must support secure file transfer (SFTP) between CMS and icare. Desirable support of near real time transfer via web services using industry standard exchange formats or such format as mutually agreed
 - iii. Electronic invoicing and Builder debtor management capability with the ability for future enhancements allowing Builder straight through payment processing by integration to an electronic payment gateway and CIMS
 - iv. An active website supporting Builder clients with links to icare, NSW Fair Trading and the State Insurance Regulatory Authority (SIRA).
 - v. Regular Data integrity reviews and assessment of data entry standards, identification of trends, issues and mitigation strategies with a quarterly report to icare in the format determined from time to time
 - vi. Quarterly user access audits, reporting to icare confirming staff with logins to icare's systems and any changes in staff,
 - H. Value added services offered

- I. Value for money of the proposed pricing model. Tenderers shall provide the fee structure for the various services it charges Builders, including an explanation for any planned changes to fees, other than inflation adjustments, over the next 3 years.

6.16.2 The Principal may:

- a) consider additional information related to any evaluation criteria; or
- b) use material provided in response to one evaluation criterion in the evaluation of other criteria.

6.16.3 If a Tenderer is found to have made a false, misleading or deceptive claim or statement, the Principal may exclude the Tender from further consideration at any time.

6.16.5 The Principal may, during the evaluation of Tenders, for all or any of the Tenderers:-

- (a) obtain referee reports, as required;
- (b) undertake site inspections of the Tenderer's (or its sub-contractor's) premises, facilities and operations;
- (c) invite the Tenderer to interview or to make personal presentations regarding their Tender;
- (d) seek and take account of any independent financial assessment of the Tenderer; and/or
- (e) review and take account of any independent performance assessments available from other clients.

6.16.6 The Tenderer shall allow any site inspection and shall make any interview or presentations at its own cost.

6.16.7 Obtaining references, financial and/or performance reports/assessments, and/or receiving a site inspection or undertaking an interview or presentation by a Tenderer in no way represents a commitment by the Principal to accept any aspect of the Tender.

6.16.8 All information obtained during the course of any site inspection, interview and/or presentation, independent financial and/or performance assessments or from referees may be taken into consideration in the evaluation of Tenders.

6.17 Acceptance or Rejection of Tenders

6.17.1 It is not intended by the Principal or the Tenderer(s) that the issue of a RFT or a response to it commits, obligates or otherwise creates a legal relationship in respect of entering into a contract with that party. However, any Tender lodged with the Principal will constitute an irrevocable offer by the Tenderer, which remains open and capable of acceptance until six months from the RFT closing date.

6.17.2 The Principal is not bound to accept the lowest priced or any Tender.

6.17.3 If the Principal rejects all the Tenders received, it may invite fresh Tenders based on the same or different criteria.

6.17.4 The Principal expressly reserves the right to appoint more than one Contractor to supply the Services

6.17.5 The Principal expressly reserves the right to accept, in its discretion, either or both of the following:

- (a) Any Alternative Tender or part of an Alternative Tender, when submitted with a Conforming Tender; and
- (b) Any other Non-Conforming Tender or part of a Non-Conforming Tender (not, in either case, being an Alternative Tender or part of an Alternative Tender) that, in the Principal's opinion, is substantially a Conforming Tender.

6.18 RFT negotiations

- 6.18.1 Before making any determination as to acceptance or rejection of Tenders the Principal may, at its discretion, elect to conduct negotiations with preferred Tenderers to mutually improve outcomes.
- 6.18.2 If the Principal considers that none of the Tenders are fully acceptable either due to the level of non-conformance or because they do not represent sufficient value for money, but considers that full conformity or sufficient value for money is achievable, negotiations may be conducted with the Tenderer that submitted the most conforming or best value for money proposal based on the evaluation criteria. The purpose of the negotiations will be advised by the Principal and made clear to the participants before the commencement of negotiation.
- 6.18.3 The Principal may at its absolute discretion elect to conduct post RFT negotiations under this clause with more than one Tenderer.

6.19 Exchange of Information between Government Agencies

- 6.19.1 By lodging a Tender the Tenderer will authorise the Principal to make information available, on request, to any NSW government agency. This includes information dealing with the Tenderer's performance on any prior contract that has been awarded. Such information may be used by the recipient NSW Government agency for assessment of the suitability for pre-qualification, selective tender lists, expressions of interest or the award of a contract.
- 6.19.2 The provision of the information by the Principal to any other NSW Government agency is agreed by the Tenderer to be a communication falling within section 30 of the *Defamation Act 2005 (NSW)*, and the Tenderer shall have no claim against the Principal and the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the Tenderer arising out of the communication.

6.20 Method of Acceptance

Acceptance of a Tender or part Tender will be subject to the execution of a formal Agreement. Until the Principal and the successful Tenderer(s) execute a formal Agreement, there will be no legally enforceable agreement concluded between them.

6.21 Disclosure Information

- 6.21.1 Following the Principal's decision, all Tenderers will be notified in writing of the outcome of their Tenders.
- 6.21.2 Details of the successful Tender and the outcome of the RFT process will be disclosed in accordance with the *Government Information (Public Access) Act 2009 (NSW)* and the Premier's Memorandum 2007-01. An outline of these requirements can be found in http://www.dpc.nsw.gov.au/announcements/ministerial_memoranda/2007/m2007-01

6.22 Complaints Procedure

- 6.22.1 It is the NSW Government's objective to ensure that industry is given every opportunity to win Government contracts. Should any entity feel that it has been unfairly excluded from submitting a Tender or unfairly disadvantaged by the proposed Agreement or the Statement of Requirements, it is invited to write to:

Wayne Smith
Head of Procurement,
Enabling Services
Insurance & Care NSW
92-100 Donnison Street
Gosford, NSW, 2250
wayne.smith@icare.nsw.gov.au

6.23 Probity Advisor

6.23.1 A Probity Advisor has been engaged to oversee the claims management services procurement process. The responsibilities of the Probity Advisor are to:

- ensure that the evaluation process is conducted consistently with the NSW Government Procurement Framework and the Code of Practice for Procurement
- provide advice to icare, to the Evaluation Committee and the icare Board as required on probity and fair dealing issues in relation to the evaluation of the responses from the Tenderers; and
- conduct a final review and prepare a report addressing any probity issues arising during the procurement process and the probity of the process followed by the Evaluation Committee in arriving at its recommendation, having regard to the Code of Practice and guidelines referred to the above.

6.23.2 Should a Tenderer have any concerns in relation to any aspect of the procurement process they should contact the Probity Advisor in writing at:

Name: Sarah Mullins

Email: *smullins@ocm.net.au*

Phone: (02) 9252 2565

7. STATEMENT OF REQUIREMENTS

7.1 Background

The Home Building Compensation Fund (HBCF) Scheme, formerly the Home Warranty Insurance Fund, was established under the *Home Building Act 1989* (NSW) and commenced on 1 May 1997. The scheme was established to provide homeowners with a safety net if building contractors were unable to honour their commitments due to insolvency, death, disappearance or suspension of licence. In 2010, the scheme was brought under Government control through the creation of the Home Building Compensation Fund because of concerns that the privately underwritten model appeared likely to collapse.

Rolling out from 3 April 2017 a series of operational reforms came into effect:

- i. Premium increases commenced based on individual construction type risks;
- ii. Builder risk based Premiums have been introduced based on Builder risk characteristics;
- iii. Outsourced services procurement market testing has commenced; and
- iv. Distribution services will be offered directly between **icare** and Distributors from 1 October 2017.

7.2 Objectives

The objectives of the **icare hbcf** are to:

- i. Provide a scheme that meets the minimum requirements for a licensed Builder under the *Home Building Act 1989*.
- ii. Proactively protect homeowners by identifying unacceptable risks and taking appropriate action.
- iii. Ensure that Builders are able to take on a level of work (and have access to insurance cover) commensurate with their capacity to do so.
- iv. Minimise unnecessary disruption to the NSW residential construction industry and ensure a consistent approach to the underwriting of insurance without consideration of market influences.
- v. Manage the risk of loss to the HBCF (and, therefore, the Government and people of New South Wales), with the scheme run on a financially prudent basis.

The purpose of the HBCF's Eligibility framework is to take an even-handed approach to underwriting and to minimise the risk of trigger events such as disappearance or insolvency. As the HBCF assumes liabilities that extend for six years from completion of the building works it is fundamental to the scheme objectives that businesses trade without financial stress. Scheme Agents may receive advocacy from Builders or intermediaries in a manner consistent and compliant with this outcome.

Advocacy by Distributors must not include an influence over decisions of Scheme Agents that embrace any commercial interests, outside the HBCF scheme.

icare hbcf is appointing brokers and intermediaries to act as Distributors of HBCF Insurance and assist in obtaining information that is necessary to conduct risk assessments and to monitor and manage ongoing risks. This will require the Distributor to manage an end to end process of the Builders HBCF requirements ranging from assisting Builders with insurance applications, Eligibility Applications and reviews, issuing Certificates of Eligibility and associated administrative functions.

7.3 Definition of Terms

CIMS

The Claims and Insurance Management System is the name of the software that assists **icare hbcf** to manage the residential building work insurance lifecycle including: underwriting, policy, billing, and claims management.

COE

A Certificate of Eligibility is produced after a Builder's successful Eligibility assessment and summarises the Eligibility conditions placed upon the Builder.

COI

Each policy has one or more Certificates of Insurance issued, usually one COI per dwelling in the project.

Distributor

A Distributor is a registered insurance broker who can help a Builder to apply to one of the HBCF scheme agents for an Eligibility assessment and handles the issuance of insurance certificates. The Distributors can advocate on behalf of their Builder clients.

HBCF

The Home Building Compensation Fund provides insurance under Part 6 of the Home Building Act, NSW 1989 as a safety net for homeowners who have contracted residential building work and whose Builder has been unable to honour their commitments under the building contract due to insolvency, death, disappearance or suspension by NSW Fair Trading.

icare hbcf

The service line of Insurance & Care NSW (icare) that operates the HBCF scheme in cooperation with contracted scheme agents and Distributors.

Scheme Agent (Agent)

icare hbcf uses an outsourced service model utilising contractual arrangements with insurance industry Scheme Agents for the provision of services including assessing and managing Eligibility.

SIRA

The State Insurance Regulatory Authority is the government organisation responsible for the regulatory functions for workers compensation insurance, motor accidents compulsory third party (CTP) insurance and home building compensation. SIRA was established in September 2015 as part of the NSW Government's workers compensation reform package which saw the creation of three new organisations which included icare and SafeWork NSW replacing the insurance and regulatory functions of WorkCover NSW.

Underwriting

Underwriting is a term used by insurers to describe the process of assessing risk, ensuring that the cost of the insurance cover is proportionate to the risks faced by the entity being insured. icare hbcf uses Underwriting processes to perform Eligibility assessments and produce open job limits and Builder Profile limits based on those assessments.

Bound

Your insurance coverage can be bound one of two ways: coverage can be bound through the insurance company issuing the policy or by the verbal or written commitment (called a “binder”) of an authorized representative of the company, such as an agent.

7.4 Builder Eligibility

The Scheme Agent undertakes an underwriting assessment for each Builder upon receipt of a new Eligibility submission, Eligibility Review submission or Builder Profile change request.

Builder Eligibility assessments take account of the Builder's:

- i. technical capabilities
- ii. history
- iii. financial performance and equity exposed to the building operations

All Eligibility approvals provide the Builder with an Eligibility Profile including:

- i. the value and number of individual jobs permitted under construction at any time (referred to as open jobs), and
- ii. maximum contract limits for all individual job types approved.

The contract value and number utilised by a Certificate of Insurance issued to a project can be replaced with another project cover upon completion of the project.

A Builder's Eligibility may also include ongoing conditions on the business and conditions for specific projects. The Eligibility approval is not a standing entitlement or contract of insurance and may be revised or cancelled at any time provided the process set out for cancellation is followed.

Eligibility may be subject to review. Upon completion of the each underwriting assessment the requirement, frequency and next due date will be determined. HBCF will consider those businesses subject to review (Periodic Eligibility Review - PER) from time to time and may amend the next review date, scope or requirement for review.

7.5 Distribution Services

The principal role of a Distributor (subject to the requirements under the Distribution Deed is to;

- i. Transact through the HBCF IT Transaction Systems (CIMS and BEAT),
- ii. Actively support Builders preparing Eligibility Applications to meet HBCF requirements,
- iii. Ensure that the Builder meets all conditions of Eligibility, and
- iv. Advocate on behalf of Builder clients.

Distributors are to submit and bind/issue policies for all project applications received from Builders through their access to CIMS according to;

- i. The agreed service standards;
- ii. A Builder's conditions of Eligibility;
- iii. Certificate issuance policy of current procedures manual as published on the icare website; and
- iv. The CIMS Operations Manual.

Any requests for Certificates of Insurance outside of existing profile or as otherwise determined to be “Referral” matters must be referred to icare or its appointed agent as advised from time to time.

7.6 Distributor Access to Transaction IT Systems

The Distributor is to request access for its staff to the core Transaction IT systems CIMS and BEAT that manages Builder Eligibility and review system, as deployed by **icare hbcf**, through the 'HBCF User Access Form'.

7.7 Builder Advocacy

Appropriate advocacy will assist in an informed decision by **icare** based on a complete submission. The Distributor must disclose all matters material to the Eligibility assessment in their possession and knowledge. Information is to be passed to the Scheme Agent that comes to the Distributors attention, in the normal course of engaging with Builder clients, that identifies Eligibility requests by Builders that may not meet the Builders requirements for the next 12 months.

Appropriate advocacy by intermediaries does not include attempting to influence decisions of agents on behalf of **icare hbcf** by reference to the overall and/or particular business relationships held by the Distributor and is expressly prohibited.

7.8 Distributor Communications with Builders

The Distributor is required to communicate clearly and in a timely manner **icare hbcf** requirements and decisions as well as assist in obtaining information that is necessary to conduct risk assessments and to monitor and manage ongoing risks.

The Distributor is to help minimise unnecessary disruption to projects due for commencement and identify such concerns to **icare** or its appointed agents as appropriate.

In providing communication from **icare** or its agents to Builder clients, including any requests for further information, the Distributor should always ensure they have a clear understanding of the reasons behind the requirements in order to allow effective communication.

In order to carry out this function effectively and efficiently, a Distributor is to make themselves familiar with the current versions of the following as published on the **icare hbcf** website and amended from time to time:

- i. HBCF Underwriting Guidelines
- ii. the requirements for new eligibilities, including documentation requirements and the minimum financial benchmarks
- iii. the requirements for Periodic Eligibility Reviews, including frequency cycles and documentation requirements
- iv. communications and directions made by **icare** or its agents.
- v. processes and requirements in issuing policies

icare or its Scheme Agents are encouraged by to deal directly with Builders where clarity or further particulars are required as Eligibility assessments are progressed. The intent of direct communication is to ensure:

- decisions are made on the most contemporary information
- time delays are minimised
- Builders are given direct access to Insurance Agent staff completing the assessment.

As a courtesy, the Distributor will be advised of such communications with their Builder clients.

7.9 Distribution Reserving Policy

Reserving is the term given when, if approached to insure the same business by two (2) or more different Distributors; an insurer selects to provide a quotation to one of those Intermediaries exclusively. In those circumstances, the insurer has "Reserved" for the Distributor to whom it elects exclusively to quote.

icare will not reserve terms and will provide terms to the Distributor who is holding a current (most recent) and valid letter of appointment or authority to seek terms from their Builder client.

7.10 Premium Credit Terms and Payment of Premiums

The Distributor is to comply with the credit terms in the HBCF distribution deed and CIMS Operations Manual.

The Distributor is to actively pursue Builder payment dishonours, resubmit payment to HBCF and immediately advise icare of potential credit concerns.

Where a Distributor has generated a certificate, without providing a copy to any party by any means, and the Builder no longer requires it, the certificate is to be cancelled without formal cancellation procedures applying. Intermediaries will have the authority to cancel certificates in CIMS in such circumstances. CIMS will hold a credit for future application to Premium due. Refunds will not normally be issued except in unusual circumstances. Any request for refund will need to be made to HBCF for payment.

7.11 Builder Change of Distributor

A change in Distributor will not alter **icare's** issued Eligibility terms and conditions.

A Letter of Appointment (LoA) resulting in a change of Distributor must be submitted to **icare hbcf** for a change in the Builder's BEAT record within 24 hours. **icare** will advise the previous Distributor of the new appointment in writing. Distributor access to BEAT will provide the new Distributor with the Builder Eligibility Profile, conditions of Eligibility approval and any outstanding review requirements.

7.12 Builder Participation in the Building Contract Review Program (BCRP)

Where a Builder has been placed in the BCRP, as a general condition of Eligibility, the condition will continue. Should the Builder want to have the condition removed following a change of Distributor the Builder would need to demonstrate that they have completed the BCRP requirements with satisfactory results

7.13 Mandatory Distributor Requirements

icare hbcf will engage Distributor services under the standard form of Distribution Deed. The following minimum Distributor requirements are to be maintained at all times;

- i. Distribution services are to be provided on a State wide basis.
- ii. **icare hbcf** services provided through a central desk, containing all staff servicing Builders' hbcf requirements and their direct management in a single geographic location. A distributed authorised representative or branch model will not be acceptable to deliver Distribution Services.

- iii. All processing of insurance and eligible submission is to be by staff within Australian states and territories. No documents or supporting applications are to leave Australian jurisdiction and must be attached to BEAT or CIMS as appropriate.
- iv. Distributor IT capability or wholesaling of Builder account management functions that do not include the performance of Distribution Services are optional and will be supported where they do not conflict with the centralised hub requirement.
- v. All staff carrying out Distribution Services and their direct management are to participate in **icare hbcf** mandatory training programs and ongoing professional development training.

7.14 Builder Eligibility Submissions

During the Eligibility Application submission process for the HBCF Insurance, the Distributor is required to;

- i. assist Builders to submit Eligibility Applications for HBCF Insurance to **icare hbcf's** appointed Scheme/Fund Agent/s (Agents), including Builder Profile Change (BPC) requests;
- ii. assist Builders with the submission of applications requiring approval by Agents including applications for multiple dwelling projects, retrospective cover, projects in the Building Contract Review Program (BCRP) or requiring a Deed of Indemnity or Group Trading Agreement;
- iii. at the requests of the Scheme Agents, liaise with Builders to submit supplementary information/ documentation in support of an application for HBCF Insurance,
- iv. respond to general enquiries from Builders regarding the HBCF Insurance Eligibility process,
- v. communicate approval of applications and provide the Builder with details of any special conditions.
- vi. communicate decisions by Agents declining an Eligibility Application submission and explain to the Builder the reasons for that decision provided by the Agent.

7.15 Builder Reviews

Distributors are required to lodge new applications and review submissions in a timely manner with sufficient emphasis on informing the Builder of requirements to comply with the submission requirements of the Underwriting Guidelines.

At the time of a new application or Eligibility Review, either scheduled or by special request, the Distributors are required to assist the Builder by;

- i. Notify Builders of upcoming reviews to allow for a timely collection of submission information,
- ii. Complete a BEAT assessment submission unless a new application is being submitted,
- iii. notifying Builders of scheduled Periodic Eligibility Reviews (PER) and requested Special Eligibility Reviews (SER). The Distributor is to facilitate the submission of all required documentation to enable the Agent to commence the review within required timeframes. The Distributor is to ensure that all timeframes are adhered to and avoid the Builder incurring a Premium loading for non-compliance with review requirements,
- iv. communicating and fully articulating to Builders requests by Agents for supplementary information/ documentation in support of an Eligibility Review and the timeframes for responding to such requests.

7.16 Managing Disputes

- (c) Where and when complaints and disputes are raised against/by a Builder, the Distributor is required to assist in:
 - i. explaining and facilitating access by a Builder to **icare hbcf's** complaints and dispute resolution process. The complaint/dispute is to be initially lodged with the Agent with the opportunity in certain circumstances to escalate to **icare hbcf** where the Builder is not satisfied with the outcome of an application for HBCF Insurance,
 - ii. responding to requests by **icare hbcf** and/or its Agent/s in relation to enquiries received from homeowners, developers, SIRA, Fair Trading, Councils and Private Certifiers or other bodies

regarding the issue, cancellation, change etc. of a Policy/Certificate of Insurance and a Builder's advice of project completion including where necessary liaising with the Builder and correcting/updating CIMS.

7.17 Operational Management with Builders, **icare hbcf** and Scheme Agents

- (d) The Distributor is required to act as the conduit between Builders and **icare hbcf** and/or its Agent/s by providing these services;
- i. respond to general enquiries from Builders regarding **icare hbcf's** requirements for issue of HBCF Insurance cover for residential building projects,
 - ii. responding to requests by **icare hbcf** and/or its Agent(s) for information in relation to an application for HBCF Insurance and/or the issue of a Policy/Certificate of Insurance (e.g. complaints, adverse information etc.),
 - iii. monitoring a Builder's utilisation of their Open Job Limits in order to facilitate timely submission of any required BPC application in order that the Builder can obtain HBCF cover for future projects,
 - iv. responding to requests by **icare hbcf** and/or its Agent/s for information in relation to the risk management of Builders (e.g. complaints, adverse information etc.),
 - v. notifying **icare hbcf** and/or its Agent/s of information received likely to impact on the risk presented by a Builder to **icare hbcf**,
 - vi. responding to requests by **icare hbcf** and/or its Agent/s in relation to enquiries received from homeowners, developers, SIRA, Fair Trading, Councils and Private Certifiers etc. regarding the issue, cancellation, change etc. of a Policy/Certificate of Insurance and a Builder's advice of project completion,
 - vii. communicating and clearly explain to Builders the Eligibility terms and conditions approved by Agents and timeframes for compliance (including conditions in relation to the provision of securities and the Building Contract Review Program (BCRP)),
 - viii. providing the Agents of evidence/supporting documentation of a Builder's compliance with Eligibility terms and conditions (including where appropriate original signed security documents).

7.18 **icare hbcf** IT Systems

icare hbcf will require the Distributor to perform the following functions using the **icare hbcf's** transaction systems:

- i. Utilise **icare hbcf's** CIMS for the submission of applications for HBCF Insurance cover and the issue and management of Policies/Certificates of Insurance.
- ii. assist Builders in submissions for and management of Eligibility using the Builder Eligibility Assessment Tool (BEAT).
- iii. provide Builders with the Certificate of Eligibility and the BEAT Builder Eligibility Assessment Report (including advice of Premium loading/discounting weightings) on completion of the all reviews or pricing changes.
- iv. ensure that the Project Application form and all related documents and correspondence are attached to the submission/Policy record on CIMS.
- v. process applications for cancellation of Policies/Certificates of Insurance in accordance with **icare hbcf's** procedures and guidelines and ensuring all supporting documentation and correspondence are attached to the Policy record on CIMS.
- vi. process Change Policy transactions (e.g. resulting from contract variations) in accordance with **icare hbcf's** procedures and guidelines and ensuring all supporting documentation and correspondence are attached to the Policy record on CIMS.
- vii. process advice by Builders of project completions (including where there are special circumstances such as early termination etc.) in accordance with **icare hbcf's** procedures and guidelines and ensuring all supporting documentation and correspondence are attached to the Policy record on CIMS.
- viii. correct and/or update Builder's record on CIMS to reflect outcomes of issues, cancellation, change etc. of a Policy/Certificate of Insurance, received from homeowners, developers, SIRA, Fair Trading, Councils and Private Certifiers etc.

7.19 Issue of HBCF Policies/Certificates of Insurance

The Distributor, without limiting requirements in the CIMS Operating Procedures Manual, is required to:

- i. process applications for HBCF Insurance cover (not requiring approval by **icare hbcf's** Agents) taking into consideration any special conditions imposed on the Builder.
- ii. Liaise with **icare hbcf's** appointed BCRP providers to facilitate the submission of applications for projects in the BCRP and prior to lodgement, assess such applications submissions for completeness and accuracy such as:
 - A. site address;
 - B. contract price;
 - C. work category,
 - D. homeowners' details including email and phone contact details allowing direct contact with the homeowners or developer by CIMS;
 - E. the Builder's licence and open job and profile limits cover the proposed project;
 - F. ensure a Builder is not disadvantaged by delays in turnaround times as a result of requests by Agents for missing information/documentation etc.
- iii. issue a tax invoice to the Builder detailing, the Premium, Stamp Duty and GST.
- iv. notify the Builder if **icare hbcf** rejects the application for a Policy along with the reasons behind the decision.
- v. ensure where submissions are bound/issued by the Distributor on CIMS that Certificates of Insurance are issued to Builders within service standards having regard to the legislative requirements and timeframes in relation to the provision by Builders and Developers of the Certificates (including to homeowners and off-the-plan purchasers),
- vi. where bound/issued in CIMS, ensure a Certificate of Insurance is available to the Builder.
- vii. process applications for cancellation of Policies/Certificates of Insurance in accordance with **icare hbcf's** procedures and guidelines and ensuring all supporting documentation and correspondence are attached to the Policy record on CIMS,
- viii. process Changed Policy transactions (e.g. resulting from contract variations) in accordance with **icare hbcf's** procedures and guidelines and ensuring all supporting documentation and correspondence are attached to the Policy record on CIMS,
- ix. Process advice by Builders of project completions (including where there are special circumstances such as early termination etc.) in accordance with **icare hbcf's** procedures and guidelines and ensuring all supporting documentation and correspondence are attached to the Policy record on CIMS,
- x. Notifying **icare hbcf** and/or its Agent/s of any information received of alleged fraudulent Policies/ Certificates of Insurance having been provided to a third party.

7.20 Distributor IT Capabilities

Distributor IT capability must include the following;

- a. Broadband connection to the internet sufficient to support high speed simultaneous access by all staff to the **icare** CIMS Policy Center and BEAT. Devices must meet at least the **icare** minimum system configuration.
- b. An electronic customer management system (CMS) that supports electronic communication to Builders and the electronic transfer of information between the CMS and icare systems. At a minimum it must support secure file transfer (SFTP) between CMS and icare. Desirable support of near real time transfer via web services using industry standard exchange formats or such format as mutually agreed.
- c. Electronic invoicing and Builder debtor management capability with the ability for future enhancements allowing Builder straight through payment processing by integration to an electronic payment gateway and CIMS.
- d. An active website supporting Builder clients with links to icare, NSW Fair Trading and SIRA.

- e. Regular Data integrity reviews and assessment of data entry standards, identification of trends, issues and mitigation strategies with a quarterly report to icare in the format determined from time to time.
- f. Quarterly user access audits, reporting to icare confirming staff with login to icare's systems and any changes in staff.

7.21 Minimum Requirements for Configuring of Desktops

As an end user of the CIMS application it will be necessary to correctly configure your standard **operating environment so you can view documents loaded into the CIMS application.** Detailed below are the operating requirements required:

Area	Minimum requirement
Operating System	Microsoft Windows Vista SP2 (32 bit or 64 bit); Microsoft Windows 7 SP1 (32 bit or 64 bit) (64 bit recommended); or Microsoft Windows 8 (32 bit or 64 bit).
Browsers	Chrome 28+ (32 bit); Microsoft Internet Explorer 11 (32 bit or 64 bit); or Firefox 21+ (32 bit). Note: In the browser disable the pop-up blocker; and enable cookies.
Document viewing	Adobe Acrobat 7 or higher
Document generation	Microsoft Office 2007, Office 2010 or Office 2013 Java 1.7.0 ONLY (higher versions are not supported)

7.22 Builder Self-service Portal

As requested by Builder clients or **icare**, the Distributor is required to;

- i. Assist the Builders with gaining access to the icare Builder Self-service portal
- ii. Assist the Builders with the use of Builder Self-service portal to complete submission of insurance applications, complete jobs and view their Eligibility limits.

7.23 Legislative and Statutory Obligations

Comply with statutory obligations on **icare hbcf** relating to Eligibility /Risk Management functions and issue of Policies/Certificates of Insurance carried out on its behalf by the Distributor. These obligations include, but are not limited to, obligations on **icare hbcf** under the following legislation:

- i. *State Insurance and Care Governance Act 2015*
- ii. *NSW Self Insurance Corporation Act 2004*
- iii. *Home Building Act 1989*
- iv. *Privacy and Personal Information Protection Act 1998*
- v. *Government Information (Public Access) Act 2009*
- vi. *State Records Act 1998*
- vii. *Financial Sector (Collection of Data) Act 2001* (Commonwealth)
- viii. *Privacy Act 1988* (Commonwealth)

This requirement extends to all subordinate legislation and other instruments under applicable Acts. Specifically this includes the Insurance Guidelines (currently Market Practice Guidelines) issued by NSW Fair Trading and/or the State Insurance Regulatory Authority (SIRA) under the *Home Building Act 1989* – the Distributor must comply with these guidelines on behalf of **icare hbcf**.

7.24 Performance Management Framework

The Distributor's performance during the Term of this Agreement will be measured against the Performance Management Framework at Section 8 and 9. In the event that the Distributor does not adhere to or meet the Service Standards specified in the Performance Management Framework, the Principal may either terminate the Agreement in accordance with subclause 10.3 of the Agreement or restrict the Distributor from providing the Services until such times as remediation action is undertaken to ensure future compliance with the Service Standards.

7.25 Fee Structure

Reasonable Fees for conducting Distribution Services can be charged in addition to **icare** Premiums. **icare** does not regulate such fees which are to be separately identifiable to Premiums and statutory charges made by **icare** with sufficient clarity to avoid confusion to home owners, Builders or developers.

7.26 Legislative and Policy Changes

The scheme of insurance under Part 6 of the *Home Building Act 1989* is currently the subject of proposed changes by the NSW Government through SIRA. Those changes may affect the required manner or extent of the delivery of any services by Distributors. Distributors must cooperate in implementing any changes arising out of legislative, administrative or policy changes.

8. PERFORMANCE MANAGEMENT FRAMEWORK

8.1 Performance Management Framework

The purpose of the Performance Management Framework is to ensure continual improvements and that **icare hbcf** operational objectives are achieved.

The Performance Management Framework sets out the requirements of the Distributor in regard to Service Standards, quarterly reporting and scheduled performance reviews.

8.2 Service Standards

The Distributor's performance will be measured against the Service Standards detailed at Clause 9.

The Principal reserves the right to amend the Service Standards during the Term of the Agreement by providing the Distributor three (3) months' notice of the changes.

8.3 Quarterly Reporting

The Distributor's is required to undertake a quarterly self-assessment of its performance against the Service Standard and submit the results to **icare hbcf** on the 10th Business Day after the end of the period.

Any issues found during the self-assessment are to be identified along with remediation action to be undertaken and completion dates to rectify the issues found.

8.4 Performance Meetings

Performance Management meetings will be held, as determined by **icare hbcf** or requested by the Distributor, to evaluate and to discuss the Distributors performance against the Service Standards to ensure it aligns with **icare hbcf** requirements. The meetings will provide a forum for **icare hbcf** to provide feedback to the Distributor in relation to how it is performing in comparison with other Distributors and discuss strategies to be developed to improve performance if deemed necessary.

The Distributor will be required during the performance meeting discuss trends and issues identified and mitigation strategies proposed. **icare hbcf** intends to share details of trends identified with all Distributors

8.5 Disclosure of Performance Results

To ensure transparency and provide Builders information necessary to determine what Distributor it wishes to use, **icare hbcf** reserves the right to disclose and may publish Distributor results in relation to performance against Service Standards.

8.6 Distributor Fees

The Distributor is permitted to charge the Builder reasonable fees as detailed in Part B of the RFT. **icare hbcf** reserves the right to investigate complaints received in relation to fees charged and take appropriate action in accordance with the terms and conditions of the Agreement if they are deemed to be excessive.

9. SERVICE STANDARDS

9.1 Insurance Guidelines

The Insurance Guidelines (currently known as Market Practice Guidelines) made by the State Insurance Regulatory Authority under the *Home Building Act 1989* require the HBCF to document its service standards. The following quantitative service standards are to apply (all days shown being “business days”):

Project Applications Service Standards		Requirement for completion
1	Assess whether additional information required and/or Builder Profile Change and if required request information or initiate review.	Within 2 days of receipt of the application for a Certificate
2	Issue decision via CIMS to Distributor	Within 2 days of receipt of complete information

The Distributor will communicate immediately with the Builder's Intermediary where it believes it cannot meet the service standards prior to the due date for delivery. The Distributor will advise of the reasons for the delay and the expected actual delivery date.