



NSW Treasury

**PREQUALIFICATION SCHEME: AUDIT AND RISK
COMMITTEE INDEPENDENT CHAIRS AND MEMBERS**

SCHEME GUIDELINES

December 2020

SCHEDULE OF DOCUMENT AMENDMENTS

Revision Number	Date	Update Description
0.	4 May 2009	Document Original - first publication
1.	January 2013	<p>A number of revisions have been made to the Scheme Guidelines. Some key changes are listed below.</p> <p>Terms such as Agency Head/CEO/Board replaced by “department head or governing board of a statutory body” to align with TPP 09-05</p> <p>Department of Services Technology & Administration’s name updated to Department of Finance and Services (DFS)</p> <p>Contact Details updated</p> <p>Introduction: amended to reflect the change in policy ownership</p> <p>Capability Area: amended to reflect the new department name</p> <p>Independent Chair 3 (b) inserted to align with Scheme Conditions.</p> <p>Independent Member 2, “enterprise” deleted from “enterprise risk management”</p> <p>Frequently Asked Questions</p> <p>Question 1 amended to replace CEO with department head or governing board of statutory body</p> <p>Question 2 amended to clarify the timing for undertaking checks</p> <p>Question 3 amended to insert a new paragraph to refer to TPP 09-05, and the Code of Conduct: Audit & Risk Committee Independent Chairs and Members. The word “recently” is also defined.</p> <p>Question 4 amended to include engagement of panel member/s for sub committees</p> <p>Question 5 amended to emphasise the requirement for members to be prequalified</p> <p>Question 7 amended</p> <p>Question 8 amended to identify applicants that are ineligible to serve as a Chair or member of an Audit and Risk Committee</p> <p>Question 9 amended to reflect the new remuneration rates as stated in the Scheme Conditions</p>

		<p>Question 10 “appointment” replaced with “engagement”</p> <p>Question 11 department name updated. Clarified that DFS and Treasury will provide information sessions while induction will be responsibility of agencies</p> <p>Question 13 amended to include requirement to record details of any other significant appointments within and outside the public sector</p> <p>Question 14 amended to refer to the requirements in TPP 09-05 for the performance assessment of Audit and Risk Committees</p> <p>Question 15 deleted</p> <p>Attachments deleted</p>
2.	January 2015	<p>Amended question 9 to remove references to the Statutory and Other Offices Remuneration Tribunal</p> <p>Replaced references to the NSW Department of Finance and Services with NSW Office of Finance and Services</p> <p>Amended NSW Treasury contact person Amended OFS contact person</p>
3.	July 2015	Update of Department name change, contact name and Treasury Policy TPP 15-03.
4.	July 2019	Department Change, email change
5.	September 2019	Contact updates, Department changes
6.	December 2020	<p>Update document for terminology changes per <i>Government Sector Finance Act 2018</i></p> <p>Contact details have been updated</p>

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CONTACT DETAILS

Financial Management Governance and Analytics, NSW Treasury, is responsible for the Treasury Policy Paper TPP20-08 *Internal Audit and Risk Management for the General Government Sector*. The *Prequalification Scheme: Audit and Risk Committees Independent Chairs and Members*, is administered by NSW Procurement, NSW Treasury.

For information regarding the policy, TPP20-08:

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INTRODUCTION

The NSW Department of Premier and Cabinet, established the *Prequalification Scheme – Audit and Risk Committee Independent Chairs and Members* (the “Scheme”). The Scheme assists General Government Sector agencies in complying with the requirements of the NSW Treasury Policy Paper TPP20-08 *Internal Audit and Risk Management for the General Government Sector* (the Policy), as it relates to the engagement of Audit and Risk Committee Independent Chairs and Members. Policy responsibility for the Scheme was transferred to NSW Treasury with effect from June 2012.

PURPOSE OF GUIDELINES

These Guidelines are intended to be read in conjunction with the *Prequalification Scheme - Audit and Risk Committee Independent Chairs and Members - Conditions - December 2020* (Scheme Conditions). The guidelines provide agencies and members with answers to frequently asked questions related to the use and application of the Scheme Conditions.

The Scheme aims to:

- improve probity standards and quality assurance by allowing for third party assessment of independent persons available for engagement to public sector Audit and Risk Committee positions; and
- streamline the engagement of suitable persons to public sector Audit and Risk Committee positions by pre-qualifying independent individuals with demonstrated skills and experience in the area.

FREQUENTLY ASKED QUESTIONS

1. *How does the Scheme operate?*

The Scheme creates a framework for the prequalification of independent individuals with relevant experience and qualifications who are available to be engaged to positions of Audit and Risk Committee Independent Chairs and Members, serving General Government Sector agencies and statutory bodies.

Each relevant Accountable Authority or governing board of a statutory body selects and engages the Independent Chair and Members of their respective Audit and Risk Committee from the prequalified Panel to meet TPP20-08's requirements and the needs of their organisation.

NSW Treasury is responsible for TPP20-08, and NSW Procurement has Secretariat and operational responsibility for the Scheme which includes maintaining the list of Panel members. Independent Chairs and Members and the relevant agency must immediately inform NSW Procurement of appoints to or resignations from an Audit and Risk Committee or of any significant change in capabilities, contact details or address, as required by section 12 of the Scheme Conditions.

2. *What are the evaluation criteria for applications?*

Clause 8.1 of the Scheme Conditions outlines the criteria that Member and Chair applications will be evaluated on. A Chair must fulfil the requirements for both Member and Chair even if they only seek engagement as a Chair.

3. *Are any checks required to be undertaken?*

Criminal record and financial status (bankruptcy) checks may need to be undertaken as appropriate, at any time. Also, information submitted with an Application may be subject to investigation, reference checking, searches, interviews, enquiries, and confirmation.

The prequalified Panel member must declare any potential conflict of interest relating to an individual engagement and an offer must not be made or accepted if a conflict of interest becomes apparent. It is the responsibility of the Accountable Authority or governing board of a statutory body and panel members to ensure that any conflicts of interest are declared and managed prior to and throughout any engagement under this Scheme.

4. *How is "independent" defined?*

Guidelines for assessing independence and conflicts of interest are set out in the TPP20-08. Clause 3.1.8 of TPP20-08 outlines a non-exhaustive list of threats to independence as well as relationships that must be avoided. Independent Members must notify the Accountable Authority or governing board of a statutory body immediately if a real or perceived threat to independence arises.

An Independent Chair or Member should not have a recent close association with the agency or its Chief Executive Officer (CEO). A recently (less than 3 years) retired senior executive of an agency or a close associate of the CEO would not be defined as independent.

Similarly, a current or recent external provider of internal audit services to an agency would not be considered independent.

Requirements for the continuous disclosure of conflict of interest are contained in the *Code of Conduct: Audit and Risk Committee Independent Chairs and Members* (as per the Scheme's [site](#)).

5. *Do Independent Chairs and Members have to be sourced from the prequalified panel?*

Yes. From 30 April 2009, all new engagements as Independent Chairs and Members must be made from the prequalified panel for General Government Sector agencies. Non-executive directors of the governing board of a statutory body that are pre-qualified are eligible for appointment as chairs and members of the Audit and Risk Committee. Agencies are also encouraged to engage independent members from the panel to serve on any sub committees established by the Audit and Risk Committee with the approval of the Accountable Authority or governing board of a statutory body.

6. *What happens to a currently serving Independent Chair or Member who does not apply for pre-qualification?*

TPP20-08 mandates the selection of Independent Chairs or Members from the Scheme which provides a pool of individuals who have been subject to an impartial selection and qualification process.

Where an Independent Chair or Member who is not pre-qualified continues to serve on an Audit and Risk Committee, then the Accountable Authority or governing board of a statutory body will need to apply to the Responsible Minister for an exemption to this requirement.

7. *Can prequalified panel members be engaged to any General Government Sector agency's Audit and Risk Committee?*

Once prequalified Chairs and Members meet the independence and conflict of interest criteria set out in TPP20-08, they can be engaged by agencies under the Scheme. It is the responsibility of the Accountable Authority or governing board of a statutory body to ensure that these criteria are applied before any such engagement is made. TPP20-08 also requires the Accountable Authority or governing board of a statutory body to annually attest compliance with its core requirements. Clause 3.1.7 requires that each Independent Member of the Audit and Risk Committee meet the mandated independence and conflict of interest criteria.

8. *Does the Scheme allow for prequalified panel members to be engaged to more than one Audit and Risk Committee?*

Yes, prequalified Independent Chairs or Members may be engaged to up to five NSW Audit and Risk Committees at any one time (each shared Committee overseeing more than one agency counts as one as does each individual Committee within a 'cluster').

Clause 3.1.8 of TPP20-08 includes a Practice Note which suggests appropriate safeguards for the independence of Audit and Risk Committee Members and Chairs, specifically for Principal Department Led Shared Audit and Risk Committees. This includes not appointing an Audit and Risk Committee Member and Chair to more than one Principal Department Led Shared Audit and Risk Committee.

It is the responsibility of both prequalified panel Members and the Accountable Authority or governing board of a statutory body to ensure that this limit is not exceeded, and that NSW Procurement is advised of all engagements. NSW Procurement will record this information in the Audit and Risk Committee Panel database. Template schedules relating to current membership are attached to the example engagement letter per Schedule 1 and Attachments 1-3 of the Scheme Conditions.

9. *Can NSW public servants be engaged as Independent Chairs or Members of an Audit and Risk Committee?*

No. Current employees of all NSW General Government Sector agencies cannot serve as Independent Members or Chairs of an Audit and Risk Committee, including within their own agency. This includes all agencies and employees in the Government service (Public Service Departments, Non-Public Service Divisions and Special Employment Divisions), the Teaching Service, NSW Police and the NSW Health Service. For the purposes of this Scheme it will also include statutory and special appointments other than non-executive directors of the governing board of a statutory body. It is clarified that non-executive directors of the governing board of a statutory body are eligible to be appointed as Independent Chairs and Members of Audit and Risk Committee subject to satisfying the conflict of interest criteria and requirements set out in Sections 3.1.8 of TPP20-08. This is to ensure that independence, real and perceived, is maintained.

Although Independent Chairs and Members are taken to be 'employees' under the Superannuation Guarantee (Administration) Act 1992 (Cth) for the purposes of payment of superannuation guarantee amounts, these Independent Members or Chairs of an Audit and Risk Committee are excluded from this requirement for the purposes of the Scheme and TPP20-08.

Public servants from other jurisdictions may be prequalified as Independent Chairs or Members. However, the rules relating to secondary employment in their organisation will need to be satisfied, including the management of any conflict of interest, and written confirmation will need to be provided by an authorised person in their jurisdiction.

10. *On what terms are prequalified persons engaged?*

The terms of engagement are set out in the Scheme Conditions document and the letter of engagement. The engaging agency and the panel member will need to enter into a separate written agreement for each engagement.

An example letter of engagement is set out as Schedule 1 of the Scheme Conditions. Agencies should not modify the terms of the agreement unless there are exceptional circumstances which warrant modification. Advice can be sought from NSW Treasury.

The Scheme Conditions also include provisions to remove an Independent Chair or Member from an individual Audit and Risk Committee, see section 16 of the Conditions, and also provisions to remove members from the Scheme Panel, see section 17.

Independent Chairs and Members engaged under the Scheme will be remunerated in accordance with section 6 of the Scheme Conditions. These rates are reviewed every two years.

11. Does the NSW Cabinet need to approve the engagement of panel members before they become effective?

No, Cabinet does not need to approve engagements to Audit and Risk Committees as Audit and Risk Committees provide advice to accountable authorities rather than Ministers.

12. What information will be provided to panel members?

Panel members will be able to attend information sessions provided by NSW Treasury. Information sessions may be arranged from time to time or as a result of a significant change to TPP20-08. It is anticipated that each agency also will provide an induction to their committee members.

13. Are Independent Audit and Risk Committee members covered for Professional Indemnity and other insurance?

Each Accountable Authority or governing board of a statutory body is responsible for ensuring that the Audit and Risk Committee has the appropriate mix of skills and expertise to successfully implement its charter and that the agency holds insurance coverage for these activities. Each agency should consider whether its existing insurance arrangements provide sufficient coverage for Audit and Risk Committee members in relation to claims for loss or damage made against them in their capacity as members. Panel members should satisfy themselves that the agency has sufficient insurance coverage relating to their role on the Audit and Risk Committee prior to accepting an engagement and, if necessary, seek independent legal advice as to its efficacy.

14. What are the record-keeping requirements of the Scheme?

Independent Chairs and Members engaged to an Audit and Risk Committee are required to provide the following details to the agency and NSW Procurement prior to the engagement taking effect:

- the name of the panel member;
- the role of the panel member;
- payment and duration for each engagement;
- the nature of the engagement and any subsequent changes to an engagement;
- details of any other engagements to NSW Government Audit and Risk Committees, including any sub committees of Audit and Risk Committees; and
- details of any other significant appointments within and outside of the public sector.

This information will be centrally maintained by NSW Procurement.

15. How is the performance of Audit and Risk Committee panel members monitored and reported on?

Clause 3.2.21 – 3.2.26 of TPP20-08 set out the requirements for the performance assessment of Audit and Risk Committees. It is the responsibility of the Accountable Authority or governing board of a statutory body, in consultation with the Chair of the Audit and Risk Committee, to establish a mechanism to review and report on the performance of Audit and Risk Committees as a whole, and the performance of the Chair and each Member, at least annually. The Accountable Authority or governing board of a statutory body may delegate the performance review function to the Audit and Risk Committee. The review could take the form of a self-assessment with input from key stakeholders.

Detailed information on performance reporting and management can be found in sections 14 and 15 of the Scheme Conditions. Agencies should follow the steps outlined in the Scheme Conditions to ensure that they observe procedural fairness in the course of performance reporting.