

ITS2573 OPERATIONAL TELECOMMUNICATIONS EQUIPMENT, INFRASTRUCTURE AND SERVICES SCHEME

July 2022

Operational Telecommunications Equipment, Infrastructure and Services Scheme Rules

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, |
| 1.3 | 17/1/2017 | Update 7.1.2, update hyperlinks |
| 1.4 | 30/6/2020 | <p>Replaced references to “ITS2573 Prequalification Scheme” to “ITS2573 Operational Telecommunications Equipment, Infrastructure and Services Scheme” to reduce ambiguity between the scheme and the prequalified supplier list.</p> <p>Amendments have been made to the scheme rules so that covered agencies who use the scheme for applicable procurements in the specified thresholds are able to comply with their obligations under the Procurement (Enforceable Procurement Provisions) Direction 2019 (EPP Direction).</p> <p>Amendments include clauses 5, 6, 7, 8, 9, 10, 11, 12.2, 14.3, 17, 18, 21.4, 22.2, 23, 26, 27.1, 28.2, 28.3, 29.2 and schedules A, B, C. The definitions and hyperlinks have been updated.</p> |
| 1.5 | 30/07/2020 | Minor updates to clause numbering system for clarity. |
| 1.6 | 30/07/2020 | Update to Schedule C table, three new subcategories added. |
| 1.7 | 02/11/2020 | Update to EPP thresholds in sections 6.1.1 and 6.1.2 |
| 1.8 | 21/07/2022 | Update hyperlinks, references to websites and documents, threshold (insert ‘incl GST’ for \$150,000), conditions for participation (clause 11) and other minor changes for clarity. |

CONTACT DETAILS

For matters related to the operations of the Scheme contact:

ITS2573 Scheme Manager - NSW Telco Authority

McKell Building, 2-24 Rawson Place, Sydney NSW

e-mail: ITS2573@customerservice.nsw.gov.au

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1 DEFINITIONS

Applicant means an entity who has submitted an online application for admission to the Scheme.

Authority means the NSW Telco Authority, unless otherwise specified.

buy.nsw means NSW Government's procurement website, located at <https://buy.nsw.gov.au/>

Contract Value means the amount payable by an Eligible Customer for a particular contract engagement under a Master Supply Agreement over the total term of that engagement (including any extensions) but including GST.

Covered Agency means a Government Agency as defined by the EPP Direction that is listed in Schedule 1 of the [EPP Direction](#). Government agencies which are not listed in Schedule 1 of the EPP Direction are not Covered Agencies and the EPP Direction does not apply to those agencies.

Customer means any Eligible Customer.

Customer Contract means 'Supply Contract' for Prequalified Supplier and 'Contract' for Registered Supplier.

Eligible Customer means any NSW Government agency or a non-government body that is a public body as defined in cl. 6(5) of the *Public Works and Procurement Regulation 2019* and that is included in the list of [eligible non-agency buyers](#).

Enforceable Procurement Provisions (EPP Direction) means the Procurement (Enforceable Procurement Provisions) Direction 2019, which are legal requirements for covered NSW Government agencies arising from international procurement agreements. The document can be viewed at <https://arp.nsw.gov.au/pbd-2019-05-enforceable-procurement-provisions>

Government Agency means: (a) a Government Sector Agency; (b) any other 'NSW Government Agency' as that term is defined in the Interpretation Act 1987 (NSW); (c) any other public authority that is constitute by, or under, any legislation or that exercises public functions (other than a State-owned corporation); or (d) any State-owned corporation prescribed by regulations under the Public Works and Procurement Act 1912 (NSW).

High Risk Work means any work which is deemed such by application of Schedule A, or work which is deemed 'high risk' by the relevant Government Agency or Customer.

ITS2573 Panel Committee means the entity appointed by NSW Telco Authority to make recommendations regarding membership to the ITS2573 Scheme and to review ongoing performance of the ITS2573 Panel Suppliers.

ITS2573 Scheme or ITS2573 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.

ITS2573 Scheme Rules means this document, the Scheme Rules and Conditions, which govern the operation of, and the Supplier's admission to, the ITS2573 Prequalification Scheme.

Master Supply Agreement means the document titled 'Master Supply Agreement (Registered)' or the document titled 'Master Supply Agreement (Prequalified)', or both, as the context requires, as updated, superseded or varied from time to time.

NSW Procurement means a business unit of the NSW Treasury.

New Applicant means an entity – not currently a member of the ITS2573 Prequalification Scheme – that has submitted a Response for admission to the ITS2573 Scheme

Panel Supplier means an entity that has submitted a Response and been granted admission to the ITS2573 Scheme and is included in the Prequalified Supplier List or the Registered Supplier List.

Prequalified Supplier means a Panel Supplier who is eligible for contracts valued above \$150,000 (incl GST) each or a supplier that may perform high risk works as determined by Schedule A.

Prequalified Supplier List means the list of approved Prequalified Suppliers.

Procurement List means the Prequalified Supplier List insofar as it may be used in relation to a procurement of goods and services by a Covered Agency where the estimated value of the procurement is or exceeds the applicable threshold as set out in the EPP Direction.

Registered Supplier means a Panel Supplier who is eligible for low-risk contracts valued up to \$150,000 (incl GST) each.

Registered Supplier List means the list of approved Registered Suppliers.

Respondent means an entity that has submitted a Response

Response means an online submission to the ITS2573 Panel submitted on the NSW Government eTendering for the purposes of providing Operational Telecommunications Equipment and/or Infrastructure and/or Services to NSW Government Agencies

Scheme means the ITS2573 Operational Telecommunications Equipment, Infrastructure and Services Scheme and any of its amendments.

Scheme Administrator means the Authority.

Scheme Committee means the Committee established under the Scheme Charter.

Supplier, in relation to a procurement, means an entity that, or person who, provides or could provide the goods or services concerned to a Government Agency.

Supplier Hub means the NSW Government buyer marketplace where Suppliers register to do business with NSW Government at <https://suppliers.buy.nsw.gov.au/login>

Supplier List means the list of approved Registered Suppliers or Prequalified Suppliers, as applicable.

Scheme Manager means the manager appointed by the Authority.

2 INTRODUCTION

- 2.1 NSW Telco Authority administers the ITS2573 Scheme on behalf of the NSW Government.
- 2.2 The ITS2573 Scheme is available for use by NSW Government Agencies and other Eligible Customers.
- 2.3 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 ITS2573 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 SCHEME RULES AND CONDITIONS

- 3.1 These ITS2573 Scheme Rules and Conditions may be amended periodically as required by NSW Telco Authority.
- 3.2 Panel Suppliers must ensure they comply with the most recent version of the ITS2573 Scheme Rules and Conditions published on the NSW Government's [buy.nsw](http://buy.nsw.gov.au) website.

4 ITS2573 PANEL COMMITTEE

- 4.1 An ITS2573 Panel Committee has been established to assess Supplier Responses and make recommendations relating to the ongoing performance of the ITS2573 Scheme. Membership of the ITS2573 Panel Committee comprises members from NSW Telco Authority and NSW Government Agencies.

5 USE OF THE SCHEME

- 5.1 The Scheme may be used by:
 - (a) Government Agencies, and
 - (b) Eligible Customers.
- 5.2 The Procurement List will remain open until the Scheme End date as published on [eTendering](#).

6 ENFORCEABLE PROCUREMENT PROVISIONS

- 6.1 The EPP Direction applies to the procurement of goods and services by a Covered Agency where the estimated value of the procurement is or exceeds:
- 6.1.1 \$9,584,000 (excluding GST) for the procurement of construction services, and
 - 6.1.2 \$680,000 (excluding GST) for the procurement of goods or any other services.
- 6.2 Amendments have been made to the ITS2573 Scheme Rules so that Covered Agencies who use the Scheme are able to comply with their obligations under the EPP Direction by using a Prequalified Supplier for the procurement of goods or services in cases where the estimated value of the procurement is or exceeds the specified threshold.
- 6.3 For Covered Agencies to comply with the EPP Direction, Covered Agencies should follow the [ITS2573 Guidelines for Customers](#) document, under the section ‘how to buy’

7 THE PROCUREMENT LIST

- 7.1 Under the EPP Direction, a Covered Agency may use a Procurement List established by another Government Agency. The Prequalified Supplier List is established in accordance with the criteria set out in the EPP Direction that apply to Procurement Lists and on that basis a Covered Agency can comply with the EPP Direction by using a Prequalified Supplier from the Prequalified Supplier List in relation to a procurement of goods and services, where the estimated value of the procurement is or exceeds the applicable threshold as set out in the EPP Direction.
- 7.2 The publication of these rules constitutes an invitation to Suppliers to make an application to be included on the Procurement List. The following information is accordingly provided:
- (a) a description of the goods and services for which the Procurement List may be used

The goods and services for which the Procurement List may be used are those specified in Schedule C – List of Items for Purchase Under the Scheme.
 - (b) the conditions for participation that Suppliers must satisfy for inclusion on the Procurement List

The conditions for participation that Suppliers must satisfy for inclusion on the Procurement List are those specified in clauses 11.4.1 and 11.5.1 of the ITS2573 Scheme Rules.
 - (c) the name and address of the Government Agency and other information necessary to contact the Government Agency and to obtain all relevant documents relating to the Procurement List

For information relating to the Procurement List, contact:

ITS2573 Scheme Manager - NSW Telco Authority
McKell Building, 2-24 Rawson Place, Sydney NSW
e-mail: ITS2573@customerservice.nsw.gov.au

- (d) the methods that the Government Agency will use to verify that a Supplier satisfies the conditions for participation

The methods used to verify that a Supplier satisfies the conditions for participation are those specified in clauses 11.4.2 and 11.5.2 of the ITS2573 Scheme Rules.

- (e) the period that the Procurement List will operate (unless the period is indefinite) and the means for its renewal or termination

The Procurement List will remain open until the Scheme End date as published on [eTendering](#).

- (f) if the period of the Procurement List is indefinite, an indication of the method by which notice will be given of the termination of use of the Procurement List

Not applicable

- (g) an indication that the Procurement List may be used for a procurement to which the EPP Direction applies

The Procurement List may be used by a Covered Agency for a procurement to which the EPP Direction applies.

- (h) the deadline for making an application to be included on the Procurement List, if applicable

There is a deadline for making application which is RFT close date and time as on [eTendering](#).

- (i) a statement that only Suppliers, or a limited number of Suppliers, included on the Procurement List may receive invitations from a Government Agency to make submissions relating to procurements for which the list was established.

Suppliers included on the Procurement List may receive invitations from a Government Agency to make submissions relating to procurements for which the list was established.

- (j) if the statement referred to in paragraph (i) states that only a limited number of Suppliers included on the Procurement List may receive invitations from a Government Agency to make submissions relating to procurements, a statement of:

- (i) the justification for that limitation, and
- (ii) the criteria for selecting those limited number of Suppliers

Each procurement under the ITS2573 Scheme should have Procurement Strategy/ Plan (as per agencies procurement policies) which should detail the justification for selecting those limited number Suppliers from the Procurement List.

8 CIRCUMSTANCES WHERE LIMITED TENDERING IS PERMITTED BY COVERED AGENCIES

- 8.1 Under the EPP Direction, “limited tendering” means a procurement (other than a procurement through a Procurement List) that involves a Government Agency directly inviting one or more Suppliers of the agency’s choice to lodge a submission.
- 8.2 A Covered Agency may conduct limited tendering only in circumstances listed out in clause 15 of the EPP Direction.

9 COMPLIANCE WITH POLICY

- 9.1 Suppliers must comply with all applicable policies. Suppliers have the responsibility to review the relevant policies at [buy.nsw](https://www.buy.nsw.gov.au). Any breach of the applicable policies may result in the termination of a Customer Contract and /or removal from the ITS2573 Scheme.

9.1.1 NSW Procurement Policy Framework

[NSW Procurement Policy Framework](#) outlines how the NSW Government will conduct its procurement activities when interacting with the suppliers. It provides a consolidated view of government procurement objectives and the Procurement Board’s requirements as they apply to each step of the procurement process.

9.1.2 Supplier Code of Conduct

The [Supplier Code of Conduct](#) is a minimum framework for how NSW Government expect you to conduct yourself and your business.

- 9.2 Suppliers must comply with the Codes and agree to provide periodic evidence of compliance with the Codes and access to all relevant information to demonstrate compliance for the duration of any Customer Contract that may be awarded under the ITS2573 Scheme Rules and Conditions.

10 NEW APPLICANT PROCESS

- 10.1 The [Supplier Hub](#) on the buy.nsw website connects NSW Government buyers with businesses. Applicants must have a current Supplier Hub profile, before applying to the ITS2573 Scheme.
- 10.2 Once the Supplier Hub profile is approved, applications to supply through the Scheme must be completed and submitted online through [eTendering](#).
- 10.3 Applications to supply through the Scheme will remain open for all Suppliers till RFT close date and time as on [eTendering](#).
- 10.4 Application can be made for membership to the ITS2573 Scheme for either Registered or Prequalified Supplier List
 - 10.4.1 **Registered Supplier List**

Suppliers are approved to enter into contracts which do not include High Risk Work and have a Contract Value up to \$150,000 (incl GST); or
 - 10.4.2 **Prequalified Supplier List**

Suppliers are approved to enter into contracts which include High Risk Work and/or have a Contract Value above \$150,000 (incl GST).
- 10.5 The Scheme Administrator and assessors will review the new Applicant's Response and may accept or reject the application. The Respondent will be notified of the outcome by email.
- 10.6 Applications for registration to supply through the Scheme will be determined without discrimination due to degree of foreign affiliation or ownership, location, or the origin of its goods and services, except where the provision of goods or services concerned would be a procurement that is specified in Schedule 2 of the EPP Direction (exempt procurements) or would be part of a procurement that is a measure or preference specified in Schedule 3 of the EPP Direction (exempt measures and preferences).
- 10.7 In assessing whether a Supplier satisfies the conditions for participation, the Scheme Administrator will:
 - (a) evaluate financial capacity, and commercial and technical abilities, on the basis of the Supplier's business activities wherever they have occurred, and

- (b) base its assessment solely on the conditions for participation as specified in the ITS2573 Scheme Rules.

- 10.8 A Supplier may withdraw from the Scheme at any time by sending a notice to the Scheme Manager at ITS2573@customerservice.nsw.gov.au

11 CONDITIONS FOR PARTICIPATION

- 11.1 The conditions for participation are the minimum conditions that Suppliers must demonstrate compliance with, to be included in the Supplier List. The conditions for participation are limited to conditions which ensure that a Supplier has the legal and financial capacity, and the commercial and technical abilities, to fulfil the requirements of the procurements covered by the ITS2573 Scheme.
- 11.2 The conditions for participation that a Supplier must demonstrate compliance with, to be included in a Supplier list differ for the Registered Supplier List and the Prequalified Supplier List to reflect the relative value and risk profile of contracts under each Supplier List.
- 11.3 A Supplier will be included in the Supplier list if the Scheme Administrator is satisfied that the supplier meets the specified conditions for participation.
 - 11.3.1 If the Scheme Administrator has a reasonable belief that a Supplier has engaged in any of the conduct specified in clause 22.3(a) to (k) of the ITS2573 Scheme Rules, the Supplier is taken not to meet the conditions for participation.
 - 11.3.2 If the Scheme Administrator has a reasonable belief as to any of the matters specified in clause 12(1)(a) to (g) of the EPP Direction in relation to a Supplier, the Supplier is taken not to meet the conditions for participation.
- 11.4 **Registered Supplier List (eligible for low-risk contracts valued up to \$150,000 each)**

Acceptance of Applications for the Registered Supplier List are subject to provision of all mandatory information and supporting evidence listed in 11.4.1 and Schedule B.

11.4.1 Registered Supplier List conditions for participation

For every nominated category and subcategory:

- i. All mandatory questions listed in the Registered Supplier Questionnaire on [eTendering](#) must be answered satisfactorily.
- ii. Past performance as evidenced by referee reports must be satisfactory.

- iii. The Supplier's Quality Management System (QMS) must be sound.
- iv. The Supplier's financial capacity must be sound.
- v. The Supplier must hold and maintain all relevant insurance policies such as Public Liability, Product Liability, Professional Indemnity and Workers Compensation.
- vi. The Supplier is not suspended from the Scheme under clause 22.3 of the Scheme Rules.

11.4.2 The Scheme Administrator will assess whether the Supplier satisfies the conditions for participation using the following methods stated in the table below. Suppliers must demonstrate that they have the capacity and ability to fulfil contracts in each category that they are listed.

| Registered Supplier List conditions for participation | Methods for assessment |
|--|--|
| All mandatory questions listed in the Registered Supplier Questionnaire must be answered satisfactorily. | The Scheme Administrator will review and evaluate the Responses to ensure accuracy and currency. |
| Past performance as evidenced by referee reports must be satisfactory. | <p>Refer to the referee report template in the Registered Supplier List Questionnaire on eTendering.</p> <p>The referee report must demonstrate the Supplier's capacity to fulfil the commercial and technical capabilities required for the procurement.</p> <p>The referee report template must be completed in full and signed by referee to be considered.</p> <p>Suppliers must meet the conditions of acceptable or above.</p> |
| The Supplier's Quality Management Systems (QMS) must be sound. | Suppliers must provide evidence of their organisation's Quality Management Systems. |

| Registered Supplier List conditions for participation | Methods for assessment |
|--|---|
| | <p>ISO 9001 or other certifications or processes will be reviewed and assessed by the Scheme Administrator.</p> <p>Suppliers must demonstrate that they have Quality Management Systems in place.</p> |
| <p>The Supplier's financial capacity must be sound.</p> | <p>The Suppliers must confirm the following matters that the Supplier is:</p> <ul style="list-style-type: none"> • Financially solvent • Not subject to insolvency proceedings or ICAC inquiries. • Is able to pay all debts when they are due for payment. <p>Suppliers must agree to provide an independent financial assessment if requested at the time of tender or engagement.</p> |
| <p>The Supplier must hold and maintain relevant insurance policies such as Public Liability, Product Liability, Professional Indemnity and Workers Compensation.</p> | <p>Suppliers must agree to hold and maintain relevant insurance policies as listed on the Registered Supplier List Questionnaire on eTendering</p> <p>Suppliers must agree to provide proof of relevant insurances as requested by buyers at the time of tender or engagement.</p> |

11.5 Prequalified Supplier List (eligible for contracts valued over \$150,000 each and/or high-risk contracts)

Acceptance of Applications for the Prequalified Supplier List are subject to provision of all mandatory information and supporting evidence listed in 11.5.1 and Schedule B.

11.5.1 Prequalified Supplier List conditions for participation

For every nominated category and subcategory:

- i. All mandatory questions listed in the Prequalified Supplier Questionnaire on [eTendering](#) must be answered satisfactorily.
- ii. Past performance as evidenced by referee reports must be satisfactory.
- iii. The Supplier's Quality Management System (QMS) must be sound.
- iv. The Supplier's must have satisfactory Work Health & Safety Management System (WHSMS) in place if applying for categories that involve providing physical work or maintaining equipment (e.g., Construction, Project Management, and/or Maintenance Services under Category C Services).
- v. The provision of goods or services by the Supplier must be covered by a minimum 12-month warranty.
- vi. Suppliers must complete and upload the service level template detailing their service levels in the application.
- vii. The Supplier's financial capacity must be sound.
- viii. The Supplier must hold and maintain all relevant insurance policies such as Public Liability, Product Liability, Professional Indemnity and Workers Compensation.
- ix. The Supplier is not suspended from the Scheme under clause 22.3 of the ITS2573 Scheme Rules.

11.5.2 The Scheme Administrator will assess whether the Supplier satisfies the conditions for participation using the following methods stated in the table below. Suppliers must demonstrate that they have the capacity and ability to fulfil contracts in each category that they are listed.

| Prequalified Supplier List conditions for participation | Methods for assessment |
|--|--|
| All mandatory questions listed in the Prequalified Supplier Questionnaire must be answered satisfactorily. | The Scheme Administrator will review and evaluate the Responses to ensure accuracy and currency. |

| Prequalified Supplier List conditions for participation | Methods for assessment |
|--|--|
| <p>Past performance as evidenced by referee reports must be satisfactory.</p> | <p>Refer to the referee report template in the Prequalified Supplier List Questionnaire on eTendering.</p> <p>The referee report must demonstrate the Supplier's capacity to fulfil the commercial and technical capabilities required for the procurement.</p> <p>The referee report template must be completed in full and signed by referee to be considered.</p> <p>Suppliers must meet the conditions of acceptable or above.</p> |
| <p>The Supplier's Quality Management Systems (QMS) must be sound.</p> | <p>Suppliers must provide details of their organisation's Quality Management Systems.</p> <p>ISO 9001 or other certifications or processes will be reviewed and assessed by the Scheme Administrator.</p> <p>Suppliers must demonstrate that they have Quality Management Systems in place.</p> |
| <p>The Supplier must have satisfactory Work Health & Safety Management System (WHSMS) in place if applying for categories that involve providing physical work or maintaining equipment.</p> | <p>Suppliers must provide evidence of their organisation's Work Health & Safety System in place for relevant categories (e.g., Construction, Project Management, and/or Maintenance Services under Category C Services).</p> <p>ISO 45001 or other certification or documents will be reviewed and assessed by the Scheme Administrator.</p> |

| Prequalified Supplier List conditions for participation | Methods for assessment |
|--|---|
| | Suppliers must demonstrate that they have Work Health and Safety Management Systems or process in place. |
| The Supplier's financial capacity must be sound. | <p>Suppliers must confirm the following matters that the Supplier is:</p> <ul style="list-style-type: none"> • Financially solvent • Not subject to insolvency proceedings or ICAC inquiries. • Is able to pay all debts when they are due for payment. <p>Suppliers must agree to provide an independent financial assessment if requested at the time of tender or engagement.</p> |
| The provision of goods or services by the Supplier must be covered by a minimum 12-month warranty. | <p>Suppliers must agree to provide a minimum 12-month warranty for the goods and services offered by the Supplier.</p> <p>Suppliers can provide details for any extended warranties over and above the minimum 12-month warranty.</p> |
| The Supplier must hold and maintain relevant insurance policies such as Public Liability, Product Liability, Professional Indemnity and Workers Compensation | <p>Suppliers must agree to hold and maintain relevant insurance policies as listed on the Registered Supplier List Questionnaire on eTendering</p> <p>Suppliers must agree to provide proof of relevant insurances as requested by buyers at the time of tender or engagement</p> |

12 CONFIDENTIALITY

- 12.1 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.
- 12.2 Confidential information submitted with an application will be treated as confidential by Government Agencies unless otherwise required by law.

13 NOTIFICATION OF OUTCOME

- 13.1 The ITS2573 Panel Committee or its delegate may accept or reject Respondents to the ITS2573 Scheme.
- 13.2 Respondents will be notified via email regarding acceptance or rejection of Applicants to the ITS2573 Scheme.

14 REQUEST FOR REVIEW OF THE DECISION

- 14.1 Should an application for membership of the ITS2573 Scheme be rejected and the Respondent believes that there are substantive grounds to reconsider acceptance onto the ITS2573 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@customerservice.nsw.gov.au. The email subject must be titled: “*ITS2573 Scheme Membership Review Request*” and include all relevant details of the rejected application.
- 14.2 The ITS2573 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.
- 14.3 In reviewing a decision, the Panel Committee or its delegate will take into account:
 - (a) whether the application is complete; and
 - (b) if the application is incomplete, whether the omission of any information requested would have a material impact on the application and whether the Applicant is able to provide alternative documentation in support of their application.

15 PRESCRIBED TERMS AND CONDITIONS FOR CUSTOMER CONTRACTS

- 15.1 All Panel Suppliers must conform to the Terms and Conditions prescribed below:

| Supplier List | Terms and Conditions that apply to all Customer Contracts |
|--|--|
| <i>ITS2573 Registered Supplier List</i> For low-risk contracts valued up to \$150,000 each | <i>Master Supply Agreement (Registered) for ITS2573</i> |
| <i>ITS2573 Prequalified Supplier List</i> For contracts valued over \$150,000 each or high-risk contracts | <i>Master Supply Agreement for ITS2573</i> |

- 15.2 The Terms and Conditions prescribed in clause 15.1 may not be varied.
- 15.3 Panel Suppliers cannot enter into Customer Contracts using the Master Supply Agreement (Registered) for ITS2573 for contracts valued over \$150,000 or contracts considered by NSW Telco Authority, relevant NSW Government Agency or Customer as high risk.
- 15.4 Breaking up of tendered requirements with – in the opinion of the Authority – intent to remain within the Master Supply Agreement (Registered) for ITS2573 (a process commonly known as ‘splitting’) is not permitted in any way and will result in a Panel Supplier being removed from the ITS2573 Scheme as described in clause 22.3.

16 ITS2573 PANEL SUPPLIER REPORTING

- 16.1 The Authority may require detailed usage data when requested to assess the performance of the ITS2573 Scheme with end users, ensure compliance to the scheme and Panel Supplier engagement process by the Customers and inform future procurement strategies.

17 SUPPLIER INFORMATION MANAGEMENT

- 17.1 Panel Suppliers are required to warrant that:
- (a) they remain financially solvent;
 - (b) they are not subject to an ICAC inquiry or any other type or Probity Event or Probity Investigation; and
 - (c) the information they have provided is true and correct.
- 17.2 A Supplier must notify the NSW Telco Authority by emailing details to ITS2573@customerservice.nsw.gov.au immediately if it becomes aware that:
- (a) an event has occurred or is likely to occur which will, or is likely to, affect its financial solvency;

- (b) it is or is likely to be subject to an ICAC inquiry or any other type or Probity Event or Probity Investigation; and
- (c) the information the Supplier has provided is not true and correct,

to the extent that it can do so by law.

- 17.3 Where a Panel Supplier is no longer financially solvent or is subject to an ICAC inquiry, its membership on the ITS2573 Scheme will be revoked. Where circumstances change regarding financial solvency or ICAC enquiries, Panel Suppliers must immediately contact NSW Telco Authority by emailing with relevant details.
- 17.4 A Supplier must ensure that the information it has provided in its application and otherwise provided to the Purchasing Authority or the Authority, including its legal status (including a change in its registration details), financial status, contact details, relevant certifications, and accreditations remain current at all times during the term of this Scheme. If there are any changes to any information that the Supplier has provided at any time relating to this Scheme, it must immediately update that information on [eTendering](#).
- 17.5 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.
- 17.6 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 ITS2573 Scheme on [eTendering](#). The Scheme Committee or the Scheme Manager may make further enquiries in respect of the information provided by a Supplier in respect of its application or in any response to a request for further information.
- 17.7 The Scheme Manager must reply to any reasonable request from a Supplier for relevant information about a procurement, provided that the provision of the requested information:
- (a) is not contrary to any Australian law; and
 - (b) does not give the Supplier requesting the relevant information any unfair advantage over other Suppliers in a competitive procurement process.
- 17.8 The Scheme Committee is not required to disclose confidential information if the disclosure:
- (a) would impede law enforcement;
 - (b) would otherwise be contrary to the public interest;

- (c) might prejudice fair competition between Suppliers;
- (d) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or
- (e) would be contrary to any law.

18 BASIS TO EXCLUDE A PANEL SUPPLIER

- 18.1 NSW Telco Authority may exclude a Supplier from a procurement if it has a reasonable belief regarding the following:
- (a) that the Supplier is bankrupt or insolvent,
 - (b) that the Supplier has made one or more false declarations,
 - (c) that there has been a significant deficiency or persistent deficiencies in the performance by the Supplier of any substantive requirement or obligation under a prior contract,
 - (d) the Independent Commission Against Corruption (or an equivalent body in a jurisdiction in Australia), within the previous 10 years, has made a finding or has been of the opinion that the Supplier has engaged in corrupt conduct,
 - (e) that the Supplier has failed to pay taxes,
 - (f) that the Supplier has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or by a fine of \$200,000 or more,
 - (g) that the Supplier has been found guilty of professional misconduct or unprofessional conduct in a jurisdiction in Australia.
- 18.2 In this clause, a reference to the Supplier includes, if the Supplier is a body corporate, a director and any other person involved in the management of the affairs of the body corporate.
- 18.3 NSW Telco Authority may exclude a Supplier from a procurement if the agency has a reasonable belief that the Supplier has not complied with the NSW Government's Supplier Code of Conduct, as stated in 9.1.2.

19 CHANGES TO A PANEL SUPPLIER'S ABN

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

20 SUPPLIER PERFORMANCE EVALUATION

- 20.1 The ITS2573 Panel Committee may review the performance of Panel Suppliers for the following criteria:
- (a) Financial Management
 - (b) Operational Performance
 - (c) Relationship Quality
 - (d) Risk
- 20.2 Supplier performance may be evaluated based on ITS2573 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.

21 TEMPORARY SUSPENSION FROM THE ITS2573 SCHEME

- 21.1 The Authority may suspend a Supplier from the ITS2573 Scheme for up to three (3) months if it considers the Supplier:
- (a) has not complied with this document “ITS2573 Scheme Rules and Conditions”;
 - (b) has not demonstrated satisfactory performance.
- 21.2 The Authority will advise the Supplier of the reasons for the suspension and of any actions by the Supplier required to lift the suspension.
- 21.3 A Supplier that has been suspended from the ITS2573 Scheme must inform the Authority if and when the actions required to lift the suspension have been undertaken.
- 21.4 The Scheme Committee will review the status of a Supplier who has been suspended under clause 21. If the Scheme Committee considers that the action taken by the Supplier is insufficient, the Scheme Committee may recommend to the Authority that the suspension period be extended and the Supplier may 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.

22 REMOVAL FROM THE SCHEME

- 22.1 As the Customers’ requirements change, it may become necessary to revise the composition of the ITS2573 Scheme. To that end, the NSW Telco Authority reserves the right throughout the life of the ITS2573 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.

- 22.2 The Authority reserves the right to re-open or change the composition of Suppliers on the Scheme subject to the ongoing needs of NSW Government Agencies and / or the performance of a Supplier.
- 22.3 The ITS2573 Panel Committee or its delegate may revoke a Panel Supplier's membership on the ITS2573 Scheme if it considers that a Panel Supplier has:
- (a) breached any of these ITS2573 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 ITS2573 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 (Registered) for ITS2573; or
 - (f) provided unsatisfactory performance with requirements/contracts under the ITS2573 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 ITS2573 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 *ITS2573 Scheme Guidelines for Customers*, which is available at <https://buy.nsw.gov.au/schemes/operational-telecommunications-equipment-infrastructure-and-services-scheme>
- 22.4 Before a Panel Supplier's membership on the ITS2573 Scheme is revoked under clause 22.3, 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.

22 REQUEST FOR REVIEW OF THE ITS2573 PANEL COMMITTEE'S DECISION

- 22.1 Where a Panel Supplier considers that there are substantive grounds for the ITS2573 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@customerservice.nsw.gov.au.
- 22.2 NSW Telco Authority will inform the Panel Supplier of the outcome of the review via email.

23 SUPPLIER GENERAL COMPLAINTS PROCESS

- 23.1 Policy and processes for Supplier complaints have been defined and documented consistent with the NSW Procurement Board [Complaint Management for Buyers](#). Suppliers who want to raise a complaint have the responsibility to review the [Complaint Management for Buyers](#).
- 23.2 NSW Telco Authority is responsible for resolving complaints concerning their procurement actions at the appropriate agency level, usually commencing at the area undertaking the procurement. Complaints may be escalated within the agency as necessary and referred to external statutory bodies as appropriate, including the NSW Procurement Board (the Board).
- 23.3 Suppliers may choose to lodge complaints in a variety of ways, depending on the type and severity of complaint. A simple matter may be raised verbally and could potentially be addressed directly at the officer level. More complex matters may require documentation and written evidence. Suppliers may complain to the NSW Telco Authority by emailing ITS2573@customerservice.nsw.gov.au.
- 23.4 Complaints will be acknowledged promptly in the most appropriate medium for communicating with the Supplier.
- 23.5 Except where there is an overriding legal requirement or public interest, if the Authority needs to share information about the complaint to a party external to the agency to resolve the complaint, the Authority will advise the Supplier before any action is taken.
- 23.6 The resolution of the complaint will focus on outcomes rather than apportioning blame or fault, although this will depend on the nature of the complaint. A breach of the agency's Code of Conduct or Business Ethics Statement, tendering or contract conditions, or fraudulent or criminal activities may result in sanctions or other disciplinary action.

- 23.7 NSW Telco Authority is responsible for informing the Supplier about the outcome of the complaint, including the findings and any rectification, in a timely manner.
- 23.8 Suppliers have the option to request if the complaint can be reviewed if they are not happy with the outcome, or handling, of the matter.

24 APPLICANT'S ACKNOWLEDGMENT

- 24.1 In submitting a Response, and thereby applying for membership of the ITS2573 Scheme, the Respondent agrees that it accepts these ITS2573 Scheme Rules and Conditions.

25 DISCLAIMER

- 25.1 The Scheme Administrator reserves the right to revoke a Panel Supplier's admission to the Scheme if the Scheme Administrator is no longer satisfied that the supplier meets the specified conditions for participation.
- 25.2 In the case of an application for inclusion on the Registered Supplier List, the Scheme Administrator reserves the absolute discretion to accept or reject the Supplier's Response with or without limitation and/or conditions.
- 25.3 The Scheme Administrator reserves the absolute discretion to revoke a Panel Supplier's inclusion in the Registered Supplier List.
- 25.4 The Authority will not be held liable for any costs or damages incurred by a Supplier in applying for admission to the Scheme.

26 NO GUARANTEE OF SUPPLY

- 26.1 Acceptance as a Supplier under the Scheme gives no guarantee whatsoever of any work to any Supplier.
- 26.2 Approval as a Panel Supplier on the ITS2573 Scheme does not guarantee:
- (a) continuity of approval as an ITS2573 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.

27 REVIEW AND DEVELOPMENT OF THE ITS2573 SCHEME

- 27.1 The ITS2573 Scheme will be monitored by the ITS2573 Panel Committee and the NSW Telco Authority to assess whether the objectives and intent of the ITS2573 Scheme are being met. Modifications to the ITS2573 Scheme may be made at the Authority's discretion during the life of the ITS2573 Scheme.
- 27.2 Suppliers will be bound to all changes to the Scheme, or the Master Supply Agreements.
- 27.3 The Authority will inform the Suppliers about any changes made to the scheme.

28 TERMINATION

- 28.1 The Scheme may be terminated with 90 days' notice at the sole discretion of the Authority by posting a Scheme Notice of Termination on the NSW Government eTendering website at <https://tenders.nsw.gov.au>.
- 28.2 The Procurement List will be terminated when the Scheme is terminated at the sole discretion of the Authority. Panel Suppliers will be given a notice of termination upon termination of the Scheme.

SCHEDULE A - HIGH RISK WORK

| High Risk Work* | Examples |
|--|--|
| Work that involves a risk of a person falling more than 2 metres. | <ul style="list-style-type: none"> • installing antennae or feeder cables at height • installing roof sheeting, cable trays or access ways • working adjacent to a pit or opening with a fall height of more than 2 metres. |
| Work that is carried out on a telecommunication tower | <ul style="list-style-type: none"> • installing or maintaining equipment on a telecommunications tower. |
| Work that involves demolition of an element of a structure that is loadbearing or otherwise related to the physical integrity of the structure | <ul style="list-style-type: none"> • removing mast or pole guys or anchorages • removing bracing from a wall or roof as part of a renovation • knocking down load-bearing walls as part of a shelter or building conversion. |
| Work that involves, or is likely to involve, the disturbance of asbestos | <ul style="list-style-type: none"> • removing floor tiles containing asbestos as part of a renovation • cutting or drilling into an asbestos cement sheet wall • demolishing a pit that contains asbestos • working on asbestos cement conducts/pipes. |
| Work that involves structural alterations or repairs that require temporary support to prevent collapse | <ul style="list-style-type: none"> • using props to support a pole/mast where a load-bearing element will be removed. |
| Work that is carried out in or near a confined space | <ul style="list-style-type: none"> • connecting a new cabling in a 3 metre Telstra manhole • pulling a fibre within a pit. |
| Work that is carried out in an area that may have a contaminated or flammable atmosphere | <ul style="list-style-type: none"> • removing pipework or pit that may contain the residue of hazardous chemicals. • maintaining, demolishing or removing old tanks • decommissioning plant. |
| Work that is carried out in or near a shaft or trench with an excavated depth | <ul style="list-style-type: none"> • laying or repairing pipes or conduits in a trench that is more than 1.5 metres deep |

| High Risk Work* | Examples |
|--|--|
| greater than 1.5 metres or is carried out in or near a tunnel | <ul style="list-style-type: none"> • testing drainage pipes in a trench that is more than 1.5 metres deep • working near bored piers that are greater than 1.5 metres deep • building a tunnel in the course of constructing an underground railway or road. |
| Work that involves the use of explosives | <ul style="list-style-type: none"> • using explosives to breakup rock or to remove a tree stump • blasting in demolition of towers and or preparation of construction of a building or a road. |
| <p>Work that is carried out on or near:</p> <ul style="list-style-type: none"> • pressurised gas distribution mains or piping • chemical, fuel or refrigerant lines • energised electrical installations or services. | <ul style="list-style-type: none"> • excavating foundations near to an existing gas supply • drilling into a wall where live electrical wiring may be present • working near overhead or underground power lines • ‘near’ in the above circumstances means close enough that there is a risk of hitting or puncturing the mains, piping, electrical installation or service • electrical installations/services do not include appliances such as power leads and electrically powered tools. |
| Work that involves tilt-up or pre-cast concrete | <ul style="list-style-type: none"> • building with or modifying precast panels • installing a pre-cast telecommunications pits. |
| Working in remote areas involving long travel distances | <ul style="list-style-type: none"> • Survey and inspection work in remote regional areas |
| Use of mobile plant – cranes, forklifts and EWP | <ul style="list-style-type: none"> • Cranes erecting tower sections • Rooftop equipment maintenance from EWP |
| Other high risk work as designated by the Customer under the Scheme. | <ul style="list-style-type: none"> • Work with hazardous substances, • Diving, |

| High Risk Work* | Examples |
|-----------------|--|
| | <ul style="list-style-type: none"> • Working over water |

*Any High Risk Work must be certified by an accredited JAS-ANZ organisation to at least one of the standards listed below: AS/NZS 4801 Occupational Health and Safety Management Systems

- (a) ISO 45001 Occupational Health and Safety Management Systems
- (b) OHSAS 18001 Occupational Health and Safety Standard

SCHEDULE B – CONDITIONS FOR PARTICIPATION FOR REGISTERED SUPPLIER LIST AND PREQUALIFIED SUPPLIER LIST

| Supplier List | Conditions for participation |
|---------------|---|
| Registered | <p>The Applicant has satisfactorily answered the Registered Supplier Questionnaire including:</p> <ol style="list-style-type: none"> 1. Organisation profile; 2. Business experience and capacity; 3. Relevant accreditations; 4. Financial capacity; 5. Insurance; 6. Legal compliance; 7. Applicant declaration. |
| Prequalified | <p>The Applicant has satisfactorily answered the Prequalified Supplier Questionnaire including:</p> <ol style="list-style-type: none"> 1. Organisation profile; 2. Business experience and capability; 3. Relevant accreditations; 4. Service levels; 5. Financial capacity; 6. Warranties; 7. Rate card information; 8. Work, Health and Safety; 9. Insurance; 10. Legal compliance; 11. Applicant declaration. |

SCHEDULE C - LIST OF ITEMS FOR PURCHASE UNDER THE SCHEME

| ITS2573 Scheme Categories and Sub-categories | | |
|---|-------------------------------------|--|
| Category | Sub-category | Description |
| (A) Equipment Radio communications and link equipment used for the provision of voice and data services. | Network Equipment | Radio and data base stations, including; multicoupling and combiners, related IP equipment and controlling equipment. |
| | Link Equipment | Backhaul link equipment, including: Antennas, feeders, protection (e.g. vermin proofing, earthing), cable management (but not cable trays) equipment. NTU & network multiplexing, routers, switching and IT Infrastructure equipment. |
| | Power Equipment | Batteries, rectifiers, inverters, power management systems which support Category A & B equipment. |
| | Satellite Equipment | Satellite terminal equipment for operating mission critical communications on a satellite network. This includes satellite equipment for fixed locations, portable (flyaway and transportable) and on-the-move (land, aviation and maritime). |
| | Terminal Equipment | Handheld, vehicle mounted and desk mounted radios, pagers, data devices, modems, data collection equipment, smartphones, dispatch equipment. Equipment used to support terminal equipment such as in-car mounts, handheld microphones, device coding keys, power connection cables, device battery charging units and spare batteries. |
| (B) Infrastructure Infrastructure & equipment required to support radio communications and linking network equipment for Category A. | Poles/Towers | Radio antenna supporting structures, including; Towers, guyed masts, poles, roof top structures (e.g. Jumbo Rails) |
| | Ancillary Tower infrastructure | Mounting hardware (face mount, offset, antenna support), cable trays, straps, antenna head frames, tower lighting and lightening protection and tower footings. |
| | Security/Safety Systems and devices | Alarm systems, security coded and keyed entry systems, DC ventilation systems, fire protection systems. |
| | Fibre Infrastructure | All fibre components up to the site termination point, including; Fibre cabling, WDM equipment, splicing, termination and interconnection equipment, fibre testing and monitoring equipment. Specialised fibre network multiplexing, routers and switching equipment not included in Category A. |
| | Satellite Backhaul | Ground-based satellite infrastructure including earth station equipment as well as wireless and wired |

| ITS2573 Scheme Categories and Sub-categories | | |
|--|---|---|
| Category | Sub-category | Description |
| | | telecommunications services for mission critical communications |
| | Communications Buildings | On and off site constructed cabins, huts, shelters and outdoor cabinets. Portable and temporary structures including trailers, specialised vehicles and drop down and pick up cabins. Please note that in supplying this infrastructure Respondents should be capable of providing ancillary equipment such as Alarm monitoring & management, miscellaneous cabling, air conditioning, ventilation, miscellaneous electrical, fire extinguishers, WHS/OHS, portable generators. |
| (C) Services All services required to develop, plan, design and install, manage and maintain network Equipment (A) and Infrastructure (B). | Construction Services | Equipment (A) and Infrastructure (B) construction services, including; Rigging, installation, welding, cranes, concreting, fibre ploughing, transportation, deconstruction and disposal services. |
| | Design Services (Including IT architecture) | Permits, DAs, Environmental Impact Assessment, documentation, site surveys, structural and geotech assessments, surveyor, spectrum design, radio coverage plot/verification and prediction services. |
| | Project Management Services | Project management, capacity management, asset management and capitalisation, site acceptance and network deployment |
| | Maintenance Services | Equipment and Infrastructure maintenance (regular and emergency/restoration), deployment of temporary sites; including RF and structural rectification works. |
| | Satellite Carriage Services | Carriage of mission critical voice and data via a satellite network |
| | Strategic Telco Services | Strategic, technical, commercial planning and advice services which will also include all of the Equipment (A), Infrastructure (B) and Services (C) categories. |