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| **PREQUALIFICATION SCHEME**  **FOR**  **GENERAL CONSTRUCTION WORKS**  **VALUED UP TO $1MILLION**  **2014 - 2019**  **SCHEME CONDITIONS**  **December 2017** |

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| **GENERAL ENQUIRY INFORMATION** |
| Agencies may refer to the following Scheme documents for additional information:   1. Guidelines for Applicants 2. Scheme Conditions 3. [Link to the Application](https://tenders.nsw.gov.au/dfs/?event=public.scheme.show&RFTUUID=7D2A4779-D15E-A9C4-7B3330FF7D82EED8)   The above documents are available on - <https://www.procurepoint.nsw.gov.au/scm0256> |
| **Enquiries:** For enquiries please contact - ConstructionSuppliers@finance.nsw.gov.au |
| **Agencies seeking a list of Contractors** |
| Agencies seeking a list of Contractors for a specific project are to submit a request using the form:  The form is available online:   1. Go to web site: <https://www.procurepoint.nsw.gov.au/scm0256> 2. Select: ‘Information for buyers > prequalified suppliers’ from the drop-down menu |

**SCHEDULE OF DOCUMENT AMENDMENTS**

| **Revision Number** | Date | **Update Description** |
| --- | --- | --- |
|  | 11 November 2014 | Document Original |
|  | 04 December 2017 | Scheme rollover to 1 January 2020 |

1. Introduction

The NSW Government’s Prequalification Scheme for General Construction Works valued up to $1 million (the Scheme) has been established to simplify the prequalification process for agencies and construction contractors.

The Scheme allows contractors to prequalify for construction work for all NSW Government agencies (agencies) for works valued up to $150,000 and/or works valued up to $1 million.

The guiding principles for the Scheme are that:

* only information necessary to assess a contractor’s status is collected,
* contractors are not compelled to provide information that they have already provided in order to become prequalified, and
* Government agencies consider using contractors prequalified by other agencies wherever possible

Procurement Board Direction: C2014-04:

* gives effect to the Scheme Rules,
* requires agencies to use this Scheme for relevant construction work valued up to $1 million, and
* permits agencies to operate other construction prequalification schemes in certain circumstances.

Standard contract terms and conditions apply to engagements for work under the Scheme.

Automatic recognition of contractors prequalified under the existing scheme

Contractors Prequalified for works under $1m under the existing SCM0256 scheme 2014 – 2017 are automatically recognised as prequalified under the Department of Finance, Services and Innovation (DFSI) 2014 – 2019 for SCM0256 General Construction Works valued up to $1 million (“the Scheme”).

**Scheme Timeline**

The scheme is subject to continuous review and any aspect of the scheme is subject to change based on the requirements of NSW Government and the Department.

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| **Application acceptance** | Prior to and during the life of the Scheme |
| **Scheme commences** | 14 November 2014 |
| **Scheme concludes** | 1 January 2020 (subject to review) |
| **Scheme extension** | Subject to Department requirements |
| **Scheme content update** | Subject to Department requirements |

1. Additional information may be required when tendering

Agencies may request further information from a prequalified contractor at the time of tender or engagement.

1. Definitions

Definitions of terms used in these Scheme Conditions are listed in Appendix A.

1. Changes to a contractor’s status

Contractors prequalified under this Scheme must immediately email the Department of Finance and Services (DFSI) at [nswbuy@finance.nsw.gov.au](mailto:nswbuy@finance.nsw.gov.au) of any material change in their financial capacity, technical or business capacity, business structure and contact details. Contractors are also obliged to report any breaches of laws or legal proceedings referred to in the Scheme Conditions. Where ownership status changes (including mergers), ongoing prequalification status will be reviewed and determined by DFSI.

1. Compliance with laws and policies

Contractors prequalified under this Scheme must comply with all relevant laws and NSW Government policies. In submitting an application, applicants declare that they are not subject to an ICAC inquiry or similar inquiry in another jurisdiction.

Contractors must comply with the NSW Government *Code of Practice for Procurement* and may be requested from time to time to provide evidence of meeting requirements set out in the Code.

1. Types of prequalified contractor

Applicants can apply to be a:

* Registered Contractor for contracts valued up to $150,000 and/or
* Certified Contractor for contracts valued between $150,000 and $1 million

Applicants may apply for prequalification in categories of work listed in Appendix B.

1. Application process and requirements

All applications must be made through the eTenderingwebsite at

[www.tenders.nsw.gov.au](http://www.tenders.nsw.gov.au)

Registered Contractors must provide:

1. organisational details
2. information about relevant occupational licenses or certification
3. information about relevant skills and experience including referee reports
4. details of all fines, prosecutions, and convictions in the last 2 years

Certified Contractors must provide all the information required to become a Registered Contractor, plus:

1. for each Category of Work being applied for, at least one completed:
   * client referee report OR
   * Contractor Performance Report OR
   * your own completed referee report with client contact details
2. one site safety audit/safety inspection report that demonstrates capacity to implement a Work Health Safety Management Plan on a project within the last two years or evidence of accreditation under the Australian Government Building and Construction WHS Scheme
3. one example of a Quality Assurance Inspection and Test Plan (ITP) developed and implemented within the last two years.

Prequalified contractors agree that offers of work under the Scheme are subject to acceptance of the standard contract terms and conditions outlined at section 12 of these Scheme Conditions.

Contractor must be prequalified under the scheme prior to the date of issue of the agency Request for Tender (RFT). Only then the contractor can be engaged by agency under this scheme.

1. Legal entity and business operations

Contractors must be recognised and acceptable legal entities to be eligible to be prequalified under the Scheme. Contractors trading under a trustee company arrangement must demonstrate that they meet the Scheme Conditions.

Any business that is under any form of external administration will not be prequalified under the Scheme.

Prequalification of a contractor does not extend to related, associated or subsidiary business entities owned or controlled by the contractor or joint ventures to which the contractor is a party.

New businesses are encouraged to apply for prequalification, but may not be in a position to provide details of significant past experience. Applicants in this situation should contact DFSI to discuss how prequalification may be assessed using equivalent experience.

1. Financial viability

Applicants must be Financially Solvent.

At the time of tender and/or engagement, contractors may be subject to an independent assessment of their financial status and capability. Agencies are required to assess a contractor’s financial capacity at the time of engagement and/or tendering. Ongoing financial viability and capacity of a contractor to deliver contracted works will be monitored throughout the contract. Applicants are deemed to have authorised all necessary financial checks conducted by or on behalf of agencies, prior to engagement and during the lifetime of a contract.

1. Performance Management

Prequalified contractors should establish procedures that enable all contractual obligations to be met and address unsatisfactory performance in a timely manner.

Performance monitoring may also include, but is not limited to consideration of:

* Meeting requirements in the *Performance Management Practice Guide* (where the contract is valued at more than $500,000)
* Meeting the requirements of Work Health and Safety Management Systems and Auditing Guidelines
* Meeting the requirements of the Quality Management System Guidelines including the results of any Quality Assurance Audit, or Environmental Management System Audit
* Fines, enforceable undertakings, convictions or prosecutions for WHS or environmental law breaches
* Compliance with the Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction
* Industrial relations issues that have resulted in a significant disruption to the works progress on the contractor’s contracts with agencies
* Security of payment issues under the *Building and Construction Industry Security of Payment Act 1999* (NSW)

Where an agency considers the performance of a contractor to be unsatisfactory, it is required to submit a Performance Report to DFSI. Prior to lodging the report with DFSI, the agency will provide a copy of the report to the contractor. Any response from the contractor is to be considered by the agency in its performance report. The template used by agencies to report on contractor performance is provided at Appendix C. Agencies are also required to submit a performance report on all engagements valued at $150,000 or more.

1. Insurances are required if a contractor is engaged for work

It is a Scheme condition that all prequalified contractors must hold and be able to provide a certificate of currency for workers compensation (or equivalent self-insurance for sole traders) as required by law at the time of engagement.

It is a Scheme condition that all Registered Contractors must hold and be able to provide a registered valid insurance certificate of currency for public liability (of an amount not less than $10,000,000) at the time of engagement.

It is a Scheme condition that all Certified Contractors must hold and be able to provide a registered valid insurance certificate of currency for professional indemnity (of an amount not less than $5,000,000) and public liability (of an amount not less than $10,000,000) at the time of engagement.

Until a contractor is engaged, it is not necessary for the purpose of prequalification, to hold insurances required under this clause or to provide this information.

1. Prescribed terms and conditions for contracts

Contracts for work valued up to $150,000 under the Scheme are subject to the terms

and conditions contained in the standard form *[Mini Minor Works General Conditions](https://www.procurepoint.nsw.gov.au/before-you-buy/procurement-system-construction/standard-form-documents-construction/mini-minor-works)*

*[of Contract](https://www.procurepoint.nsw.gov.au/before-you-buy/procurement-system-construction/standard-form-documents-construction/mini-minor-works).* However, for Scheme engagements below $30,000, agencies can use alternative terms and conditions (e.g. agency specific terms and conditions, a supplier’s terms and conditions etc.) if the agency believes the alternative terms and conditions can adequately govern the engagement, having considered the level of risk associated.

Contracts for work valued between $150,000 and $1 millionunder the Scheme are

subject to the terms and conditions contained in the standard form *[Minor Works](https://www.procurepoint.nsw.gov.au/before-you-buy/procurement-system-construction/standard-form-documents-construction/mw21)*

*[General Conditions of Contract (MW21)](https://www.procurepoint.nsw.gov.au/before-you-buy/procurement-system-construction/standard-form-documents-construction/mw21)* unless otherwise indicated by the agency at the time of engagement.

Contract and related advisory material is available on [ProcurePoint](https://www.procurepoint.nsw.gov.au/before-you-buy/procurement-system-construction/standard-form-documents-construction).

1. Suspension from the Scheme

DFSI may suspend a contractor from the Scheme for up to three months if the contractor:

* has not complied with Scheme requirements
* has not demonstrated satisfactory performance
* the contractor is named in an Inquiry or proceedings conducted by the Independent Commission Against Corruption (ICAC)

DFSI is not obliged to advise the contractor prior to making a decision to suspend.

If DFSI suspends a contractor, it will provide information as soon as practicable to the contractor about the reasons for the suspension.

If a contractor who has been suspended from the Scheme does not respond or fails to demonstrate that appropriate remedial action to address the reasons for the suspension has been taken, DFSI may remove the contractor from the Scheme at the end of the period of suspension.

1. Removal from the scheme

DFSI may revoke a contractor’s prequalification as a result of findings of **dishonest, unfair, unconscionable, corrupt or otherwise illegal conduct by the contractor, or** when it considers that a contractor has not met a requirement of the Scheme. This may include but is not limited to the contractor:

* providing false or misleading information in their Application
* entering into any form of external administration
* failing to meet any financial requirements and/or experienced an adverse change in capacity or capability
* making false or misleading claims about their prequalification/registration status
* being the subject of substantiated reports of unsatisfactory performance
* demonstrating unsatisfactory tendering performance which may include repeated failure to respond to invitations to tender
* failing to promptly and adequately resolve reasons for a suspension
* being subject to an adverse finding by ICAC or similar body in another jurisdiction
* Breaching the *Building and Construction Industry Security of Payment Act 1999* (NSW), or failed to act appropriately in response to an adjudicator’s determination

Contractors may also be removed from the Scheme due to convictions for breaches of WHS laws, concerns about WHS arising from serious accidents/incidents on contracted projects or due to a pattern of unsatisfactory results of WHS Management System audits, Quality Management System audits or Environmental Management System audits conducted for or on behalf of any NSW Government agency.

Before a contractor is removed from the Scheme, DFSI will advise the contractor of the reasons for the removal and give the contractor up to seven days to give reasons why prequalification should not be revoked.

1. Reviews

An Applicant or Contractor who believes that there are grounds for DFSI to reconsider a decision made relating to its application or status (including suspension or removal), may request a formal review of the decision.

The request for a review must be made in writing within 20 business days of the date of receipt of the notice advising of the original decision. The request for a review must provide full details of the reasons for the request and any additional information upon which the Applicant and/or Contractor wishes to rely.

The review will be considered by a senior DFSI staff member appointed by the Chief Executive Officer of DFSI. Any person (or subordinate of that person) involved in the making of the original decision, or involved in the investigation of the breach of the Scheme or performance issue that gave rise to the original decision cannot participate in the review.

The Applicant and/or Contractor will be informed in writing of the outcome of the review, within 20 business days of DFSI receiving the request.

1. Applicant's Acknowledgement

In submitting an Application, the Applicant agrees to accept all Scheme conditions.

1. Disclosure

In submitting an Application, the Applicant agrees to permit the NSW Government to:

* publish information about the Application and the Applicant
* publish information about contracts awarded to the Applicant
* disclose certain information in accordance with Division 5 of the *Government Information (Public Access) Act 2009* and Premier’s Memorandum 2007-01.

1. Disclaimer

DFSI reserves the absolute discretion to accept a prequalification application with or without conditions, reject a prequalification application or suspend, downgrade or revoke a contractor’s prequalification status. In the exercise of such discretion, DFSI will not be liable for any costs or damages incurred by the Applicant or the contractor.

1. No Guarantee of Work

Prequalification under this Scheme does not guarantee a contractor:

* continuity of the prequalification over the duration of the Scheme
* receipt of opportunities to tender, or
* that engagements or work of any kind or quantity will be offered.

1. Review and Development of the Scheme

The Scheme will be monitored by the NSW Procurement Board to assess whether the objectives and intent of the Scheme are being met. Modifications to the Scheme, including work categories, contract value ranges and/or contract systems, may be made at the discretion of the Board at any time during the life of the Scheme.

**Appendix A: Definitions** (*policies referred to in this document are subject to change. Contractors should check the* [*ProcurePoint*](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01) *website for updates & changes*)

*Applicant* means an entity that has submitted an Application for prequalification under the Scheme

*Application* means an online application for prequalification under the Scheme

*Certified Contractor* means an entity that has been approved to provide construction works valued between $150,000 and $1M

*Certified Contractor List* means the list of contractors approved by DFSI under the Scheme to provide construction works valued up to $1M published on [ProcurePoint](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01)

*Code of Practice* means the NSW Code of Practice for Procurement

*Contractor Performance Report* means the template document available at Appendix C and on [ProcurePoint](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01)

*Financially solvent* means net tangible assets are greater than liabilities, and the applicant is not subject to insolvency proceedings and is able to pay all debts when they fall due for payment

*Inspection and Test Plan* is a document that records all inspection and testing requirements and demonstrates that required standards have been met

*NSW Procurement Framework* means the suite of legislation, policies, Board Directions and other rules that apply to construction procurement in NSW

*Performance Management Procurement Practice Guide* means the document available on [ProcurePoint](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01) setting out the performance requirements for contractors carrying out construction contracts valued at more than $500,000

*Prequalified Contractor* means an entity that has been approved under the Scheme to provide construction works valued up to $1M

*Prequalified Contractor List* means the list of contractors approved by DFSI under the Scheme to provide construction works valued up to $1M published on [ProcurePoint](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01)

*Quality Management System Guidelines* *for Construction* means the document on [ProcurePoint](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01) setting out requirements relating to systems and business improvements

*ProcurePoint* means the website maintained by DFSI at <https://www.procurepoint.nsw.gov.au/>

*Referee Report* means the template document available on [ProcurePoint](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01)

*Registered Contractor* means an entity that has been approved to provide construction works valued up to $150,000

*Registered Contractor List* means the list of contractors approved by DFSI under the Scheme to provide construction works valued up to $150,000, published on [ProcurePoint](https://www.procurepoint.nsw.gov.au/policies/nsw-procurement-board-directions/direction-2013-01)

*WHS Safety Management Plan* means a document that contains arrangements to manage WHS on a construction project (see WHS Management Systems and Auditing Guidelines)

*Scheme* means Prequalification Scheme for General Construction Works Valued up to $1M

*Scheme Conditions* means this document

*Scheme Rules* mean agency requirements contained in Board Direction C2014-04

*The Office* or DFSI means the Department of Finance, Services and Innovation

*WHS Laws* means the NSW [Work Health and Safety Act 2011](http://www.legislation.nsw.gov.au/maintop/view/inforce/act+10+2011+cd+0+N) and [Work Health and Safety Regulation 2017](http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+674+2011+cd+0+N)

*Work Health and Safety Management Systems and Auditing Guidelines* means the document setting minimum standards across NSW government construction projects

**Appendix B: Categories of Work**

| No. | Work Category | Description |
| --- | --- | --- |
| Construction works | | |
| 1 | Building Works (Multi-trade) | Maintenance, small extension and repair of building work requiring more than one trade.  Major extension/alteration to existing building and/or construction of new building requiring knowledge and experience of all building trades. The Head Contractor on the site engaging and managing all trades and subcontractors. |
| 2 | Building Heritage Restoration | Restore/refurbish various building fabrics including - carpentry, detail joinery and cabinet making, slate or copper roofing, lead work repairs, stonework repairs or repointing, french polishing, lead paint removal, specialist colour matching and painting skills. |
| 3 | Interior Fit Out (Refurbishment) including Ceiling & Partitions | Refurbishing and/or construction of new internal office fitout including partition, joinery, suspended ceiling systems, carpet, electrical and mechanical work. The Head Contractor on the site engaging and managing all trades and subcontractors. |
| 4 | Building Remediation Works | Fixing fire damaged works to existing buildings including structural repairs and mechanical matters. Supply and fix incomplete/left over building works by for example builders in liquidation. Building works may include fixing internal partitions, doors, ceiling, kitchen cabinets, gutters, waterproofing buildings, wet area floors, and other minor building works. |
| 5 | Demolition | Total or partial demolition of buildings/structures involving manual demolition and/or the use of machinery inclusive of capping and/or termination of services. Removal of hazardous materials (not including asbestos). Must hold either DE 1 or DE 2 Demolition License. |
| 6 | Civil Works | Construction of minor and major civil engineering works comprising bulk earthwork, excavation, compaction, road work, car parks, pipe laying with or without shoring and dewatering, small water and sewerage treatment plants, marinas, pontoons, major hard landscaping and some soft landscaping. The Head Contractor on the site engaging and managing all trades and subcontractors. |
| Building Services | | |
| 7 | Building Mechanical HVAC | Construction, supply, installation, commissioning and operational maintenance of minor and major Mechanical building services, in systems such as Air conditioning, Evaporative cooling, Mechanical Ventilation, Refrigeration, Dust extraction and Boilers installations including Low, Medium and High temperature HW and steam. |
| 8 | Building Electrical | Construction, supply, installation, commissioning and operational maintenance of minor and major Electrical services in buildings including HV Installations and LV External Reticulation of cabling systems, Switchboard installation, cabling systems, internal wiring and accessories, Lighting installations, Exit and Emergency Lighting, Telephone Block cabling and conduiting for other related electrical services. |
| 9 | Lift & Escalators | Supply, installation and making good of Lifts, Lift cars and Escalators. Works include work shop drawings, escalators, escalator machinery, lift cars, lift machinery, doors, electrical, associated equipment, materials and fixings with final commissioning and end user training. |
| 10 | Security System | Supply, installation and making good of security systems. Works include disconnection, connection, programming of existing systems, wiring - internal & external, sensors and associated equipment, materials and fixings with final commissioning and end user training. |
| 11 | Hydraulic Services (Plumbing) and Fire Sprinklers | Supply and Installation of pipe work for all aspects of potable water, sewerage, fire, gas, drainage, storm water and fire systems inside and outside of the building fabric. Works range from minor to major contracts.  Supply and installation, delivery, testing, commissioning, quality assurance and certification of pipe work, fittings and controls, for all aspects of fire systems services, both inside and outside of the building fabric. Works range from minor to major contracts. |
| Trades | | |
| 12 | Painting | Surface preparation and application of protective coatings and paint to all types of surfaces internal and external. Works range from minor to major contracts. |
| 13 | Bricklaying | Supply, installation and making good of flashings, ties, lintels, brickwork and associated materials. Works to be carried on internal and external of new and existing buildings. Scaffolding supply generally included in description. |
| 14 | Concreting | Supply and installation of concrete fabric such as slabs (raft, suspended, composite), footings, columns, walls paths and driveways, including preparation of surfaces. ie laying of plastic membrane, reinforcing mesh, formwork and checking levels. |
| 15 | Fencing | Supply and installation of various fences, including security, safety, decorative, temporary and associated materials and fixings. |
| 16 | Carpentry and Joinery | Works to be carried on internal and external of new and existing buildings. Scaffolding supply generally included in description.  Supply and installation of joinery units to specified details, including skirting, architraves, cupboards, shelving, benches, doors, jambs and hardware, with shop drawings where necessary. Supply of all materials, plant tools, equipment, transport and labour as found necessary. |
| 17 | Aluminium Windows & Doors | Supply, installation and making good of new and existing aluminium windows and doors. Works include work shop drawings, aluminium windows and door frames, trims, flashings and associated materials and fixings. Works range from minor to major contracts. |
| 18 | Roof Sheeting /Roof Plumbing | Supply, installation and making good of new and existing roof, awnings and covered walkways. Works include roof sheeting, flashings, guttering, down pipes, associated materials and fixings. Works range from minor to major contracts. |
| 19 | Metal Work and Structural Steelwork | Fabrication, welding and installation of metalwork to approved shop drawings, including handrails, balustrades, louvers, bollards, grab-rails etc. supply of all materials, plant tools, equipment, transport and labour as necessary. Works range from minor to major contracts.  Supply, installation and making good of new and existing structural steel works. Works include work shop drawings, structural members, bracings, cleats, ties, bolts associated materials and fixings. Works range from minor to major contracts both subcontracting and as the principle contractor. Works range from minor to major contracts. |
| 20 | Landscaping | Major soft and minor hard landscaping including minor earthworks, turfing, mulching, planting of native, exotic plants and shrubs and bush regeneration. General fixed maintenance period required after contract completion date. |
| 21 | Tiling | Set out, supply, installation and making good of new and existing tiling. Supply of all materials, plant, tools, equipment, transport, protection and labour as necessary. Works range from minor to major contracts. |
| 22 | Cement Rendering | Supply of all materials, plant, tools, equipment, transport, protection and labour as necessary. Preparation of substrates. Carry out rendering including patching of existing surfaces, supply scaffolding as necessary. |
| 23 | Asbestos Removal | A licence for friable asbestos removal work is now a ‘Class A’ asbestos removal licence and a licence for bonded asbestos removal work is now a ‘Class B’ asbestos removal work licence under the Work Health and Safety Regulation 2017. |
| 24 | Residential Building Works | Any work that is residential building work under the Home Building Act 1989 which involves construction of a dwelling, or alterations or additions to a dwelling. It also includes repairing, renovating, decorating or applying protective treatment to a dwelling. |

**Appendix C: Performance Report Template**

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| --- | --- | --- |
| Contractor Business Name  ABN |  | |
| Contractor contact person/phone |  |  |
| RFT No |  | |
| Project name/description |  | |
| Date engagement commenced |  | |
| Date engagement completed |  | |
| Total value of engagement |  | |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | N/A | Unsatisfactory | Satisfactory | Good | Superior |  |
| Time management |  |  |  |  |  |  |
| Standard of work |  |  |  |  |  |  |
| Contractor’s personnel – skills, supervision of work |  |  |  |  |  |  |
| Communication, co-operation |  |  |  |  |  |  |
| Work Health and Safety compliance |  |  |  |  |  |  |
| Cost (accuracy of estimates etc) |  |  |  |  |  |  |
| Recommend for future work? | Yes | | | No | | |

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| Additional comments on the contractor’s performance |
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