



EMERGENCY POLLUTION CLEAN-UP SERVICES

PREQUALIFICATION SCHEME

SCHEME CONDITIONS

SCM3071

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For the purposes of this Scheme, inquiries should be directed to the contact officer of this Scheme specified on page 1 of this document.
Other matters should be directed to:

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SCHEDULE OF DOCUMENT AMENDMENTS

Revision Number	Date	Update Description
1	10/08/2016	Initial draft by NSW
2	13/09/2016	Amendments by OEH
3	21/09/2016	Changes by OEH
4	26/09/2016	Review by EPA
6	18/11/16	Final draft by DFSI Legal and NSW

1 INTRODUCTION

The NSW Environment Protection Authority (NSW EPA) is the state's primary environmental regulator. We work with businesses, government, community and environment groups to manage and reduce pollution, waste and adverse impacts on the environment.

A critical aspect of our role is working with emergency services and partner agencies in responding to pollution incidents and emergencies.

In the past the NSW EPA has experienced service difficulties during incident and emergency situations engaging liquid waste contractors. As a result of these difficulties, a corporate recommendation was made to establish a scheme of suppliers through a prequalification scheme (the "Scheme") for waste collection to draw upon during an incident or emergency.

When incident or emergency pollution clean-up is required (land and/or water), the NSW EPA may seek funds through the NSW Environmental Trust's Emergency Pollution Clean-Up Program for the costs of measures to remove, disperse or mitigate serious pollution when those measures need to be taken immediately. These funds are limited and must be used effectively when they are granted. This Scheme aims to provide a level of certainty for expenditure of any such funding.

This Scheme seeks applications from suppliers who can provide the following Emergency Pollution Clean-Up Services:

- Collection and transport of liquid and hazardous waste at a pre-determined rate;
- Treatment and disposal of liquid and/or hazardous waste at a predetermined rate; and
- Supporting and ancillary works and/or services.

Classification of liquid and hazardous wastes is defined in clause 49 of Schedule 1 under the *Protection of the Environment Operations Act 1997*.

The selection of serviceable areas will be in accordance with the 16 Regions that are identified and described at https://www.procurepoint.nsw.gov.au/nswbuy_regions

Successful suppliers will be placed on a non-ranked prequalification scheme to be used by the NSW EPA, emergency services or partner agencies, within NSW, in the event of an incident or emergency which involves liquid and/or hazardous waste.

The use of the prequalification scheme will be dictated by the requirements of each specific incident or emergency such as urgency, location and supplier availability at that time.

If the service being requested is an emergency this will be clearly stated to the Supplier at the time of engagement and reflected in the Order/Service Request provided. Special waste as defined by the *Protection of the Environment Operations Act 1997* is not included in the scope of this Scheme.

While the Scheme will be on-going, it may be reviewed every two (2) years.

The following process will apply to the operation of the Scheme:

- (a) The NSW EPA will issue a Request for Application to establish the Scheme;
- (b) Applications to the Scheme will be evaluated and the Scheme of Suppliers established;
- (c) Scheme intake and Scheme performance review:
 - (i) The Scheme will remain open and Applicants can apply at any time; and
 - (ii) The NSW EPA will periodically review the performance of the Suppliers following the provision of a service. A review could potentially lead to the removal of a Supplier from the Scheme.

Applicants are to note that, if granted admission to the Scheme, it is intended they will supply Emergency Pollution Clean-Up Services in accordance with the accompanying standard Customer Contract for all service requests made under the Scheme.

The order process as described in clause 15 will be initiated through telephone due to the emergency nature of events. A purchase order using the agency specified customer order form will be submitted as soon as business hours resume on the same day or the next business day.

2 DEFINITION OF TERMS

Unless the context indicates otherwise, the following terms, where used in this Scheme, will have the meanings set out below. Note that not all defined terms will appear in all of this Scheme.

ABN means an Australian Business Number as provided in the GST Law.

After hours means the hours between 6pm and 6am Monday to Friday and 12am to 12am (24 hours) on Approved Public Holidays and Weekends).

Agency includes NSW Government departments, statutory authorities, statutory corporations and government business enterprises.

Applicant means the entity who has submitted an Application for admission to the Scheme and provides a response to this Scheme

Application means a written application for membership of the Scheme in accordance with the Scheme Conditions and information provided by the Applicant to the Scheme. .

Assessment Committee means the entity appointed by the NSW EPA to evaluate and determine the eligibility of Suppliers to be admitted to the Scheme.

Business Hours means the hours between 6am and 6pm Monday to Friday (excluding Approved Public Holidays).

Contract Price means the charges set out in its application in a Supply Schedule for the Goods and or Services payable by the Customer to the Supplier for Emergency Pollution Clean Up Services supplied under an Order pursuant to this Scheme.

Closing Date and Time means the Closing Date and Time by which full and secure receipt of Scheme Applications must have taken place, as specified on the cover sheet to this Scheme, or as amended.

Customer means the NSW Environment Protection Authority (NSW EPA) or anyone they have authorised to create an Order / Service Request.

Customer Contract means the contract with the Customer for Emergency Pollution Clean-Up services.

Customer Contract Term means, if applicable, in respect of a Customer Contract, the term of that Customer Contract.

Department means the Environment Protection Authority (NSW EPA), unless otherwise specified.

Emergency means an emergency due to an actual or imminent occurrence (such as fire, flood, storm, earthquake, explosion, terrorist act, accident, epidemic or warlike action) which:

- (a) endangers, or threatens to endanger, the safety or health of persons or animals in the State, or
- (b) destroys or damages, or threatens to destroy or damage, property in the State, being an emergency which requires a significant and coordinated response.

For the purposes of the definition of emergency, property in the State includes any part of the environment of the State. Accordingly, a reference to:

- (a) threats or danger to property includes a reference to threats or danger to the environment, and
- (b) the protection of property includes a reference to the protection of the environment.

If the service being requested is an emergency this will be clearly stated to the Supplier at the time of engagement and reflected in the Order/ Service Request provided.

In these instances the Supplier will be exempt from *s265A* of the *Heavy Vehicle National Law (NSW)* and *Cl 41 (2) (a)* of the *Protection of the Environment Operations (Waste) Regulation 2014*.

(Note: based on the *State Emergency & Rescue Management Act 1989*)

Environment means components of the earth, including:

- (A) Land, air and water, and
- (B) Any layer of the atmosphere, and
- (C) Any organic or inorganic matter and any living organism, and
- (D) Human-made or modified structures and areas,

And includes interacting natural ecosystems that include components referred to in paragraphs (a)-(c).

(Note: based on the *Protection of the Environment Operations Act 1997*)

Framework means the “NSW Government Procurement Policy Framework”. The Framework is located at: <https://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-board/nsw-government-procurement-policy-framework>

GST is a goods and services tax and has the same meaning as in the GST Law.

GST Free Supplies and “Input Taxed Supplies” have 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 (Commonwealth) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation made under those Acts.

Hazardous Waste means waste (other than special waste or liquid waste) that includes any of the following:

- (a) anything that is classified as:
 - (i) a substance of Class 1, 2, 5 or 8 within the meaning of the Transport of Dangerous Goods Code, or
 - (ii) a substance to which Division 4.1, 4.2, 4.3 or 6.1 of the Transport of Dangerous Goods Code applies,
- (b) containers, having previously contained:
 - (i) a substance of Class 1, 3, 4, 5 or 8 within the meaning of the Transport of Dangerous Goods Code, or
 - (ii) a substance to which Division 6.1 of the Transport of Dangerous Goods Code applies, from which residues have not been removed by washing or vacuuming,
- (c) coal tar or coal tar pitch waste (being the tarry residue from the heating, processing or burning of coal or coke) comprising more than 1% (by weight) of coal tar or coal tar pitch waste,
- (d) lead-acid or nickel-cadmium batteries (being waste generated or separately collected by activities carried out for business, commercial or community services purposes),
- (e) lead paint waste arising otherwise than from residential premises or educational or child care institutions,
- (f) anything that is classified as hazardous waste pursuant to an NSW EPA Gazettal notice,
- (g) anything that is classified as hazardous waste pursuant to the Waste Classification Guidelines,

Incident means unplanned, unexpected and non-routine involving actual or the potential to harm the environment requiring specific resources to manage.

Liquid Waste means any waste (other than special waste) that includes any of the following:

- (a) anything that:
 - (i) has an angle of repose of less than 5 degrees above horizontal, or
 - (ii) becomes free-flowing at or below 60°C or when it is transported, or
 - (iii) is generally not capable of being picked up by a spade or shovel,
- (b) anything that is classified as liquid waste pursuant to an NSW EPA Gazettal notice.

Material Adverse Event means where the Applicant or Approved Provider is subject to insolvency or an ICAC inquiry or legal proceedings.

NSW Environmental Trust means an independent statutory body established by the NSW government to fund a broad range of organisations to undertake projects that enhance the environment of NSW. The Trust's main responsibility is to make and supervise the expenditure of grants. The Trust is administered by the Office of Environment and Heritage.

Order means a valid order issued to a Supplier in accordance with the Customer Contract.

Performance Report means a report submitted in accordance with clause 19.

Review Committee means the committee established to review decisions made by the Environment Protection Authority, which are the subject of an appeal by an Applicant or Supplier.

Scheme means the Pre-Qualification Scheme: Emergency Pollution Clean-Up Services administered by the Environment Protection Authority.

Scheme Termination Notice means a notice published on the NSW Government eTendering website issued by the Environment Protection Authority advising of the intent to terminate the Scheme.

Supplier means an Applicant that has been granted admission to the Scheme.

3 PURPOSE OF THE SCHEME

The Scheme focuses on the following objectives:

- (a) Provide EPA a reliable and available supplier base during incidents and emergencies in both metropolitan and regional locations;
- (b) Improve quality of service and reliability that will ensure citizen safety and mitigate risks;
- (c) Provide a flexible arrangement where new and smaller suppliers, as well as regional suppliers can participate in government opportunities in an ongoing manner;
- (d) Improve information collection, analysis and sharing;

(e) Improve compliance to NSW Government procurement legislation and policies.

4 SCOPE OF EMERGENCY POLLUTION CLEAN-UP SERVICES

Emergency pollution clean-up services include:

- (a) Collection and transport of liquid wastes
- (b) Treatment and disposal of common liquid wastes (e.g., oils/fuels, acid/bases, solvents, etc.)
- (c) Other supporting and ancillary works related to incidents and emergency clean-up.

The service areas will be defined as the greater metropolitan area of Newcastle, Sydney and Wollongong and Regional areas as defined by the EPA's Regional Operation areas.

5 CONFIDENTIALITY

- 5.1 Information submitted with an Application will be treated as confidential by NSW Government agencies unless otherwise required by law.
- 5.2 Information submitted with an Application may be subject to investigation, reference checking, searches, interview, enquiries, and confirmation. Applicants and Suppliers are deemed to have authorised any such action.

6 NSW GOVERNMENT PROCUREMENT POLICY FRAMEWORK

- 6.1 The Goods and Services Procurement Policy Framework (Framework) outlines how the NSW Government will conduct its procurement activities when interacting with the private sector. The Framework establishes standards of behaviour expected from Customers and Approved Suppliers and is located at:

<http://www.procurepoint.nsw.gov.au/policy/goods-and-services/nsw-procurement-board-policy-framework>

- 6.2 Approved Suppliers must at all times comply with the Framework and the requirements of the Scheme Conditions.
- 6.3 Any breach of the Framework may result in the removal from the Scheme.
- 6.4 The Supplier must comply with applicable NSW Government policies and guidelines including the NSW Government Procurement: Small and Medium Enterprises Policy Framework (available at www.procurepoint.nsw.gov.au). Under the Scheme, the Supplier must prepare a Small and Medium Enterprises Participation Plan (SMEPP) for contracts valued at \$10 million and above when engaged by a Government Agency.

7 APPLICATIONS FOR PREQUALIFICATION

- 7.1 Applicants must complete an Application for prequalification in full.
- 7.2 Applicants agree that, if accepted to the Scheme, the terms and conditions of any agency contract will be those of the Customer Contract attached and agree that it is not necessary to sign the Customer Contract for each or any agency contract; agency contracts can be made by submission of an Order by an agency.
- 7.3 Applicants are not entitled at law or equity to recover any costs or expenses associated with the submission of an Application.

8 PREQUALIFICATION PROCESS

- 8.1 The Assessment Committee will consider each Application and determine the membership of the Scheme.
- 8.2 The Scheme will be composed of Suppliers who are determined by the Assessment Committee to be accepted following the assessment of each submitted Application and in accordance with these Scheme Conditions.
- 8.3 Applications may be made at any time specified in the application form for the Scheme. Applications will be assessed periodically at the discretion of the Assessment Committee.
- 8.4 The NSW EPA and or Assessment Committee may, at its absolute discretion, during the evaluation of Applications, undertake site inspections of an applicant's or their subcontractor's proposed premises. The NSW EPA and or Assessment Committee may in its discretion, and as part of the evaluation process, invite any or some of the applicants to make personal presentations regarding their response.
- 8.5 The Applicants will make any presentations at its own cost. However, receiving a presentation by an Applicant in no way represents a commitment by the NSW EPA and or Assessment Committee to accept any aspect of the Response. All information obtained during the course of presentation or site inspection may be taken into consideration in the evaluation of Applications.
- 8.6 The NSW EPA on the recommendation of the Assessment Committee may accept an Application (with or without limitation) or reject the Application.
- 8.7 The NSW EPA will notify all Applicants of the outcome of their Application in writing.

9 ACCEPTANCE CRITERIA

- 9.1 Applications will be assessed according to the following criteria:

Applications at the commencement of the Scheme and Applications to subsequent Scheme intakes will only be considered complete if they comply with the mandatory requirements under the Scheme, including:

- (a) A valid Australian Business Number (ABN)
- (b) Capability and capacity to provide the services required under the Scheme Conditions including:
 - (i) Proposed facilities, processes and arrangements for removal, transportation, treatment and disposal of liquid and hazardous waste as specified in Schedule 1 of the *Protection of the Environment Operations Act 1997*, as well as the location and coverage;
 - (ii) Availability for response to incident or emergency requests during Business Hours and/or After Hours. Availability does not mean standby arrangements; and
 - (iii) Quality management systems including environment and WH&S management systems in place.
- (c) Previous experience and performance in meeting the requirements covered in this scheme or other similar requirements;
- (d) Compliance with NSW Government procurement policy and other relevant policies to the supply of the Goods / Services;
- (e) Compliance with relevant legislation and standards;
- (f) Compliance with relevant licences and insurances as outlined in clause 28;
- (g) Financial capacity and stability;
- (h) Compliance with the Scheme Conditions.

9.2 Applicants are also asked to identify other incident or emergency waste services that they may have the capacity to provide in addition to liquid and hazardous waste services. These additional services are not part of the assessable application but requested for the information of the NSW EPA.

9.3 An Assessment Committee will assess all Applications received and make recommendations for membership to the Scheme.

10 NOTIFICATION OF OUTCOME

10.1 The NSW EPA may accept an Application (with or without qualification) or reject the Application, and Applicants will be notified in writing by the NSW EPA.

11 SPECIAL REQUIREMENTS

Membership of the Scheme is subject to the following conditions:

11.1 Applicant must declare in the Application to the Scheme, and during the life of the scheme whilst a member of the Scheme, if it is:

- (a) subject to an ICAC proceeding; or
- (b) being prosecuted or convicted of any breach of work health & safety legislation, environmental protection legislation, industrial relations legislation, and Competition and Consumer Act, or any other laws that a prosecution or conviction would be relevant and material to the goods or services to be provided under the Scheme.

11.2 The Applicant agrees to cooperate with any financial assessment required by the Assessment Committee.

12 AGREED TERMS AND CONDITIONS

12.1 Eligible Customers are entitled to place Orders for the supply of Services by the Supplier under the Scheme.

12.2 Suppliers and Customers may agree on additional terms and conditions provided that they are no less favourable to the customer than the Customer Contract.

12.3 Eligible Customers will use the Customer Contract Order Form when ordering under the Scheme.

13 FEES FOR SERVICES

13.1 The Fee Schedule contains the maximum prices for the Services included in the schedule. The Agency and Supplier may negotiate a lesser fee and/or bulk rates for Services with the Supplier.

13.2 The Fee Schedule will be categorised as:

- (a) Business Hours 6am – 6pm
- (b) After Hours 6pm – 6am
- (c) Approved NSW Public Holidays

13.3 The fees specified in the Fee Schedule will remain fixed for twelve (12) months from the date that the Supplier becomes a member of the Scheme.

13.4 After the fixed term stated in 10.3, a Supplier may apply to the NSW EPA to vary any fee specified in the Fee Schedule only once in any twelve (12) month period. An application for variation in fees must be in writing and supported by satisfactory evidence of any related increase / decrease in cost to the Supplier.

13.5 The NSW EPA has sole discretion to approve, reject, or seek further evidence in support of any application for a fee variation.

13.6 The Supplier will be notified by the NSW EPA in writing of the outcome of any application for a fee variation.

13.7 The Supplier may only apply the new fees for Services supplied after the new fees are approved by the NSW EPA in writing.

14 PUBLICITY

14.1 A Supplier must not advertise, promote or publicise in any form their membership of the Scheme without the prior written consent of the NSW EPA.

15 PURCHASE PROCESS

15.1 A Customer may initiate the ordering process by requesting for service via phone call or in writing to one or more Suppliers.

15.2 Each Order received either by phone call or in writing will incorporate all parts of the terms and conditions of the Scheme as if repeated in full.

15.3 Each Order by phone call will be followed up by a Purchase Order which will be issued the next working day.

16 CHANGES TO SUPPLIER STATUS

Suppliers who are members of the Scheme, must inform the NSW EPA, as soon as is reasonable and practicable, of any significant change in their financial capacity, capability, ownership and/or corporate status, contact details or address by writing with full details to:

Manager Incident & Emergency Coordination
Hazardous Incidents & Environmental Health Branch
NSW Environment Protection Authority
PO Box A290
SYDNEY SOUTH NSW 1232
Tel: (02) 9995 5000
Email: hazmat@epa.nsw.gov.au

17 REPORTING REQUIREMENTS BY SUPPLIER

17.1 Supplier Reports are required post-incident and must include a correctly rendered tax invoice to the NSW EPA and supporting documentation. Supporting documentation includes, but is not limited to:

- (a) Waste type and quantity;
- (b) Rates and costs for service ;
- (c) Travel time and hours of personnel dispatched to attend incidents;
- (d) Location of disposal; and

- (e) Assurance of appropriate disposal.

14.2 Where a Supplier becomes subject to a Material Adverse Event, it must immediately notify the NSW EPA by writing to:

Manager Incident & Emergency Coordination
Hazardous Incidents & Environmental Health Branch
NSW Environment Protection Authority
PO Box A290
SYDNEY SOUTH NSW 1232
Tel: (02) 9995 5000
Email: hazmat@epa.nsw.gov.au

18 PERFORMANCE REPORTING BEHAVIOUR

18.1 Supplier performance monitoring and reporting will be conducted in accordance with the following principles on the basis of the performance of Suppliers under contracts made with agencies under the Scheme:

- (a) the mutual objective of contracting parties to achieve continuous performance improvement;
- (b) the utilisation of performance reporting as a tool to facilitate the identification and resolution of project issues under the contract;
- (c) open, proactive and objective performance monitoring and periodic formal reporting by the representatives of both parties to a contract;
- (d) performance being on the agenda at regular formal contract meetings;
- (e) performance issues being promptly addressed by the parties concerned;
- (f) performance issues being discussed openly with the Supplier to ensure that concerns (such as dissatisfaction with performance) do not come as a surprise when subsequently documented in the relevant Performance Report;
- (g) objective statements or documents consistent with and supporting the performance rating should be used to provide the basis for the ratings recorded in a Performance Report; and
- (h) the assessment of the performance of the Supplier should take account of individual behavior when necessary to highlight performance problems for resolution; and
- (i) a proactive approach to initiating and encouraging communication by either party to discuss performance and performance reporting matters, including making arrangements for formal performance reporting consultation meetings.

19 PERFORMANCE REPORTING PROCESS BY AGENCY

19.1 The Customer will be responsible for the preparation of Performance Reports in the form prescribed by Schedule 3.

19.2 When a Performance Report is prepared, the Agency shall:

- (a) provide a copy of the Performance Report to the Supplier; and
- (b) forward the original to the NSW EPA for entry into the NSW EPA scheme database.

19.3 If the Supplier disagrees with the Performance Report, the Agency and the Supplier must attempt to resolve the disagreement in the first instance. Following an unsuccessful attempt to resolve a disagreement, the Supplier may refer the Performance Report, with written reasons for the disagreement, to the NSW EPA.

19.4 The NSW EPA may:

- (a) arrange a meeting between Supplier and the Agency to discuss and consider the Performance Report and reasons;
- (b) determine the disagreement in consultation with the Department;
- (c) if necessary, amend the Performance Report;
- (d) notify the Supplier of its decision; and
- (e) where the Performance Report is amended, enter the amended Performance Report information into the Department's Scheme database.

20 PERFORMANCE MANAGEMENT

20.1 The NSW EPA will review the performance of Suppliers by:

- (a) Monitoring performance on application, financial capability, NSW Procurement Board Policy Framework compliance, contract performance, key performance indicators and project outputs and outcomes;
- (b) applying sanctions, such as temporary suspension from the Scheme, where performance is determined to be unsatisfactory;
- (c) removing a Supplier's membership of the Scheme, following due consideration of the circumstances, where performance is determined to be unsatisfactory; and
- (d) providing the opportunity for a Supplier to request a review of the decisions referred in paragraphs (b) and (c) above.

20.2 The NSW EPA may also review the performance of any Suppliers where they may have been engaged to supply services to an additional entity under the Emergency Pollution Clean-Up Prequalification Scheme, who can access the services delivered under the Scheme.

20.3 A single breach of service level may result in being removed the Scheme.

21 TEMPORARY SUSPENSION

21.1 The NSW EPA may suspend a Supplier from the Scheme for up to ninety days (90) if it considers that the Supplier has:

- (a) not complied with the Scheme Conditions; or
- (b) demonstrated unsatisfactory performance.

21.2 Before a Supplier's membership on the Scheme is suspended, the NSW EPA will advise the Supplier in writing of the matters prompting the proposed action and will give the Supplier the opportunity to provide reasons as to why its membership should not be suspended.

21.3 The NSW EPA will advise the Supplier of the reasons for the suspension and of any actions by the Supplier required to lift the suspension. A Supplier that has been suspended from the Scheme must inform the NSW EPA if and when the actions required to lift the suspension have been undertaken.

21.4 The NSW EPA will regularly review the status of Suppliers who have been suspended under clause 21.1. If the action taken by the Supplier is considered by the NSW EPA to be insufficient, the suspension period may be extended and the Supplier will be notified accordingly. The NSW EPA may remove the suspension if it is satisfied that the Supplier has taken appropriate action to address the reasons for the suspension.

22 REMOVAL FROM THE SCHEME

22.1 The NSW EPA may remove a Supplier's membership of the Scheme if the Customer considers that a Supplier has:

- (a) breached the Scheme Conditions; or
- (b) provided false or misleading information with their Application to the Scheme; or
- (c) failed to meet applicable financial requirements; or
- (d) been the subject of substantiated reports of unsatisfactory performance for other Customers; or
- (e) been determined by the NSW EPA as not suitable for future work; or
- (f) rejected opportunities to provide services under the Scheme to such an extent that it is considered unsatisfactory by the NSW EPA; or
- (g) experienced an adverse change in capacity or capability; or
- (h) experienced an adverse change in business status; or
- (i) failed to promptly and adequately address the reasons for a temporary suspension from the Scheme under clause 21; or

- (j) been convicted of any breach of its obligation under work health and safety legislation, environmental protection legislation, industrial relations legislation, competition and consumer legislation, and any other laws, which the NSW EPA finds the conviction of which necessitates removal from the scheme ; or
- (k) otherwise failed to meet the standards required of the Scheme in terms of its project outcomes, business management systems, client satisfaction and ethical business practices, or
- (l) engaged or engages in activities that contravene or circumvent the requirements of the NSW Government Scheme Guidelines for Customers when available; or
- (m) refused to supply services to a Customer without reasonable grounds for such refusal; or
- (n) has not complied with relevant laws and policies including breaching the Framework.

22.2 Before a Supplier is removed from the Scheme, the NSW EPA will advise the Supplier via email of the matters prompting the proposed action and will give the Supplier the opportunity to provide reasons as to why they should not be removed.

23 REQUEST FOR REVIEW OF THE DECISION

23.1 Should an Applicant and/or Supplier consider that there are substantive grounds for the NSW EPA to reconsider a review of:

- (a) the decision not to admit the Applicant to the Scheme; or
- (b) the decision to downgrade the status of the Supplier under the Scheme; or
- (c) the decision to suspend the Supplier from the Scheme; or
- (d) the decision to remove the Supplier's membership on the Scheme,

the Applicant and /or Supplier may within twenty one (21) days from the receipt of letter or email advising of the original decision, request a review of the decision in writing, by providing full details of the reasons for the request for review to:

Manager Incident & Emergency Coordination
 Hazardous Incidents & Environmental Health Branch
 NSW Environment Protection Authority
 PO Box A290
 SYDNEY SOUTH NSW 1232
 Tel: (02) 9995 5000
 Email: hazmat@epa.nsw.gov.au

24 APPLICANT'S ACKNOWLEDGMENT

24.1 In applying for membership, the Applicant agrees that it accepts the Scheme Conditions.

25 DISCLAIMER

25.1 The NSW EPA reserves the absolute discretion to:

- (a) accept an Application with or without limitations and/or conditions;
- (b) reject an Application;
- (c) suspend a Supplier's admission to the Scheme; and
- (d) remove a Supplier's membership to the Scheme.

25.2 In exercising its discretion, the NSW EPA or personally its officers and employees or Assessment Committee will not be held liable for any costs or damages incurred by an Applicant or a Supplier

26 PREQUALIFICATION NO GUARANTEE OF WORK

26.1 The NSW EPA will establish a non-ranked Scheme of prequalified Suppliers. The Supplier's membership to the Scheme does not guarantee the receipt of any Orders under the Scheme.

26.2 The receipt of prequalification by a Supplier does not guarantee:

- (a) continuity of the prequalification during the duration of the Scheme;
- (b) receipt of opportunities for application; or
- (c) that agency contracts or work of any kind or quantity will be offered.

27 NO ASSIGNMENT OR NOVATION

27.1 The Supplier must not assign or novate a Customer Contract without first obtaining the prior written consent of the NSW EPA and/ or the Customer, which consent may be withheld at their absolute discretion.

27.2 The Supplier acknowledges that the NSW EPA and/ or the Customer may make financial checks and due diligence checks on the entity proposing to take over this Customer Contract before determining whether or not to give consent to the assignment or novation.

28 INSURANCES, LICENCES & APPROVALS

28.1 The Applicant must have the insurances prescribed under the terms and conditions of the agreement.

28.2 The Applicant must produce satisfactory evidence of insurance.

28.3 The Supplier must maintain the insurances current, and submit evidence of renewal each time the insurance is renewed.

28.4 The Supplier must obtain at its own cost all licences, approvals and consents necessary to perform the Services and meets its obligations under the Customer Contract.

28.5 Suppliers must meet all their legal requirements as set out in their Environment Protection Licence(s) as required by the Protection of the Environment Operations Act, 1997, any licensing requirements of the Dangerous Goods (Road and Rail Transport) Regulation 2014 and the following;

(a) Waste transporter licenses

(b) Must be licenced for dangerous goods - vehicle licences and drivers licences

(c) All disposal facilities must have appropriate Environment Protection Licences

28.6 Applicants must have insurance including;

(a) Public / Products liability insurance of a minimum of \$10 million for each claim

(b) Workers compensation insurance

(c) Motor vehicle Insurance

(d) Professional Indemnity Insurance

28.7 The Supplier must provide certificates of currency proving that the policies of insurance required under this Scheme have been effected and are current. A certificate of currency provided under this section must be issued by the insurance company providing insurance and must contain all details reasonably requested by the NSW EPA, including a summary of all risks covered and any exclusions.

28.8 The Supplier must notify the NSW EPA within two (2) business days of any event which affects or may affect the Suppliers compliance with this clause, including any cancellation of a policy or reduction of limit of coverage.

29 TERMINATION

29.1 The Scheme can be terminated with ninety (90) days' notice at the sole discretion of the NSW EPA by posting a Scheme Termination Notice on the NSW Government eTendering website.

29.2 The Supplier may, at any time discontinue its participation in the Scheme on ninety (90) days' written notice to the NSW EPA.

29.3 The Supplier must continue to fulfill its contractual obligations under any agreement entered into under the Scheme.

30 DISCLOSURE

30.1 The NSW EPA and/ or Customers may disclose certain information in connection with the Scheme in accordance with the Government Information (Public Access) Act (NSW) 2009 and the NSW Procurement Board

30.2 Procurement Policy Framework at <http://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-board/nsw-procurement-board-policy-framework>.

31 LIST OF APPROVED PROVIDERS MAY BE PUBLISHED

31.1 The list of prequalified Supplier's may be published on the NSW EPA and ProcurePoint website including the following information:

- (e) Name of Supplier;
- (f) Address of Supplier; and
- (g) Contact details of Supplier

32 AMENDMENT TO THE SCHEME

32.1 The Scheme will be monitored by the NSW EPA to assess whether the objectives and intent of the Scheme are being met. Modifications may be made at the NSW EPA's discretion during the life of the Scheme.

32.2 The Scheme Conditions may be amended periodically by the NSW EPA as required.

32.3 Suppliers must ensure they comply with the most recent version of the Scheme Conditions which are available to view or download at www.procurepoint.nsw.gov.au

32.4 Suppliers will be notified via email of amendments to the Scheme Conditions.