

**Affordable Housing Provider Prequalification Scheme**

**Scheme Conditions**

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# 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 in the form prescribed in Schedule 1.

***Assessment Committee*** means the entity appointed by the Department to evaluate and determine the eligibility of Suppliers to be admitted to the Scheme.

## *Department* means the NSW Department of Finance and Services, unless otherwise specified.

***Performance Report*** means a report submitted in accordance with clause 11.

***Supplier*** means a person who has applied for, and been granted admission to, the Scheme by the Assessment Committee.

## *Scheme* means the *(insert the scheme name)* administered by the Department.

# CONFIDENTIALITY

## Information submitted with an Application will be treated as confidential by NSW Government agencies unless otherwise required by law.

## Information submitted with an Application may be subject to investigation, reference checking, searches, interview, enquiries, and confirmation. Applicants and Suppliers are deemed to have authorised any such action.

# THE NSW PROCUREMENT BOARD POLICY FRAMEWORK

## 

## Suppliers must adhere to the *NSW Procurement Board Policy Framework* (*including NSW Government Procurement: Small and Medium Enterprises Policy Framework*) at all times.

## Any breach of the *NSW Procurement Board Policy Framework* may result in the removal from the Scheme .and/or termination of an agency contract.

# APPLICATIONS FOR PREQUALIFICATION

## Applicants must complete an Application for prequalification in full. .

## Applicants are not entitled at law or equity to recover any costs or expenses associated with the submission of an Application.

# PREQUALIFICATION PROCESS

## The Assessment Committee will consider each Application and determine the membership of the Scheme.

## The Scheme will be composed of Suppliers who are determined to be accepted following the assessment of each submitted Application and in accordance with these Scheme Conditions.

## Applications may be made at any time specified in the application form for the Scheme. Applications will be assessed periodically at the discretion of the Assessment Committee.

# EVALUATION CRITERIA

## Applications will be assessed according to the following evaluation criteria:

### Successful inclusion in the Scheme requires registration under the Australian National Regulatory Scheme Affordable Housing. All answers provided should be accurate.

# NOTIFICATION OF OUTCOME

## The Assessment Committee may accept an Application (with or without qualification) or reject the Application and Applicants will be notified in writing by the Assessment Committee.

# SPECIAL REQUIREMENTS

Membership of the Scheme is subject to the following conditions:

## 

## Applicant must declare in the Application to the Scheme, and during the life of the scheme whilst a member of the Scheme, if it is:

1. subject to an ICAC proceeding; or
2. being prosecuted or convicted of any breach of work health & safety legislation, environmental protection legislation, industrial relations legislation, and Competition and Consumer Act, or any other laws that a prosecution or conviction would be relevant and material to the goods or services to be provided under the Scheme.

## The Applicant agrees to cooperate with any financial assessment required by the Assessment Committee.

# CHANGES TO SUPPLIER STATUS

Suppliers who/which are members of the Scheme, must immediately and from time to time inform the Department of any significant change in their financial capacity, capability, ownership and/or corporate status, contact details or address by writing with full details to:

Scheme Manager

Scheme: Affordable Housing Provider Prequalification Scheme

NSW Department of Finance and Services

Level 10, McKell Building

2-24 Rawson Place

SYDNEY NSW 2000

# PERFORMANCE REPORTING BEHAVIOUR

## Supplier performance monitoring and reporting will be conducted in accordance with the following principles on the basis of the performance of Suppliers under contracts made with agencies under the Scheme:

### the mutual objective of contracting parties to achieve continuous performance improvement;

### the utilisation of performance reporting as a tool to facilitate the identification and resolution of project issues under the contract;

### open, proactive and objective performance monitoring and periodic formal reporting by the representatives of both parties to a contract;

### performance being on the agenda at regular formal contract meetings;

### performance issues being promptly addressed by the parties concerned;

### performance issues being discussed openly with the Supplier to ensure that concerns (such as dissatisfaction with performance) do not come as a surprise when subsequently documented in the relevant Performance Report;

### 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

### the assessment of the performance of the Supplier should take account of individual behavior when necessary to highlight performance problems for resolution; and

### 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.

# PERFORMANCE REPORTING PROCESS

## The Agency may undertake preparation of Performance Reports.

## When a Performance Report is prepared, the Agency shall:

### provide a copy of the Performance Report to the Supplier; and

### forward the original to the Scheme Manager of the Department for entry into the Department’s scheme database.

## If the Supplier disagrees with the Performance Report, the Agency and the Supplier must attempt to resolve the disagreement in the first instance. Following an unsuccessful attempt to resolve a disagreement, the Supplier may refer the Performance Report, with written reasons for the disagreement, to the Scheme Manager of the Department.

## The Scheme Manager of the Department may:

### arrange a meeting between Supplier and the Agency to discuss and consider the Performance Report and reasons;

### determine the disagreement in consultation with the Department;

### if necessary, amend the Performance Report;

### notify the Supplier of its decision; and

### where the Performance Report is amended, enter the amended Performance Report information into the Department’s Scheme database.

# PERFORMANCE MANAGEMENT

## The Department will manage the performance of Suppliers by:

### monitoring performance on tendering, financial capability, NSW Procurement Board Policy Framework compliance, contract performance and project outputs and outcomes;

### applying sanctions, such as temporary suspension from the Scheme, where performance is determined to be unsatisfactory;

### revoking a Supplier’s membership of the Scheme, following due consideration of the circumstances, where performance is determined to be unsatisfactory; and

### providing the opportunity for a Supplier to request a review of the decisions referred in paragraphs (b) and (c) above.

# TEMPORARY SUSPENSION

## The Department may suspend a Supplier from the Scheme for up to three (3) months if it considers that the Supplier has:

## not complied with the Scheme Conditions; or

## demonstrated unsatisfactory performance.

## Before a Supplier’s membership on the Scheme is suspended, the Department will advise the Supplier in writing 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.

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

## The Department will regularly review the status of Suppliers who have been suspended under clause 13.1. If the action taken by the Supplier is considered by the Department to be insufficient, the suspension period may be extended and the Supplier will be notified accordingly. The Department may revoke the suspension if it is satisfied that the Supplier has taken appropriate action to address the reasons for the suspension.

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# REMOVAL FROM THE SCHEME

## The Department may terminate a Supplier’s membership of the Scheme if the Department considers that a Supplier has:

1. breached the Scheme Conditions; or
2. failed to meet applicable financial requirements; or
3. been the subject of substantiated reports of unsatisfactory performance for other NSW Government agencies; or
4. been determined by the Assessment Committee as not suitable for future work; or
5. rejected opportunities to tender/quote to such an extent that it is considered unsatisfactory by the Assessment Committee; or
6. experienced an adverse change in capacity or capability; or
7. experienced an adverse change in business status; or
8. failed to promptly and adequately address the reasons for a temporary suspension from the Scheme under clause 13; or
9. been convicted of any breach of its obligation under work health and safety legislation, environmental protection legislation, industrial relations legislation, competition and consumer legislation, and any other laws, which the Assessment Committee finds the conviction of which necessitates removal from the scheme ; or
10. 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, or
11. has acted in breach of the Department’s Business and Ethics Statement.

## Before a Supplier’s membership of the Scheme is removed under clause 14.1, the Departments will advise the Supplier of the matters prompting the proposed action and will give the Supplier the opportunity to provide reasons as to why the removal should not occur.

# REQUEST FOR REVIEW OF THE DECISION

## Should an Applicant and/or Supplier consider that there are substantive grounds for a review of:

## the decision not to admit the Applicant to the Scheme; or

## the decision to downgrade the status of the Supplier under the Scheme; or

## the decision to suspend the Supplier from the Scheme; or

## the decision to remove the Supplier’s membership on the Scheme,

## the Supplier may, within twenty (20) days from the receipt of letter or 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:

Scheme Manager

Contact details: ***(insert)***

## The Department will inform the Supplier of the outcome of the review in writing.

# APPLICANT’S ACKNOWLEDGMENT

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

# DISCLAIMER

## The Assessment Committee reserve the absolute discretion to:

### accept an Application with or without limitations and/or conditions;

### reject an Application;

### suspend a Supplier’s admission to the Scheme; and

### revoke a Supplier’s admission to the Scheme.

## The Assessment Committee or personally its members will not be held liable for any costs or damages incurred by the Supplier in the exercise of such discretion.

# PREQUALIFICATION NO GUARANTEE OF WORK

## The receipt of prequalification by a Supplier does not guarantee:

### continuity of the prequalification during the duration of the Scheme;

### receipt of opportunities to tender; or

### that agency contracts or work of any kind or quantity will be offered.

# ASSIGNMENT

## The Supplier agrees not to assign its membership under the Scheme.

# INSURANCES

## The Applicant must produce satisfactory evidence of insurance if requested, however by being registered under the National Registration scheme this is assumed to be in order.

## The Supplier must maintain the insurances current, and submit evidence of renewal each time the insurance is renewed if requested.

# TERMINATION

## The Scheme can be terminated with 90 days’ notice at the sole discretion of the Department by posting a Scheme Termination Notice on the NSW Government eTendering website.

## The Supplier may, at any time discontinue its participation in the Scheme on 90 days’ written notice to the Department.

## The Supplier must continue to fulfill its contractual obligations under any agreement entered into under the Scheme.

# DISCLOSURE

## The Department and NSW Government Agencies may disclose certain information in connection with the Scheme in accordance with the Government Information (Public Access) Act (NSW) 2009 and the NSW Procurement Board Procurement Policy Framework at [*http://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-board/nsw-procurement-board-policy-framework*](http://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-board/nsw-procurement-board-policy-framework).

# AMMENDMENT TO THE SCHEME

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