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| NSWGOVERNMENT ICT SERVICES SCHEME |
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| V 1.1 January 2020 |  | ICT Services Scheme Rules  |
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| These Rules apply to all registered Suppliers on the *NSW Government ICT Services Scheme*. |

SCHEDULE OF DOCUMENT AMENDMENTS

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| --- | --- | --- |
| Revision number | Date | Revision description |
| V1.0 | 18/09/2019 | First version published on 18 September 2019 |
| V1.1 | 10/01/2020 | Second version published on 10 January 2020 |

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1. **CONTEXT**

The NSW Government ICT Services Scheme (“ICT Services Scheme”) was established by the Department of Customer Service (“DCS”) to simplify the procurement process for agencies and Suppliers and to improve opportunities for small-to-medium enterprises to do business with NSW Government. As such, the scope of the ICT Services Scheme aligns with the objectives of the [NSW Government Beyond Digital Strategy](https://www.digital.nsw.gov.au/beyond-digital/ministers-foreword). The ICT Services Scheme is available for use by NSW Government agencies and other eligible customers.

The ICT Services Scheme does not cover a number of ICT deliverables that are contracted on whole-of-government arrangements, referred to in clause 4 (Exclusions) of these Scheme Rules.

DCS administers the ICT Services Scheme on behalf of the Contract Authority.

1. **AMENDMENTS**

The ICT Services Scheme Rules (“Scheme Rules”) may be amended periodically by DCS as required. Suppliers will be notified by email regarding amendments to the Scheme Rules. Suppliers must ensure they comply with the most recent version of these Scheme Rules and may withdraw at any time.

1. **COMPLIANCE WITH LAWS AND POLICIES**

Suppliers must comply with all relevant and applicable laws and policies. Any breach of the applicable policies and/or laws may result in the removal of the Supplier from the ICT Services Scheme.

The [NSW Procurement Policy Framework](https://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-government-procurement-policy-framework) provides a consolidated view of government procurement objectives and the Procurement Board’s requirements as they apply to each step of the procurement process.

1. **EXCLUSIONS**

If there is an existing whole-of-government arrangement for supply of a specific deliverable, then Suppliers are unable to supply these deliverables using the ICT Services Scheme. These exclusions currently include, but are not limited to:

1. supply of End User Devices and associated Services, available through [Contract 999](https://www.procurepoint.nsw.gov.au/contracts/c999-0) ICT End User Devices and Services for NSW Government;
2. supply Imaging Devices and associated maintenance (service and parts and toner for imaging devices) and Short-term rental of imaging devices, available through [Contract 2390](https://www.procurepoint.nsw.gov.au/contracts/c2390) Imaging Devices - Hardware;
3. supply, maintenance and services for Radio Communications, available through [ITS 253](https://www.procurepoint.nsw.gov.au/its-2573) Operational Telecommunications Equipment, Infrastructure and Services;
4. supply of telecommunications services, available through [Contract 2210](https://www.procurepoint.nsw.gov.au/contracts/c2210) Telecommunications Purchasing Arrangements;
5. supply of software licenses for Microsoft, Oracle, Objective and SAP Enterprise Resource Planning Software, SAP SuccessFactors and Salesforce available through Software Agreements  [607](https://www.procurepoint.nsw.gov.au/contracts/c607),  [2601](https://www.procurepoint.nsw.gov.au/contracts/c2601) , [2318](https://www.procurepoint.nsw.gov.au/contracts/c2318), [1217](https://www.procurepoint.nsw.gov.au/contracts/c1217) and [662](https://www.procurepoint.nsw.gov.au/contracts/c662).
6. **APPLICATION PROCESS**

Applications for registration to supply through the ICT Services Scheme must be completed and submitted through [eTendering](https://tenders.nsw.gov.au/) or buy.nsw. Applications to both platforms can be made at any time.

In eTendering, Applications can be made for either or both of two Supplier listings:

***Registered Supplier List***: Suppliers are approved to provide low risk contracts valued up to $150,000 (ex GST) each; and

***Advanced Registered Supplier List***: Suppliers are approved to provide contracts valued over $150,000 (ex GST) each or high-risk contracts.

Applications to join the ICT Services Scheme for cloud services must be submitted through the [buy.nsw](https://buy.nsw.gov.au/cloud) platform.

1. **ADMISSION REQUIREMENTS**
	1. **Application Requirements**

The information set out below must be provided with Applications to the ICT Services Scheme. The information may be subject to assessment, reference checking, searches, interview, enquiries, and confirmation. Applicants and Suppliers are deemed to have authorised any such action.

|  |  |
| --- | --- |
| Application Requirement  | Required for registration to the Registered Supplier List or Advanced Registered Supplier List?  |

|  |  |
| --- | --- |
| a) Organisation details including an Australian Business Number (ABN) | **Applies to both** |
| 1. Details of company capacity and capability for each nominated category including:
	* + 1. details of recent relevant experience;
			2. details of certification, where applicable;
			3. qualifications and experience of key personnel, where applicable;
			4. two (2) referee reports for each nominated high-level category.
 | * i),ii) and iii) applies to the **Registered Supplier List**
* i)-iv) applies to the **Advanced Registered Supplier List**
 |
| 1. Confirmation of the following matters that the Supplier is:
2. financially solvent;
3. not subject to legal (including insolvency) proceedings or ICAC inquiry/ies;
4. able to pay all debts when they are due for payment.
 | * i) and ii) applies to the **Registered Supplier List**
* i)-iii) applies to the **Advanced Registered Supplier List**
 |
| 1. Agreement to provide an independent financial assessment if requested
 | * **Advanced Registered Supplier List**
 |
| 1. Confirmation that they are not subject to a Material Adverse Event
 | * **Advanced Registered Supplier List**
 |
| 1. Provide a Rate Card
 | **Applies to both** |
| 1. Agreement to the Scheme Rules, which includes the requirement that all customer contracts will comply with the [Procure IT Framework](https://www.procurepoint.nsw.gov.au/before-you-supply/ict-contract-templates/procure-it-framework) Terms and Conditions, or as exempted by the NSW Procurement Board or the Secretary of DCS
 | **Applies to both** |

## **Insurance Requirements**

Registered Suppliers agree to provide proof of the following relevant insurances, before entering into a tender process or other engagement:

1. professional Indemnity $1M (mandatory if deliverables include professional services);
2. public Liability $5M (mandatory);
3. product Liability $5M (mandatory if deliverables include products such as software or hardware);
4. workers’ compensation as required by law.

Advanced Registered Suppliers agree to provide proof of the following relevant insurances, before entering into a Tender process or other engagement:

* + 1. professional Indemnity $1M (mandatory if deliverables include professional services);
		2. public Liability $10M (mandatory);
		3. product Liability $10M (mandatory if deliverables include products such as software or hardware);
		4. workers’ Compensation as required by law.
	1. **Requirements for buy.nsw**
1. Suppliers to buy.nsw must provide the corporate and organisational information as described in the [seller guide](https://buy.nsw.gov.au/guides/seller).
2. The information provided by Suppliers to buy.nsw may be subject to assessment, reference checking, searches, interview, enquiries and confirmation. By submitting their Application to sell to NSW Government, Suppliers are deemed to have authorised these activities.
	1. **Acceptance criteria**

Supplier admission to the ICT Services Scheme is subject to meeting the admission requirements outlined in clause 6.1. Customers will also carry out their own investigations into value for money, including company capacity and capability and independent credit report, for each engagement.

Acceptance on the Registered Supplier List and Advanced Registered Supplier List is subject to:

* + 1. provision of all required information;
		2. agreement to these Scheme Rules; and
		3. confirmation of Supplier Declaration.

Supplier admission to the ICT Services Scheme on the **buy.nsw** platform is subject to meeting the assessment criteria described in the [seller guide](https://buy.nsw.gov.au/guides/seller), which may be changed from time to time.

1. **NOTIFICATION OF OUTCOME**

Applicants will be notified by email within 15 business days regarding the status of their Applications to the ICT Services Scheme, as well as Applications to change ICT categories.

1. **REQUEST FOR REVIEW OF THE DECISION**

Should an Application be rejected and the Applicant believes that there are substantive grounds to reconsider acceptance onto the ICT Services Scheme, the Applicant may request a review of the decision in writing by providing full details of the reasons for the request and emailing ICTServices@customerservice.nsw.gov.au. The email should include all relevant details of the rejected Application. Existing Suppliers who unsuccessfully apply to change categories may also request for a review of a decision.

The Contract Authority will appoint another team member to review the Application and may accept or reject the request for review. The Applicant will be notified of the outcome by email from DCS.

1. **PRESCRIBED TERMS AND CONDITIONS FOR CUSTOMER CONTRACTS**

All customer contracts under the ICT Services Scheme shall comply with the Procure IT Framework terms and conditions available [here](https://www.procurepoint.nsw.gov.au/before-you-supply/ict-contract-templates/procure-it-framework).

[Procurement Board Direction 2018-02](https://arp.nsw.gov.au/pbd-2018-02-procurement-board-direction-replacement-ict-short-form-contract-procure-it-framework/) mandates the Procure IT Framework and sets out the scope for permissible variations. The Procure IT Framework comprises:

* + 1. [Core& Contracts;](https://www.procurepoint.nsw.gov.au/before-you-supply/ict-contract-templates/core-agreement-low-risk) and
		2. [Procure IT (v3.2).](https://www.procurepoint.nsw.gov.au/before-you-supply/ict-contract-templates/procure-it-version-32)
1. **ICT SERVICES SCHEME USAGE DATA**

Suppliers must provide detailed usage data to DCS quarterly or as requested, which will be used to assess the performance of the ICT Services Scheme and to inform future procurement strategies. This data must be provided in the template specified by DCS.

DCS relies on this usage data to manage the performance of Suppliers by monitoring performance on tendering, financial capability, compliance with the [NSW Government Code of Practice for Procurement](https://www.procurepoint.nsw.gov.au/system/files/documents/code_of_practice_for_procurement_2013_ir_guidelines_0.pdf), contract performance and project outputs and outcomes.

Failure to comply with this requirement will be deemed a breach of these Scheme Rules.

1. **SUPPLIER INFORMATION MANAGEMENT**

11.1 **Changes to status or other details**

Suppliers on eTendering and buy.nsw must ensure that their information including contact details, remain current. Where organisational, corporate and product information change, Suppliers must immediately update their information.

Suppliers on eTendering must immediately inform DCS by email to ICTServices@customerservice.nsw.gov.au of any significant change in their financial capacity, capability, ownership status, ABN, contact details or address. If there has been a change in ownership, the notification must include confirmation that:

* + 1. the previous Supplier is/was not subject to a Material Adverse Event; and
		2. the new Supplier has the same capacity and capability as the previously approved Supplier.

After DCS is notified of the change in ownership or ABN, a review and verification process will take place. If accepted, DCS will update the Supplier details on eTendering and email the Supplier notifying them. If these requirements are not met, the previous Supplier’s details will be suspended from the eTendering website, and the new entity must submit a new Application.

Suppliers registered on buy.nsw as well as eTendering will continue to be subject to the Supplier Information Management requirements above. Additionally, changes to ABN and authorised representatives on the buy.nsw platform must be requested by email to buy.nsw@customerservice.nsw.gov.au. Suppliers will be notified in advance of required documentation expiry dates and must upload current documentation in order to continue to be featured as a Supplier on buy.nsw.

11.2 **Changes to categories**

Suppliers may submit changes to their nominated service categories during the term of the ICT Services Scheme on the eTendering website. Changes made to ICT categories are subject to the Acceptance Criteria specified in clause 6.4.

Suppliers who are already on the ICT Services Scheme and want to add a category to their profile that is only available on buy.nsw (currently cloud products, services and support only), will need to apply through buy.nsw.

11.3 Where a Supplier becomes subject to a **Material Adverse Event**, it must immediately notify DCS by emailing details to ICTServices@customerservice.nsw.gov.au.

1. **TEMPORARY SUSPENSION FROM THE ICT SERVICES SCHEME**

DCS may suspend a Supplier from the ICT Services Scheme for up to three months if it considers the Supplier has:

* + 1. not complied with the requirements of these Scheme Rules; or
		2. demonstrated unsatisfactory performance.

Before a Supplier’s membership on the ICT Services Scheme is suspended, DCS will advise the Supplier by email 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.

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

DCS will regularly review the status of Suppliers who have been suspended. If the action taken by the Supplier is considered to be insufficient, the suspension period may be extended, and the Supplier will be notified accordingly. DCS may revoke the suspension if it is satisfied that the Supplier has taken appropriate action to address the reasons for the suspension.

DCS may also suspend a Supplier registered on buy.nsw for infractions against the buy.nsw [Terms of Use.](https://buy.nsw.gov.au/ict/terms-of-use)

1. **REMOVAL FROM THE ICT SERVICES SCHEME**

DCS may revoke a Supplier’s membership on the ICT Services Scheme if it considers that a Supplier’s performance is unsatisfactory, the Supplier has not complied with relevant policies and laws or the Supplier is in breach of these Scheme Rules, including but not limited to, if the Supplier has:

* + 1. provided false or misleading information with their Application to the ICT Services Scheme; or
		2. breached any of the Scheme Conditions; or
		3. failed to meet applicable financial requirements; or
		4. failed to submit Data reports; or
		5. been the subject of substantiated reports of unsatisfactory performance for other Customers; or
		6. been determined by the ICT Services team as not suitable for future work; or
		7. provided unsatisfactory performance with contracts under the ICT Services Scheme; or
		8. experienced a Material Adverse Event; or
		9. otherwise failed to meet the standards required of the ICT Services Scheme in terms of its project outcomes, business management systems, client satisfaction and ethical business practices; or

Before a Supplier’s membership on the ICT Services Scheme is revoked under this clause, DCS will advise the Supplier by email 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 revoked.

1. **REQUEST FOR REVIEW OF DECISION TO SUSPEND OR REVOKE MEMBERSHIP**

Where a Supplier considers that there are substantive grounds for DCS to reconsider its decisions for suspension or revocation, the Supplier may, within 20 days from the email advising of the original decision, request a review of the decision in writing, by emailing full details of the reasons for the request for review to ICTServices@customerservice.nsw.gov.au.

DCS will refer the matter to the ICT Services team for review and inform the Supplier of the outcome by email.

1. **APPLICANT’S ACKNOWLEDGEMENT**

In applying for membership to the ICT Services Scheme, the Applicant agrees that it accepts the Scheme Rules.

1. **DISCLAIMER**

DCS and the ICT Services team reserve the absolute discretion to:

* + 1. accept or reject an Application with or without limitations and/or conditions;
		2. suspend or revoke a Supplier’s membership to the ICT Services Scheme.

In exercising their discretion, DCS and the members of the ICT Services team will not be held liable for any costs or damages incurred by the Supplier.

1. **NO GUARANTEE OF SUPPLY**

Suppliers on the ICT Services Scheme are not guaranteed:

1. continuity of approval as an ICT Services Scheme Supplier for the duration of the ICT Services Scheme; or
2. opportunities to submit proposals; or
3. that engagements or work of any kind or quantity will be offered.
4. **REVIEW AND DEVELOPMENT OF THE ICT SERVICES SCHEME**

The ICT Services Scheme will be monitored by DCS to assess whether the objectives and intent of the ICT Services Scheme are being met. Modifications to the ICT Services Scheme may be made at the Contract Authority’s discretion during the life of the ICT Services Scheme.

1. **TERMINATION**

The ICT Services Scheme can be terminated with 90 days’ notice at the sole discretion of the Contract Authority by posting a Scheme Termination Notice on the eTendering website.

1. **DEFINITIONS**

*Applicant* means an entity that has submitted an Application for admission to the ICT Services Scheme.

*Application* means an online Application for admission to the ICT Services Scheme submitted on the eTendering website or when applicable **buy.nsw**

*buy.nsw* means the digital marketplace located at: <https://buy.nsw.gov.au>

*Contract Authority* means the Chief Executive of the NSW Government Department of Customer Service*.*

*Customer* means any Eligible Customer listed on the ProcurePoint website at <http://www.procurepoint.nsw.gov.au/documents/eligible-buyer-list>

*DCS* means the NSW Government Department of Customer Service Cluster.

*eTendering website* means the website at the following address: [www.tenders.nsw.gov.au](http://www.tenders.nsw.gov.au/)

*ICT Services Scheme* means the NSW Government ICT Services Scheme administered by DCS.

*ICT Services team* means the entity established by the Contract Authority to make recommendations relating to the performance of the ICT Services Scheme.

*Material Adverse Event* has the same meaning as in Part 3: Dictionary under the [Procure IT (v3.2](https://www.procurepoint.nsw.gov.au/before-you-supply/ict-contract-templates/procure-it-version-32)) as amended from time to time.

*Rate Card* means the pricing schedule or costs of services that the Applicant must provide when applying to the ICT Services Scheme.

*Scheme Rules* means this document *NSW Government ICT Services Scheme Rules for Suppliers*.

*Scheme Termination Notice* means a notice published on the eTendering website issued by DCS on behalf of the Contract Authority advising of the intent to terminate the ICT Services Scheme.

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

*Supplier Declaration* means the declaration that Suppliers are required to provide when making an Application to the ICT Services Scheme which states that the Applicant is authorised to submit the Application for and on behalf of the Applicant organisation and, in doing so, warrants that the Applicant organisation is not subject to a Material Adverse Event and the information provided in the Application is true and correct.