



**Property  
NSW**

## **SCHEME TERMS AND CONDITIONS**

**SCHEME NO. SCM4271  
Real Estate Sales Agent  
Prequalification Scheme  
2017-2019**

## Amendment, Distribution & Authorisation Record

### Amendment Record

Revision	Description / Details	Date

#### CONTACT DETAILS

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This document is available at:

<https://www.procurepoint.nsw.gov.au/scm4271>

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## **1. DEFINITIONS and INTERPRETATIONS**

**Agency** includes NSW Government Agencies and state owned corporations and local or federal government entities authorised by the Assessment Body to procure services from this Scheme.

**Applicant** means a person who has submitted a Proposal for admission to the Scheme.

**Assessment Body** means a group of persons appointed by PNSW to determine the eligibility of Service Providers to be admitted to the Scheme.

**Confidential Information** means any information and all other knowledge at any time disclosed (whether in writing or orally) to the Service Provider by the Agency, or acquired by the Service Provider in performing the Services which:

- a. is by its nature confidential;
- b. is designated, or marked, or stipulated as confidential;
- c. the Service Provider knows or reasonably should know is confidential; and includes but is in no way limited to
  - i. the Contract Material;
  - ii. the Agency's Material;
  - iii. any material which relates to the affairs of a third party;

but does not include information which:

- a. must be disclosed to perform the Services;
- b. is or becomes public knowledge other than by breach of this Agreement;
- c. is in the lawful possession of the Service Provider without restriction in relation to disclosure before the date of receipt of the information from the Agency or a third party; or
- d. is required to be disclosed pursuant to law or any legal process.

**PNSW** means Property NSW.

**Initial Term** means the first two years of the Scheme.

**Project Manager** means the contact person at the Agency or other eligible customer employee requesting the Services.

**Proposal** means an online application submitted for admission to the Scheme.

**Service Provider** means an organisation who has applied for, and been appointed to, the Scheme by the Assessment Body.

**Standard Agreement** means:

- For residential sales the **Sales Inspection Report and Exclusive Agency Agreement** as amended by the **Special Conditions**
- For other: commercial/retail/industrial sales the **Commercial/Industrial Sales Inspection Report and Exclusive Agency Agreement** as amended by the **Special Conditions**

## **2. SCHEME USAGE**

The Scheme is being established principally for the use of PNSW however, the following organisations are entitled to use the Panel:

- a. NSW Government Agencies and state owned corporations
- b. Local government entities

## **3. CONFIDENTIALITY**

- 3.1. Confidential information submitted with a Proposal will be treated as confidential by the Assessment body unless otherwise required by law.

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- 3.2. Information submitted with a Proposal may be subject to investigation, reference checking, searches, interview, enquiries, and confirmation and Applicants and Services Providers are deemed to have authorised any such action.

### **4. NSW PROCUREMENT POLICY FRAMEWORK**

- 4.1. Service Providers must adhere to the NSW Government Goods and Services Procurement Policy Framework for NSW Government Agencies ('Procurement Policy') at all times.
- 4.2. Service providers must adhere to the Statement of Business ethics (at <https://www.finance.nsw.gov.au/about-us/business-ethics>) and any conduct contrary to that Statement may result in the termination of an engagement and/or removal from the Scheme.

### **5. APPLICATIONS FOR PREQUALIFICATION**

- 5.1. Proposals must be completed via the NSW Tendering website at [tenders.nsw.gov.au](https://tenders.nsw.gov.au).
- 5.2. Proposals must be delivered in accordance with the delivery instructions set out in the Scheme Requirements.

### **6. PREQUALIFICATION PROCESS**

- 6.1. The Assessment Body will assess a Proposal and advise the Applicant of the outcome.
- 6.2. New Applicants may apply throughout the life of the scheme. The scheme is open for an Initial Term of 2 years.
- 6.3. The scheme may continue beyond the Initial Term for additional one year periods as exercised by PNSW.

### **7. NOTIFICATION OF OUTCOME**

- 7.1. The Assessment Body may accept, accept with limitations or reject an application. Applicants will be notified by PNSW.

### **8. SPECIAL REQUIREMENTS**

- 8.1. For each individual engagement for which the Service Provider is selected, the Service Provider shall enter into an agreement based on the Standard Agreement. The parties will complete an agreement for each individual engagement, including fees to be charged.
- 8.2. The Service Provider may be required to meet with PNSW at no charge on a few occasions each year, to discuss relevant matters to the prequalification scheme and the Service Provider's performance under engagements.
- 8.3. The Service Provider is required to maintain Workers Compensation, Public Liability and Professional Indemnity insurance as required by law in the State of New South Wales, in particular with regard to Professional Indemnity insurance in accordance with the conditions of Property, Stock and Business Agents Regulation 2014-563 Part 2 Section 10.

### **9. SERVICE PROVIDER REPORTING OBLIGATIONS**

- 9.1. Service Providers must immediately notify PNSW of any significant change in their financial capacity, capability, insurance, licensee, ownership status or contact details by sending a formal email to [salesagent.prequal@property.nsw.gov.au](mailto:salesagent.prequal@property.nsw.gov.au).
- 9.2. Email notifications must contain a valid email signature and describe the changes and any associated issues.

## **10. PERFORMANCE MONITORING**

- 10.1. Monitoring performance and ensuring compliance with the Scheme is the responsibility of the Project Manager for each engagement.
- 10.2. The Project Manager will complete and submit a Performance Report in the form at Schedule 1 – Performance Report template to PNSW at the conclusion of each engagement and in addition, where the performance of, and the services provided by, the Service Provider are considered by the Agency to be unsatisfactory; or
- 10.3. A Performance Report is to be submitted:
  - a. at the completion or termination of the relevant engagement; or
  - b. when a critical aspect of performance is unsatisfactory.

## **11. PRINCIPLES OF PERFORMANCE REPORTING**

Service Provider performance monitoring and reporting shall be conducted in accordance with the following principles:

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

## **12. PERFORMANCE REPORTING PROCESS**

- 12.1. The Project Manager will be responsible for the submission of Performance Reports.
- 12.2. When a Performance Report is prepared, the Agency shall:
  - a. provide a copy of the Performance Report to the Service Provider; and
  - b. provide a copy to [salesagent.prequal@property.nsw.gov.au](mailto:salesagent.prequal@property.nsw.gov.au)
- 12.3. If the Service Provider disagrees with the Performance Report, the Project Manager and the Service Provider must attempt to resolve the disagreement in the first instance. Following an unsuccessful attempt to resolve a disagreement, the Service Provider may refer the Performance Report, with written reasons for the disagreement; to [salesagent.prequal@property.nsw.gov.au](mailto:salesagent.prequal@property.nsw.gov.au). This must contain a valid email signature with written reasons for the disagreement.

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12.4. The contact officer at PNSW will:

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

### **13. PERFORMANCE MANAGEMENT**

13.1. Monitoring and ensuring compliance in respect of each engagement under the Scheme is the responsibility of the Project Manager.

13.2. PNSW will manage the performance of prequalified Service Providers by:

- a. applying sanctions, such as temporary suspension from the Scheme, where performance is determined to be unsatisfactory;
- b. revoking a Service Provider's admission to the Scheme, following due consideration of the circumstances, where performance is determined to be unsatisfactory; and
- c. providing the opportunity for a Service Provider to request a review of the decisions referred to above.

### **14. TEMPORARY SUSPENSION**

14.1. PNSW may suspend a Service Provider from the Scheme for up to three (3) months if PNSW considers that the Service Provider has:

- a. not complied with the Scheme Terms and Conditions (including compliance with the Statement of Business Ethics); or
- b. demonstrated unsatisfactory performance.

14.2. PNSW will advise the Service Provider of the reasons for the suspension and of any actions by the Service Provider required to lift the suspension. A Service Provider that has been suspended from the Scheme must inform PNSW if and when the actions required to lift the suspension have been undertaken.

14.3. PNSW will regularly review the status of Service Providers who have been suspended under Clause 15. If the action taken by the Service Provider is considered by PNSW to be insufficient, the suspension period may be extended and the Service Provider will be notified accordingly. PNSW may revoke the suspension if it is satisfied that the Service Provider has taken appropriate action to address the reasons for the suspension.

### **15. REQUEST FOR REVIEW OF PNSW DECISION**

15.1. Where a Service Provider considers that there are substantive grounds for PNSW to reconsider its decisions under clauses 13 and 14, the Service Provider may request a review of the decision by writing, providing full details of the reasons for the request for review to [SalesAgent.prequal@property.nsw.gov.au](mailto:SalesAgent.prequal@property.nsw.gov.au). PNSW will inform the Service Provider of the outcome of the review.

### **16. PUBLICITY**

16.1. Service Providers must not advertise, promote or publicise in any form their admission to the Scheme without the written consent of PNSW.

## **17. APPLICANT'S ACKNOWLEDGMENT**

- 17.1. In applying for membership, the Applicant agrees that it accepts the Scheme Terms and Conditions and that engagements will be based on the standard form of agreement.

## **18. DISCLAIMER**

- 18.1. PNSW reserve the absolute discretion to:
- accept a Proposal with or without limitations and/or conditions;
  - reject a Proposal;
  - pass over the Proposal if it contains substantial departures, or if it contains departures to terms that are stated in the scheme as non-negotiable
  - suspend a Service Provider's admission to the Scheme; and
  - revoke a Service Provider's admission to the Scheme.
- 18.2. PNSW will not be held liable for any costs or damages incurred by the Service Provider in the exercise of such discretion.

## **19. PREQUALIFICATION NO GUARANTEE OF WORK**

- 19.1. Prequalification by a Service Provider does not guarantee:
- continuity of the prequalification during the duration of the Scheme or the continuity of the Scheme;
  - receipt of opportunities to quote or work; or
  - that engagements or work of any kind or quantity will be offered.
- 19.2. PNSW reserves the right to use off-scheme service providers where it is considered that the Scheme cannot adequately service the project requirement or other specific constraints are present.

## **20. REVIEW AND DEVELOPMENT OF THE SCHEME**

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

## **21. THE REQUEST FOR QUOTE PROCESS**

- 21.1. Value for money for each engagement will be achieved by adopting the following requirements when engaging Service Providers:

<b>Estimated Value of property asset (\$) (including GST)</b>	<b>Minimum quotes required</b>
Small sales valued under \$600k	At least 1 written quotation
Medium sales valued between \$600K to \$5M	At least 2 written quotations
Large sales valued between \$5M to \$15M	At least 3 written quotations
Major sales valued higher than \$15M	At least 3 written quotations

- 21.2. On occasion these minimum requirements may not be adhered to, for example:
- urgency
  - location/complexity of project
  - particular specialisation



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This will be acceptable providing the reason for not complying and the deviation from the requirements does not compromise the general requirement to obtain value for money.

### **22. SELECTION OF SERVICE PROVIDERS TO OBTAIN QUOTE**

Project Managers should make efforts to use all Service Providers equally and fairly in accordance with the [Procurement Policy Framework](#).

# SCHEDULE 1 - Performance Report Template

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## Prequalified Service Provider Performance Report

### PREQUALIFICATION SCHEME: Real Estate Sales Agents

Under the Scheme Conditions, the Project Manager is required to submit a Service Provider Performance Report for each engagement where:

1. the engagement has come to an end; or
2. the performance of, and the services provided by, the Service Provider are considered by the Agency to be unsatisfactory.

The reports must be made consistently with the Scheme Terms and Conditions and are due within 30 days of completion of the engagement or whenever a critical aspect of performance is unsatisfactory.

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### ENGAGEMENT DETAILS

Service Provider:	
Contact Person:	
RFx No.:	
Engagement / Project No.:	
Engagement / Project Name:	
Engagement Description:	
Commencement Date:	
Completion Date:	
Fee for this engagement (including GST):	___% of sale price = \$
Total Marketing spend:	\$

## ASSESSMENT

How well did the Service Provider meet your expectations?	N/A	Unsatisfactory	Marginal	Acceptable	Good	Superior
1. <b>Time Management</b> e.g. meeting milestones, resourcing, planning, reporting						
2. <b>Management &amp; Suitability of Personnel</b> e.g. skills, experience, sufficient number, appropriate seniority used						
3. <b>Standard of Service</b> e.g. meeting brief, budget, no rework, supervision, no over scoping or under servicing						
4. <b>Quality Outcomes</b> e.g. accuracy, usability and effectiveness of results						
5. <b>Cost</b> e.g. was value for money achieved.						
6. <b>Communications</b> e.g. appropriate level of reporting & responsiveness						
7. <b>Marketing</b> e.g. market feedback & effectiveness						
8. <b>Cooperative Relationships</b> e.g. cooperative approach to resolving issues						
9. <b>Recommendation for Future Work</b> Would you recommend the Service Provider for similar type of work?	Yes ▶			No ▶		

### Additional Comments on the Service Provider's performance

< Comments may be extended on next page >