



GOVERNMENT ARCHITECT'S
STRATEGY AND DESIGN
PREQUALIFICATION SCHEME

Scheme Conditions

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Preamble

ABOUT THE SCHEME

The Government Architect's Strategy and Design Prequalification Scheme is focused on delivery of strategic planning advice, design quality and innovation in the built environment. The scheme also enables delivery of 'good design' as outlined in the Environmental Planning and Assessment Act, defined in the Better Placed policy and supported by Evaluating Good Design.

The scheme offers a pool of prequalified service providers to assist NSW Government agencies and statutory corporations in engaging external expertise to assist in delivering quality 'good design' outcomes in the built environment. The scheme offers a streamlined approach for both suppliers and government buyers and is structured to meet requirements of the NSW Treasury Gateway Review process.

All suppliers are quality assessed by subject matter experts and an evaluation committee using the 'good design' objectives detailed in Evaluating Good Design.

NOTE ON TERMS AND CONDITIONS

These Scheme Conditions apply to all suppliers accepted into Government Architect's Strategy and Design Prequalification Scheme. To facilitate the range of design work across government departments and agencies, two distinct Terms and Conditions [Annexure A and B] are available to enable two distinct service pathways:

- **PATHWAY 1:** Professional services engagements that do not involve construction, for example feasibility and conceptual work will use the Government Architect's Strategy and Design Prequalification Standard Form of Agreement [ANNEXURE A].
- **PATHWAY 2:** For construction related documentation and contract administration services, the Terms and Conditions will align to the State Government's Consultants in Construction contracts over \$30,000 [ANNEXURE B].

HOW TO SUBMIT QUESTIONS ABOUT THE SCHEME

Questions concerning the required Deliverables in this Scheme must be forwarded by email to the Contact Officer at GAprequalscheme@planning.nsw.gov.au. Each email must include the subject heading "Government Architect's Strategy & Design Prequalification Scheme".

Any information given to an Applicant to clarify any aspect of the Scheme will also be given to all other Applicants if, in the Principal's opinion, failure to do so would unfairly favour the inquiring Applicant over other Applicants.

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Attachments

1	SCHEME CONDITIONS
2	ANNEXURE A: STANDARD FORM OF AGREEMENT: TERMS + CONDITIONS SCHEDULE 1 – APPLICATION SUMMARY SCHEDULE 2 – SERVICE PROVIDER PERFORMANCE REPORT
3	ANNEXURE B: STANDARD TERMS - CONSULTANTS IN CONSTRUCTION >\$30K

1. DEFINITIONS

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

Applicant means a person who has submitted an Application for admission to the Scheme.

Application means an electronic application for admission to the Scheme.

Assessment Panel means a minimum of two (2) senior architects within (GANSW) including one with expertise in the category being reviewed, to review and assess applications and conduct interviews where appropriate.

Assessment Material includes all information, documents and other relevant material used by the Service Providers in performing the Services and includes both hard copy and electronic forms of Service Provider and GANSW documents and reports.

Evaluation Committee means a minimum of two (2) recognised authorities in the area of the built environment, including the NSW Government Architect (Chair) and at least one independent industry or academic expert to evaluate and determine the eligibility of Service Providers to be admitted to the Scheme. Interviews may be conducted where appropriate.

(GANSW) Government Architect NSW is an office within the NSW Department of Planning, Industry and Environment.

Infrastructure Advisory Standard Commercial Framework refers to standardised resource and service types, capped daily resource rates, a discounts structure and expenses policy, which are recommended for use as guidance by any Agency when procuring Infrastructure Advisory Services.

Infrastructure Advisory Services means engineering, technical, design & advisory services provided under a fee for service arrangement in relation to any stage in the infrastructure asset lifecycle from concept through to commissioning (and where applicable the ongoing operations and maintenance of the asset) of all economic and social infrastructure assets for the NSW Government

Performance Report means a report submitted in accordance with clause 15.

Principal means the The Government Architect NSW.

Project means an individual project or development but also substitutes for a Program consisting of group of projects or developments.

Scheme means *The Government Architect's Strategy & Design Prequalification Scheme*.

SME means Small and Medium Enterprises

Service Provider means a person who has applied for, and been granted admission to, the Scheme by the Evaluation Committee.

Services refer to the Design and Strategic Services provided by the Service Provider under the Scheme.

Services refer to the Design and Strategic Services provided by the Service Provider under the Scheme.

2. BACKGROUND TO THE ENGAGEMENT

The Government Architect's Strategy & Design Prequalification Scheme is focused on the delivery of strategic planning advice, design quality and innovation in the built environment. The scheme aligns with the 'good design' objectives in the Environmental Planning and Assessment Act, the Better Placed policy and the GANSW Evaluating Good Design Guidelines.

The scheme also aims to develop and broaden industry capability through nurturing and supporting Small and Medium Enterprises or emerging businesses.

The Scheme provides access to prequalified expert strategy and design services to assist agencies achieve maximum benefits from built environment projects.

3. BACKGROUND TO THE REQUIREMENTS

The scheme will offer a streamlined approach for both Service Providers and Government. In addition to the usual probity standards provided by a prequalification scheme, agencies using the Scheme will benefit from Service Providers being assessed by expertise leaders in the Government Architect NSW (GANSW) and reviewed by an Evaluation Panel comprising of the Government Architect and an independent expert. Prequalification on the scheme will be valid for two years.

4. PURPOSE OF THIS QUALIFICATION SCHEME

To select highly skilled and experienced organisations, as well as emerging businesses to participate as a prequalified provider of quality strategy and design services, under the following work categories:

4.1 Strategy

- (a) Project Initiation, Definition, Justification and Risk Assessment
- (b) Project Governance and Management
- (c) Business Case Development
- (d) Financial and Economic Analysis
- (e) Stakeholder Engagement and Management
- (f) Strategic Planning
- (g) Aboriginal Cultural and Spatial Intelligence

4.2 Design

- (a) Architecture
- (b) Urban Design
- (c) Landscape Architecture
- (d) Emerging Practices

5 CONFIDENTIALITY

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

6 CODE OF PRACTICE FOR PROCUREMENT

- 6.1 Service Providers must adhere to the NSW Government *Goods and Services Procurement Policy Framework for NSW Government Agencies* ('Procurement Policy') at all times.
- 6.2 Any breach of the NSW Government *Goods and Services Interim Procurement Policy Framework for NSW Government Agencies* ('Procurement Policy') may result in the termination of an engagement and/or removal from the Scheme.

7 APPLICATIONS FOR PREQUALIFICATION

- 7.1 Applications must be complete and in the form prescribed on the scheme website.
- 7.2 Applications must be delivered in accordance with the delivery instructions set out in the form prescribed in Schedule 1.
- 7.3 Only those Applications which fully satisfy all requirements set out in these Scheme Conditions and the online Service Provider application form available via Schedule 1 will be considered by the Evaluation Committee.
- 7.4 Applicants agree that, if prequalified under the Scheme, the terms and conditions of any engagement made under the Scheme will be those of the Standard Form of Agreement attached to these Rules and agree that it is not necessary to sign the Standard Form of Agreement for each or any engagement; instead, parties will complete a form of Agreement Details in respect of each engagement. Applicants providing probity auditor services acknowledge the Standard Form Agreement attached to these Rules will contain a provision which requires full disclosure of current and recent engagements for NSW Government agencies and which obliges the Applicant when engaged not to undertake to provide consultancy services to a Principal for so long as probity auditor services are being provided.
- 7.5 Applicants are not entitled at law or equity to recover any costs or expenses associated with the submission of an Application.

8 RATES

- 8.1 The range of hourly rates specified in an Application shall remain firm for an initial 24 month period. At that time, an application may be made by a Service Provider in accordance with the Scheme Conditions to change the hourly rates specified in an Application.
- 8.2 The rates shall include all costs of the Applicant excluding subsistence and travel costs outside the Sydney Metropolitan Area and/or from Interstate and including employee related costs, data processing, the provision of personal computers, any other tools or equipment required in the provision of Services, and travel costs within the Sydney metropolitan area (except if the Service Provider is from Interstate).
- 8.3 The hourly rates specified in an Application will be taken into account by the Evaluation Committee, unless the Infrastructure Advisory Standard Commercial Framework is in use in which case the capped daily rates will be used as the default. Agencies may take the hourly rates specified in an Application into account when selecting a Service Provider for work.

- 8.4 Service Providers for all capabilities, except Aboriginal Cultural and Spatial Intelligence and Emerging Firms, may adopt the capped daily rates provided in the Infrastructure Advisory Standard Commercial Framework instead of providing hourly rates.
- 8.5 Subsistence and travel expenses outside the Sydney metropolitan area and/or where the Service Provider is from Interstate are to be charged at actual cost, or at the rates specified under the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2006*, whichever is the lesser.
- 8.6 The fees to be charged for each individual engagement for which the Service Provider is selected shall be agreed between the Service Provider and Agency.

9 PREQUALIFICATION PROCESS

- 9.1 The Assessment Panel will assess applications and present findings to the Evaluation Committee.
- 9.2 The Evaluation Committee will determine which Applicants will participate in Scheme.
- 9.3 Applicants who apply to participate in the Scheme are deemed to be qualified following the acceptance of an Application submitted in accordance with these Scheme Conditions.
- 9.4 Applications may be made at any time during the life of the Scheme. Applications will be assessed periodically at the discretion of the Evaluation Committee.

10 EVALUATION CRITERIA

- 10.1 Applications will be assessed according to the following evaluation criteria:

- (a) key personnel, qualifications and registration/memberships of applicable professional association/s (Applicants are required to provide contact details, a minimum one CV demonstrating expertise and experience in each nominated work category and registration/membership details if applicable);
- (b) demonstrated design quality and experience in the categories applied for (Applicants are required to provide 3 examples completed within the last 3 years);
- (c) awards and/or industry recognition (If applicable Applicants are required to provide evidence of awards or industry recognition)
- (d) the quality and applicability of references in the categories applied for (Applicants are required to provide 3 references applicable to the category applied for within the last 3 years);
- (e) For the category Design – Architecture ONLY: At least one nominated consultant must be registered with the NSW Architects Registration Board. Applicants are required to submit registration number and confirm currency.
- (f) For the category Design – Landscape Architecture ONLY: At least one nominated consultant must be registered with the Australian Institute of Landscape Architects. Applicants are required to submit their registration number and confirm its currency.

(g) For the category of Design - Emerging Design Practices ONLY: Practices must be less than seven years old. Applicants must supply dated ABN registration information. Registration for this category does not preclude an applicant from being prequalified in other categories or capabilities.

(h) GANSW 'Evaluating Good Design' guidelines will be used in assessment.

11 NOTIFICATION OF ASSESSMENT OUTCOME

11.1 The Evaluation Committee may accept an Application (with or without qualification) or reject the Application.

11.2 The Government Architect NSW will notify all Applicants of the outcome of their Application in writing.

12 REQUEST FOR REVIEW OF THE DECISION

12.1 Should an Applicant believe that there are substantive grounds for GANSW to reconsider their decision not to admit the Applicant to the Scheme; the Applicant may request a review of the decision in writing, providing full details of the reasons for the request, to:

The Contact Officer: GAprequalscheme@planning.nsw.gov.au

13 SPECIAL REQUIREMENTS

Membership of the Scheme is subject to the following conditions:

13.1 For each individual engagement for which the Service Provider is selected, the Service Provider shall, subject to Clause 7.4 above, enter into an agreement comprised of the terms in the Standard Form of Agreement. The parties will complete the Agreement Details for each individual engagement, including a statement of the fees to be charged for each individual engagement.

13.2 The Service Provider may be required to meet with GANSW at no charge on a few occasions each year, but not more than quarterly, to discuss relevant matters and provide a report on relevant issues.

13.3 The Service Providers considered by NSW Treasury to be among the top 50 suppliers to NSW Government (by spend) are required to submit a Report of Engagements to Treasury quarterly. Data must be provided within the Supplier Report of Engagements template, available via the buy.nsw.gov.au website. NSW Treasury will advise Service Providers who are listed in the top 50 in respect of a given year by December each year.

13.4 An agency may share information contained within the Report of Engagements with other NSW Government entities.

13.5 The Service Provider must provide any additional reports or information requested by Treasury related to an engagement under the Scheme, as required from time to time.

14 CHANGES TO SERVICE PROVIDER STATUS

14.1 Service providers must immediately update their online supplier profile if there are any changes to their contact details, specified personnel, address or ABN.

14.2 Service Providers must immediately inform GANSW of any significant change in their financial capacity, capability, ownership status-by writing with full details to:

The Contact Officer: GAprequalscheme@planning.nsw.gov.au

15 MONITORING PERFORMANCE

15.1 An Agency must submit a Performance Report in the form prescribed by Schedule 3 to the Government Architect NSW where:

(a) the performance of, and the services provided by, the Service Provider are considered by the Agency to be unsatisfactory; or

(b) where the total value of the relevant engagement is more than \$250,000 (including GST).

15.2 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.

16 PERFORMANCE REPORTING BEHAVIOUR

16.1 Service Provider performance monitoring and reporting will 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 under the contract;

(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 formal 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 behavior 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.

17 PERFORMANCE REPORTING PROCESS

- 17.1 The Agency will be responsible for the preparation of Performance Reports.
- 17.2 When a Performance Report is prepared, the Agency shall:
 - (a) provide a copy of the Performance Report to the Service Provider; and
 - (b) forward the original to the GANSW Contact Officer
- 17.3 If the Service Provider disagrees with the Performance Report, GANSW 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 the GANSW contact officer
- 17.4 The contact officer will
 - (a) arrange a meeting between Service Provider and GANSW/Partner Agency to discuss and consider the Performance Report and reasons;
 - (b) determine the disagreement in consultation with the Government Architect NSW;
 - (c) if necessary, amend the Performance Report;
 - (d) notify the Service Provider of its decision; and
 - (e) where the Performance Report is amended, record the amended Performance Report information.

18 PERFORMANCE MANAGEMENT

- 18.1 Monitoring and ensuring compliance in respect of each engagement under these Rules is the responsibility of the agency and agency head.
- 18.2 GANSW will manage the performance of Service Providers by:
 - (a) monitoring performance on NSW Government *Code of Practice for Procurement* compliance, service performance, outputs and outcomes;
 - (b) applying sanctions, such as temporary suspension from the Scheme, where performance is deemed to be unsatisfactory;
 - (c) revoking a Service Provider's admission to the Scheme, following due consideration of the circumstances, where performance is deemed unsatisfactory; and
 - (d) providing the opportunity for a Service Provider to request a review of the decisions referred in paragraphs (b) and (c) above.

19 UPGRADING OF PREQUALIFICATION

19.1 GANSW may upgrade a Service Provider's status under the Scheme to include additional work capabilities where:

- (a) the Service Provider considers that it is eligible for such an upgrade; and
- (b) the Service Provider has submitted a written application for such an upgrade, including documentation and other material in support of its request.

20 DOWNGRADING OF PREQUALIFICATION

20.1 GANSW may downgrade a Service Provider's status under the Scheme if it considers that a Service Provider has:

- (a) not complied with the Scheme Conditions; or
- (b) demonstrated unsatisfactory tendering performance, for example, by declining tendering opportunities without providing valid reasons, accepting a tendering opportunity but not lodging a tender, lodging late tenders or lodging uncompetitive tenders; or
- (c) experienced an adverse change in capacity; or
- (d) experienced an adverse change in business status.

20.2 Before the status of a Service Provider is downgraded under clause 20.1, GANSW will advise the Service Provider of the matters prompting the downgrade and will give the Service Provider the opportunity to provide reasons as to why the downgrade should not occur.

21 TEMPORARY SUSPENSION

21.1 GANSW may suspend a Service Provider from the Scheme for up to three (3) months if it considers that the Service Provider has:

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

21.2 GANSW 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 GANSW if and when the actions required to lift the suspension have been undertaken.

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

22 REMOVAL FROM THE SCHEME

22.1 GANSW may terminate a Service Provider's membership of the Scheme if it considers that a Service Provider has:

- (a) breached the Scheme Conditions; or the NSW Government *Code of Practice for Procurement*; or
- (b) failed to meet applicable financial requirements; or
- (c) been the subject of substantiated reports of unsatisfactory performance from NSW Government agencies; or
- (d) been determined by the Evaluation Committee as not suitable for future work; or
- (e) provided unsatisfactory tendering performance with tenders under the Scheme; or
- (f) experienced an adverse change in capacity or capability; or
- (g) experienced an adverse change in business status; or
- (h) failed to promptly and adequately address the reasons for a temporary suspension from the Scheme under clause 21; or
- (i) been convicted of any breach of its obligation under NSW work health and safety legislation or environmental protection legislation; or
- (j) otherwise failed to meet the standards required of the Scheme in terms of its project outcomes, business management systems, client satisfaction and ethical business practices.

22.2 Before a Service Provider's admission to the Scheme is revoked under clause 22.1, GANSW will advise the Service Provider of the matters prompting the proposed action and will give the Service Provider the opportunity to provide reasons as to why the removal should not occur.

23 REQUEST FOR REVIEW OF THE DECISION

23.1 Where a Service Provider considers that there are substantive grounds for the Departments to reconsider its decisions under clauses 19, 20 and 21, the Service Provider may request a review of the decision by writing, providing full details of the reasons for the request for review to:

The Contact Officer: GAprequalscheme@planning.nsw.gov.au

23.2 GANSW will inform the Service Provider of the outcome of the review.

24 PUBLICITY

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

25 APPLICANT'S ACKNOWLEDGMENT

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

26 DISCLAIMER

26.1 GANSW and the Evaluation Committee reserve the absolute discretion to:

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

26.2 GANSW will not be held liable for any costs or damages incurred by the Service Provider in the exercise of such discretion.

27 PREQUALIFICATION NO GUARANTEE OF WORK

27.1 The receipt of prequalification by a Service Provider does not guarantee:

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

28 REVIEW AND DEVELOPMENT OF THE SCHEME

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

29 INFRASTRUCTURE ADVISORY STANDARD COMMERCIAL FRAMEWORK

29.1 An Agency may refer to the recommended Infrastructure Advisory Standard Commercial Framework as guidance when evaluating pricing offered by a Service Provider in Strategy categories (a)-(f) and Design categories (a)-(c). The Infrastructure Advisory Standard Commercial Framework includes recommended capped daily resource rates, a discount structure and expenses policy.

29.2 When a Service Provider is engaged under the Infrastructure Advisory Commercial Framework, these Scheme Conditions will still apply.