

ITS 2573 PREQUALIFICATION SCHEME

November
2015

Supplier Prequalification Scheme Rules and Agreements

Operational Telecommunications Equipment, Infrastructure and Services Scheme

SCHEDULE OF DOCUMENT AMENDMENTS

Revision number	Date	Revision description
1.0	06/05/2013	Document Original
1.1	3/8/2015	Update hyperlinks and definitions, update 12.2 and 16.2, remove 12.5
1.2	24/11/2015	Update hyperlinks and definitions,

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1 DEFINITIONS

Authority means the NSW Telco Authority, unless otherwise specified

Contract Authority means the NSW Government Department of Finance, Services & Innovation or any other specified body on behalf of NSW Government Agencies

Customer means any Eligible Customer listed at <http://www.procurepoint.nsw.gov.au/before-you-buy/buyer-eligibility-and-registration>

ITS 2573 Prequalification Scheme or **ITS 2573 Scheme** or **ITS 2573 Panel** or **Panel**, means a panel of prequalified and registered service providers to assist NSW Government agencies and other eligible customers in engaging Operational Telecommunications Equipment, Infrastructure, and Services suppliers.

NSW Procurement means a business unit of the NSW Department of Finance, Services and Innovation

New Applicant means an entity – not currently a member of the ITS 2573 Prequalification Scheme – that has submitted a Response for admission to the ITS 2573 Scheme

Panel Supplier means an entity that has submitted a Response, and been granted admission to the ITS 2573 Scheme.

Pre-qualified Supplier means a supplier who is eligible for high risk contracts valued above \$150,000 each.

Registered Supplier means a supplier who is eligible for low risk contracts valued up to \$150,000 each.

Respondent means an entity that has submitted a Response

Response means an online submission to the ITS 2573 Panel submitted on the NSW Government online tendering portal at <https://tenders.nsw.gov.au/dfs/?event=public.scheme.show&RFTUID=AB473223-0E1B-F452-69D9899F409F6FAE> for the purposes of providing Operational Telecommunications Equipment and/or Infrastructure and/or services to NSW Government Agencies

ITS 2573 Panel Committee or **Panel Committee** means the entity appointed by NSW Telco Authority to make recommendations regarding membership to the ITS 2573 Scheme and to review ongoing performance of the ITS 2573 Panel suppliers

ITS 2573 Prequalification Scheme Rules or **Panel Rules** or **Scheme Rules** means this document, the Supplier Panel Rules and Conditions, which govern the operation of, and the Supplier's admission to, the ITS 2573 Prequalification Scheme.

2 INTRODUCTION

- 2.1 The Contract Authority has optimised the existing ITS 2573 Prequalification Scheme creating a new 'Operational Telecommunications' Scheme as part of the NSW Government's procurement reforms, which aim to simplify contracts and tenders and improve opportunities for small to medium enterprises (SMEs) to do business with NSW Government.
- 2.2 NSW Telco Authority administers the ITS 2573 Scheme on behalf of the Contract Authority.
- 2.3 The ITS 2573 Scheme is available for use by NSW Government Agencies and other eligible customers. A complete list of eligible customers is available at <http://www.procurepoint.nsw.gov.au/before-you-buy/buyer-eligibility-and-registration>
- 2.4 One of the key business principles of NSW Government procurement of goods and services is to achieve best value for money in the expenditure of public funds while being fair, ethical and transparent. Best value for money does not automatically mean 'the lowest price'. It is determined by considering a number of factors such as cost, quality, reliability, service, and benefits. These ITS 2573 Scheme Rules and Conditions aim to ensure these key principles are maintained for the procurement of Operational Telecommunications goods and services to NSW Government, NSW Government Agencies and eligible customers.

3 AMENDMENTS TO PREQUALIFICATION SCHEME RULES AND CONDITIONS

- 3.1 These ITS 2573 Prequalification Scheme Rules and Conditions may be amended periodically as required by NSW Telco Authority. Panel Suppliers must ensure they comply with the most recent version of the ITS 2573 Scheme Rules and Conditions to be published on the NSW Governments ProcurePoint website.

4 ITS 2573 PANEL COMMITTEE

- 4.1 An ITS 2573 Panel Committee has been established to assess supplier Responses and make recommendations relating to the ongoing performance of the ITS 2573 Prequalification Scheme. Membership of the ITS 2573 Panel Committee comprises members from NSW Telco Authority and NSW Government Agencies.

5 COMPLIANCE WITH POLICY

- 5.1 Suppliers must comply with all applicable policies. Any breach of the applicable policies may result in the termination of a Customer Contract and / or removal from the ITS 2573 Prequalification Scheme.

5.1.1 Code of Practice for Procurement

"Code" means the NSW Government Code of Practice for Procurement, as amended from time to time. The NSW Government Procurement Policy and code are available from the NSW Department of Finance, Services and Innovation website and can be viewed and downloaded from Department of Finance and Services Government Guidelines: Goods & Services Procurement Publication.

Suppliers must comply with the Code and agree to provide periodic evidence of compliance with the Code and access to all relevant information to demonstrate compliance for the duration of any Customer Contract that may be awarded under the ITS 2573 Prequalification Scheme rules and conditions.

6 NEW APPLICANT PROCESS

- 6.1 Once the ITS 2573 Prequalification Scheme has been formed, any New Applicants who wish to be considered for membership of the ITS Prequalification Scheme must complete and submit an application online at <https://tenders.nsw.gov.au/dfs/?event=public.scheme.show&RFTUID=AB473223-0E1B-F452-69D9899F409F6FAE> which is similar to process undertaken during the ITS 2573 EOI and ITS 2573 RFT processes in October and December 2012.
- 6.2 Application can be made for membership to the ITS 2573 Prequalification Scheme as either a registered or prequalified Panel Supplier.
 - 6.2.1 Registered Supplier List: Suppliers are 'registered' to deliver low risk requirements/contracts valued up to \$150,000 each;
 - 6.2.2 Prequalified Supplier List: Suppliers are 'prequalified' to deliver requirements/contracts valued over \$150,000 each or requirements/contracts that are deemed by the Authority, relevant NSW Government Agencies or Customer's as high risk.
- 6.3 The ITS 2573 Panel Committee or its delegate will review the New Applicant's Response and may accept or reject the request for application. The Respondent will be notified of the outcome by email.

7 CRITERIA FOR ACCEPTANCE

- 7.1 The criteria for acceptance onto the ITS 2573 Prequalification Scheme varies for the Registered Panel Supplier List and the Prequalified Panel Supplier List to reflect the relative value / spend profile of contracts under each Supplier List.
 - 7.1.1 **Registered Panel Supplier List (eligible for low risk contracts valued up to \$150,000 each)**

Acceptance of Applications for the Registered Panel Supplier List are subject to provision of all mandatory information and supporting evidence.
 - 7.1.2 **Prequalified Supplier List (eligible for contracts valued over \$150,000 each and/or high risk contracts)**

Applications for the Prequalified Panel Supplier List are subject to the satisfactory submission and review of additional requirements. Applicants must demonstrate they sufficiently meet the assessment criteria listed in clause 7.1.2.1, which is not exhaustive and in no particular order of importance.

7.1.2.1 Prequalified Supplier List Assessment Criteria

- a) For every nominated category:
 - i) Mandatory Requirements;
 - ii) Demonstrated capability and experience;
 - iii) Quality Assurance accreditation systems;
 - iv) ISO 9001 Quality Management Systems
 - v) Scale and relevance of experience; and
 - vi) Satisfactory past performance as evidenced by referee reports.

8 CONFIDENTIALITY

- 8.1 Information submitted with a Response may be subject to investigation, reference checking, searches, interview, enquiries, and confirmation. Applicants, Respondents and Panel Suppliers are deemed to have authorised any such action.

9 NOTIFICATION OF OUTCOME

- 9.1 The ITS 2573 Panel Committee, at its own discretion, may accept or reject Respondents to the ITS 2573 Prequalification Scheme.
- 9.2 Respondents will be notified via email regarding acceptance or rejection of Applicants to the ITS 2573 Prequalification Scheme.

10 REQUEST FOR REVIEW OF THE DECISION

- 10.1 Should an application for membership of the ITS 2573 Prequalification Scheme be rejected and the Respondent believes that there are substantive grounds to reconsider acceptance onto the ITS 2573 Scheme, the Respondent may request a review of the decision in writing, providing full details of the reasons for the request, and emailed to ITS2573@finance.nsw.gov.au. The email subject must be titled: “ITS 2573 Scheme Membership Review Request” and include all relevant details of the rejected application.
- 10.2 The ITS 2573 Panel Committee or its delegate will review the Respondent’s Response and may accept or reject the request for review. The Respondent will be notified of the outcome by email.

11 PRESCRIBED TERMS AND CONDITIONS FOR CUSTOMER CONTRACTS

- 11.1 All Panel Suppliers shall conform to the terms and conditions prescribed below.

ITS 2573 Panel Supplier List	Terms and Conditions that apply to all Customer Contracts
<p><i>ITS 2573 Registered Supplier List</i></p> <p>For low risk contracts valued up to \$150,000 each</p>	<p><i>Master Supply Agreement (Short form) for ITS 2573</i></p>

ITS 2573 Panel Supplier List	Terms and Conditions that apply to all Customer Contracts
<p><i>ITS 2573 Prequalified Supplier List</i></p> <p>For contracts valued over \$150,000 each or high risk contracts</p>	<p><i>Master Supply Agreement for ITS 2573</i></p>

- 11.2 The terms and conditions prescribed in clause 11.1 may not be varied.
- 11.3 Panel Suppliers cannot enter into Customer contracts using the Master Supply Agreement (Short form) for ITS 2573 for contracts valued over \$150,000 or contracts considered by NSW Telco Authority, relevant NSW Government Agency or Customer as high risk.
- 11.4 Breaking up of tendered requirements with – in the opinion of the Authority – intent to remain within the Master Supply Agreement (Short form) for ITS 2573 (a process commonly known as ‘splitting’) is not permitted in any way and will result in a Panel Supplier being removed from the ITS 2573 Scheme as described in clause 17.2, subclause (e).

12 ITS 2573 PANEL SUPPLIER REPORTING

- 12.1 The Authority requires detailed usage data on at least a quarterly basis to assess the performance of the ITS 2573 Scheme with end users, ensure compliance to the scheme and Panel Supplier engagement process by the Customers and inform future procurement strategies.
- 12.2 The quarterly supplier reporting must be in Excel in the format requested every quarter under the ITS 2573 Scheme submitted online at <https://tenders.nsw.gov.au>.
- 12.3 Nil sales/activity must also be reported.
- 12.4 The Spend Report is to be submitted by the 10th calendar day of the first month in each quarter and must include all the relevant information for each engagement.

13 SUPPLIER INFORMATION MANAGEMENT

- 13.1 Panel Suppliers are required to warrant that:
- a) they remain financially solvent;
 - b) they are not subject to an ICAC inquiry; and
 - c) the information they have provided is true and correct.
- 13.2 Where a Panel Supplier is no longer financially solvent or is subject to an ICAC inquiry, its membership on the ITS 2573 Prequalification Scheme will be revoked. Where circumstances change in regard to financial solvency or ICAC enquiries, Panel Suppliers must immediately contact NSW Telco Authority by emailing ITS2573@finance.nsw.gov.au with relevant details.
- 13.3 Panel Suppliers must ensure that their vendor profile information in the ITS 2573 Prequalification Scheme Portal including contact details and insurance certificates of currency remains current. Where

details change, Panel Suppliers must immediately update their information at <https://tenders.nsw.gov.au>.

- 13.4 Depending on the value and/or the risk profile of the tendered requirement, the Authority may from time to time, vary the necessary level of insurance required in order to be successful in tendering for the transaction. Failure to address this request satisfactorily may result in the Panel Supplier being deemed out of contention for that particular requirement/contract.
- 13.5 At all times the Authority reserves the right to conduct further due diligence into the information provided by the Panel Supplier in their Response and/or information that the Panel Supplier is required to maintain in the ITS 2573 Portal. This includes, but is not limited to, the information referred to in clause 13.1.

14 CHANGES TO A PANEL SUPPLIER'S ABN

- 14.1 Where a Panel Supplier's ABN changes, it must:
- a) email ITS2573@finance.nsw.gov.au with the name and ABN of the new entity and a brief description of reason for changes (eg, company merger, sale, etc); and
 - b) submit a revised Response to join the ITS 2573 Scheme under the new entity's name and ABN.

15 SUPPLIER PERFORMANCE EVALUATION

- 15.1 The ITS 2573 Panel Committee will review the performance of every Panel Supplier for the following criteria:
- a) Financial Management
 - b) Operational Performance
 - c) Relationship Quality
 - d) Risk
- 15.2 Supplier performance is evaluated based on ITS 2573 Supplier Reporting, feedback forms completed by the NSW Government, NSW Government Agencies and eligible customers where applicable, and audits of the invoices and purchase orders from provided equipment, infrastructure, and/or services.

16 TEMPORARY SUSPENSION FROM THE ITS 2573 PREQUALIFICATION SCHEME

- 16.1 The Authority may suspend a Supplier from the ITS 2573 Prequalification Scheme for up to three (3) months if it considers the Supplier has:
- a) not complied with this document "2573 Prequalification Scheme rules and conditions"; or
 - b) demonstrated unsatisfactory performance
- 16.2 The Authority 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 ITS 2573 Scheme must inform the Authority if and when the actions required to lift the suspension have been undertaken.
- a) The Authority will regularly review the status of Suppliers who have been suspended under clause 16.1. If the action taken by the Supplier is considered by the Authority to be

insufficient, the suspension period may be extended and the Supplier will be notified accordingly. The Authority may revoke the suspension if it is satisfied that the Supplier has taken appropriate action to address the reasons for the suspension.

17 REMOVAL FROM THE SCHEME

- 17.1 As the Customers' Two-way Radio Telecommunication requirements change, it may become necessary to revise the composition of the ITS 2573 Prequalification Scheme. Similarly, it is a requirement that all suppliers will be required to adhere to the requirements of the ITS 2573 Scheme performance management framework. To that end, the NSW Telco Authority reserves the right throughout the life of the ITS 2573 Scheme to re-open or change the composition of the scheme as the needs of the Agencies change and/or as performance of the supplier warrants.
- 17.2 The ITS 2573 Panel Committee, at its sole discretion, may revoke a Panel Supplier's membership on the ITS 2573 Scheme if it considers that a Panel Supplier has:
- a) breached any of these ITS 2573 Prequalification Scheme Rules and Conditions; or
 - b) failed to meet applicable financial requirements; or
 - c) been the subject of substantiated reports of unsatisfactory performance for NSW Government Agencies or other Customers; or
 - d) been determined by the ITS 2573 Panel Committee as not suitable for future work; or
 - e) are found to have intentionally – with or without the relevant Agency's knowledge – split the value and/or requirements of a requirement/contract so as to deliver the requirements under the terms of the Master Supply Agreement (Short form) for ITS 2573; or
 - f) provided unsatisfactory performance with requirements/contracts under the ITS 2573 Scheme at a supplier performance evaluation when the Panel Supplier already has been suspended during the agreement; or
 - g) experienced an adverse change in capacity or capability; or
 - h) experienced an adverse change in business status; or
 - i) been convicted of a breach of its obligations under work health and safety legislation or environmental protection legislation; or
 - j) otherwise failed to meet the standards required of the ITS 2573 Scheme in terms of its project outcomes, business management systems, client satisfaction and ethical business practices; or
 - k) engaged in activities that contravene or circumvent the requirements of the ITS 2573 Prequalification Scheme *Guidelines for Customers*, which is available at <http://www.procurepoint.nsw.gov.au/before-you-buy/prequalification-schemes-0/prequalification-scheme-its-2573-operational-1>
- 17.3 Before a Panel Supplier's membership on the ITS 2573 Prequalification Scheme is revoked under clause 16.2, NSW Telco Authority will advise the Panel Supplier via email of the matters prompting the proposed action and will give the Panel Supplier the opportunity to provide reasons as to why its membership should not be revoked.

18 REQUEST FOR REVIEW OF THE PANEL COMMITTEE'S DECISION

- 18.1 Where a Panel Supplier considers that there are substantive grounds for the ITS 2573 Panel Committee or its delegate to reconsider its decision for revocation, the Panel Supplier may request a review of the decision in writing, by emailing full details of the reasons for the request for review to ITS2573@finance.nsw.gov.au.
- 18.2 NSW Telco Authority will inform the Panel Supplier of the outcome of the review via email.

19 PUBLICITY

- 19.1 Panel Suppliers must not advertise, promote or publicise in any form their admission to the ITS 2573 Prequalification Scheme.

20 APPLICANT'S ACKNOWLEDGMENT

- 20.1 In submitting a Response, and thereby applying for membership of the ITS 2573 Scheme, the Respondent agrees that it accepts these ITS 2573 Prequalification Scheme Rules and Conditions.

21 DISCLAIMER

- 21.1 The Authority and the ITS 2573 Panel Committee reserve the absolute discretion to:
- a) accept a supplier's Response with or without limitations and/or conditions;
 - b) reject a supplier's Response;
 - c) revoke a Panel Supplier's admission to the ITS 2573 Prequalification Scheme.
- 21.2 The Authority will not be held liable for any costs or damages incurred by the supplier or the Panel Supplier in exercising its discretion.

22 NO GUARANTEE OF SUPPLY

- 22.1 Approval as a Panel Supplier on the ITS 2573 Prequalification Scheme does not guarantee:
- a) continuity of approval as a ITS 2573 Panel Supplier for the duration of the Scheme;
 - b) receipt of opportunities to tender; or
 - c) engagements or work of any kind or quantity will be offered.

23 REVIEW AND DEVELOPMENT OF THE ITS 2573 PREQUALIFICATION SCHEME

- 23.1 The ITS 2573 Prequalification Scheme will be monitored by the ITS 2573 Panel Committee and the NSW Telco Authority to assess whether the objectives and intent of the ITS 2573 Scheme are being met. Modifications to the ITS 2573 Prequalification Scheme may be made at the Authority's discretion during the life of the ITS 2573 Scheme.

24 TERMINATION

- 24.1 The ITS 2573 Prequalification Scheme can be terminated with 90 days' notice at the sole discretion of the Authority by posting a ITS 2573 Prequalification Scheme Notice of Termination on the NSW Government eTendering website at <https://tenders.nsw.gov.au>