Prequalification Scheme: NSW Government Electric Vehicle Fleet Charging Infrastructure – SCM13381

Scheme Conditions

25 November 2022

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# Definitions

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

## **Australian Disability Enterprise (ADE)** is an entity that has a principal purpose to provide employment to persons with a disability.

## **Annual Procurement Plan** means a document published on NSW eTendering through which a government Agency provides a short summary of its procurement intentions for the coming year and information regarding significant procurements it plans to undertake.

## **Applicant** means a person who has applied to be included in the Scheme Procurement List.

## **Application** means online application made via the “Supplier Application Form” on the NSW Procurement website.

## **Approved** **Supplier** means a person who has been included in the Scheme Procurement List.

## **Assessment Committee** means the entity appointed by the Department to evaluate and determine the eligibility of suppliers to be included in the Scheme Procurement List.

## **CAAS Services** means providing “charging-as-a-service” whereby an Agency pays an Approved Supplier on a periodic basis for that Agency to use EVSE owned and operated by the Approved Supplier.

## **Capabilities** means the capability of a supplier:

1. to supply (either directly, or via the engagement of subcontractors for whom that supplier remains responsible) EVSE Goods;
2. to carry out (either directly, or via the engagement of subcontractors for whom that supplier remains responsible) EVSE Works;
3. to supply (either directly, or via the engagement of subcontractors for whom that supplier remains responsible) Maintenance Services; and/or
4. where relevant, as contemplated by section 8.2, to supply (either directly, or via the engagement of subcontractors for whom that supplier remains responsible) CAAS Services,

that comply with the EVSE Specification and in accordance with the Scheme. Capabilities a, b, c and d (where relevant) are together referred to as **Capability A – EVSE Goods, Works and Services** in the Scheme Conditions and Application.

## **Confidential Information** means any information and all other knowledge at any time disclosed (whether in writing or orally) by an Agency to an Approved Supplier under, or in connection with, the Scheme or a Project Agreement, which:

1. is by its nature confidential;
2. is designated, or marked, or stipulated as confidential;
3. the Approved Supplier knows or reasonably should know is confidential, including but not limited to:

* the Project Agreement;
* any material which belongs to the Agency; and
* any material which relates to the affairs of a third party,

but does not include information which:

* must be disclosed to perform an Approved Supplier’s obligations under the Scheme or a Project Agreement;
* is or becomes public knowledge other than by breach of the Scheme or a Project Agreement;
* is in the lawful possession of the Approved Supplier without restriction in relation to disclosure before the date of receipt of the information from the Agency or a third party; or
* is required to be disclosed pursuant to law or any legal process.

## **Contractor Performance Report** **(CPR)** means the report set out in Appendix 5 that is completed by an Agency at the completion of a Project Agreement.

## **Department** means the NSW Department of Treasury, unless otherwise specified.

## **Electric Vehicle Supply Equipment** (**EVSE**) means charging hardware used to supply electricity to an electric vehicle.

## **Evaluation Criteria** means the criteria set out in section 9.

## **EVSE Goods** means EVSE and other hardware used in connection with EVSE.

## **EVSE Services** means services provided in relation to EVSE, including but not limited to:

1. Maintenance Services; and
2. CAAS Services.

## **EVSE Specification** means the specifications contained or referred to in Appendix 1.

## **EVSE Works** means the performance of works and activities (including the supply of materials) necessary for the supply, manufacture, construction, installation and commissioning of EVSE Goods (including, if required, the upgrade of the site electrical backbone) and other works that may be carried out in conjunction with the supply, manufacture, construction, installation and commissioning of EVSE Goods.

## **Enforceable Procurement Provisions** (**EPP Direction**) means the Procurement (Enforceable Procurement Provisions) Direction 2019 under the *Public Works and Procurement Act 1912* (NSW), also referred to as PBD 2019-05: [PBD 2019-05 Enforceable procurement provisions | buy.nsw](https://buy.nsw.gov.au/policy-library/procurement-board-directions/pbd-2019-05-enforceable-procurement-provisions).

## **Maintenance Services** means the maintenance of EVSE and other works associated with the maintenance of EVSE.

## **Modern Slavery** has the same meaning as in the Modern Slavery Laws and includes slavery, servitude, forced labour, human trafficking, debt bondage, organ trafficking, forced marriage and the exploitation of children.

## **Modern Slavery Laws** means, as applicable, the *Modern Slavery Act 2018* (NSW) and the *Modern Slavery Act 2018* (Cth).

## **NSW** means the State of New South Wales.

## **NSW Procurement Policy Framework** means the NSW Procurement Policy Framework that applies to the procurement of goods and services of any kind, including construction and which can be accessed at: <https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework>.

## **NSW Supplier Code of Conduct** means the NSW Supplier Code of Conduct which applies to procurements by the NSW Government and can be accessed at: <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>.

## **Procurement List** has the meaning given to that term in the EPP Direction.

## **Project** means the procurement of goods and services in connection with the Scheme.

## **Project** **Agreement** means an agreement between an Agency and an Approved Supplier in connection with the Scheme.

## **Rates Card** means the rates and prices referred to in section 8.3.

## **Scheme** means the prequalification scheme: NSW Government Electric Vehicle Fleet Charging Infrastructure administered by the Department.

## **Scheme Conditions** means the Scheme conditions contained in this document.

## **Scheme Manager** means the person(s) appointed by the Department from time to time to manage the Scheme.

## **Scheme Procurement List** means the list of the suppliers that have been accepted as Approved Suppliers in accordance the Scheme to be used by Agencies under the Scheme.

## **Selected Subcontract Work** has the meaning given to the term in the Standard Form Agreement.

## **Selected Subcontractor** has the meaning given to the term in the Standard Form Agreement.

## **Small and Medium Enterprise (SME)** means an Australian or New Zealand based enterprise with fewer than 200 full time equivalent (FTE) employees.

## **Social Enterprise** means an entity that is led by an economic, social, cultural, or environmental mission consistent with a public or community benefit and is recognised by an appropriate organisation such as Social Traders.

## **Standard Form Agreement** means the conditions contained in Appendix 4.

# Purpose of the Scheme

## The purpose of the scheme is to enable Agencies to procure:

1. EVSE Works;
2. EVSE Goods; and
3. EVSE Services

## The Scheme provides a framework for suppliers (i.e. Applicants) to apply under the Scheme to be included in the Scheme Procurement List as an Approved Supplier.

## It is anticipated that:

1. the supply of EVSE Goods will involve an Approved Supplier supplying (either directly, or via the engagement of subcontractors for whom the Approved Supplier remains responsible) EVSE and other associated hardware necessary for the use of that equipment;
2. the carrying out of EVSE Works will involve an Approved Supplier (either directly, or via the engagement of subcontractors for whom the Approved Supplier remains responsible) designing and constructing works necessary to enable the construction, installation and commissioning of EVSE Goods and other works carried out in conjunction with the construction, installation and commissioning of EVSE Goods; and
3. the supply of EVSE Services will include an Approved Supplier (either directly, or via the engagement of subcontractors for whom the Approved Supplier remains responsible) providing maintenance services for EVSE, maintenance of other works associated with EVSE, and providing Charging-as-a-Service (CaaS) whereby an Agency pays a Service Provider on a periodic basis to use EVSE operated by the Service Provider.

## The EVSE Works, EVSE Goods and EVSE Services must comply with the EVSE Specification and be in accordance with the Scheme.

## It is intended that Agencies (and others that use the Scheme) will engage Approved Suppliers in accordance with the Scheme to have Approved Suppliers:

1. supply (either directly, or via subcontractors for whom the Approved Supplier remains responsible) EVSE Goods;
2. carry out (either directly, or via subcontractors for whom the Approved Supplier remains responsible) EVSE Works;
3. supply (either directly, or via subcontractors for whom the Approved Supplier remains responsible) EVSE Services; and/or
4. where relevant, as contemplated by section 8.2, supply (either directly, or via subcontractors for whom the Approved Supplier remains responsible) CAAS Services.

# Confidentiality & Disclosure

## The Department and Agencies will treat as confidential information provided by an Applicant or Approved Supplier under, or in connection with, the Scheme, except to the extent the disclosure of such information is required by law or permitted by the Scheme or a Project Agreement.

## Any information provided by an Applicant or Approved Supplier under, or in connection with, the Scheme or a Project Agreement may be subject to investigation, reference checking, searches, interview, enquiries, and confirmation by the Department, Assessment Committee, Scheme Manager or an Agency. Applicants and Approved Suppliers agree to such action.

## Applicants and Approved Suppliers must keep Confidential Information confidential.

## The Department and Agencies may disclose information regarding the Scheme and information provided by Applicants and Approved Suppliers in accordance with the *Government Information (Public Access) Act 2009* (NSW) and the NSW Procurement Policy Framework.

# Policies, Codes and Legislation

## The NSW Procurement Policy Framework

1. Applicants and Approved Suppliers must adhere to the NSW Procurement Policy Framework (including NSW Government Procurement: Small and Medium Enterprises Policy Framework) at all times. Any breach of the NSW Procurement Policy Framework may result in an Application being rejected, the removal of an Approved Supplier from the Scheme Procurement List and/or termination of a Project Agreement.
2. Applicants and Approved Suppliers must adhere to the NSW Supplier Code of Conduct. Any breach of the NSW Supplier Code of Conduct may result in an Application being rejected, the removal of an Approved Supplier from the Scheme Procurement List and/or termination of a Project Agreement.

## Enforceable Procurement Provisions (EPP)

1. The Scheme applies, and may be used by Agencies, whether or not the EPP Direction applies to the procure of goods and services in relation to the Scheme.
2. The EPP Direction applies to the procurement of goods and services by a covered agency where the estimated value of the procurement is or exceeds the applicable threshold set out in the EPP Direction as amended from time to time. The applicable thresholds are:

* $9,584,000 (excluding GST) for the procurement of construction services; and
* $680,000 (excluding GST) for the procurement of goods or any other services.

1. The Scheme Conditions have been prepared in a manner so that covered agencies who use the Scheme are able to comply with their obligations under the EPP Direction by using a prequalified supplier (i.e. an Approved Supplier) for the procurement of services in cases where the estimated value of the procurement is or exceeds the specified threshold.

## The Scheme Procurement List

1. Under Part 6 of the EPP Direction, a covered agency may use a Procurement List established by another government agency. The Scheme Procurement List is established in accordance with the criteria set out in the EPP Direction that apply to Procurement Lists. On that basis, a covered agency can comply with the EPP Direction by using a prequalified supplier (i.e. an Approved Supplier) from the Scheme Procurement List where the estimated value of the procurement is or exceeds the applicable threshold set out in the EPP Direction. An Agency using the Scheme Procurement List may select an Approved Supplier for a particular Project using any assessment or evaluation criteria used by the relevant Agency for procurement purposes.
2. The publication of these rules constitutes an invitation to suppliers to make an Application to be included on the Scheme Procurement List. The following information is accordingly provided:

(a) A description of the goods and services for which the Scheme Procurement List may be used

The services for which the Scheme Procurement List will be used are those specified in the EVSE Specification.

(b) The conditions for participation that suppliers must satisfy for inclusion on the Scheme Procurement List

The conditions for participation that suppliers must satisfy for inclusion on the Scheme Procurement List are those specified in the Evaluation Criteria.

(c) The name and address of the government agency and other information necessary to contact the government agency and to obtain all relevant documents relating to the Scheme Procurement List

For information relating to the Scheme Procurement List, contact:

Scheme Manager

Prequalification Scheme: SCM13381

NSW Treasury

52 Martin Place, SYDNEY NSW 2000

OR

[NSWGFleetElectrification@treasury.nsw.gov.au](mailto:NSWGFleetElectrification@treasury.nsw.gov.au) (sent with full email signature)

(d) The methods that the Department will use to verify that an Applicant satisfies the conditions for participation in the Scheme Procurement List

The methods used to verify that an Applicant satisfies the conditions for inclusion in the Scheme Procurement List are those specified in the Evaluation Criteria.

(e) The period that the Scheme Procurement List will operate (unless the period is indefinite) and the means for its renewal or termination

The Scheme Procurement List is open for a 3-year period and may be renewed. The Scheme Procurement List may be updated from time to time as necessary.

(f) If the period of the Scheme Procurement List is indefinite, an indication of the method by which notice will be given of the termination of use of the Scheme Procurement List

The Scheme Procurement List will be terminated when the Scheme is terminated at the sole discretion of the Department. Approved Suppliers will be given a notice of termination of the Scheme and the Scheme Procurement List.

(g) An indication that the Scheme Procurement List may be used for a procurement to which the EPP Direction applies

The Scheme Procurement List may be used by a covered agency for a procurement to which the EPP Direction applies.

(h) The deadline for an Applicant to make an Application to be included on the Scheme Procurement List, if applicable

There is no deadline for making an Applicant to make an Application to be included on the Scheme Procurement List.

(i) A statement that only Approved Suppliers, or a limited number of Approved Suppliers, included on the Scheme Procurement List may receive invitations from an Agency to make submissions relating to procurements for which the list was established

Only a limited number of Approved Suppliers included on the Scheme Procurement List may receive invitations from an Agency to make submissions relating to procurements for which the Scheme Procurement List was established.

(j) If the statement referred to in paragraph (i) states that only a limited number of Approved Suppliers included on the Scheme Procurement List may receive invitations from a government agency to make submissions relating to procurements, a statement of:

(i) The justification for that limitation

Capability A – EVSE Goods, Works and Services has several suppliers who meet the conditions for participation, and it is inefficient to invite all eligible Approved Suppliers to make a submission.

(ii) The criteria for selecting those limited number of Approved Suppliers

Approved Suppliers which have demonstrated capability to meet any assessment or evaluation criteria used by the relevant Agency for procurement purposes.

Approved Suppliers which have registered an interest with an Agency for a particular procurement listed in the Agency’s annual procurement plan.

## Small and Medium Enterprise (SME) and Regional Procurement Policy

NSW Government aims to increase SME participation and provide greater opportunities for SMEs and local businesses in regional NSW through the [Small and Medium Enterprise and Regional Procurement Policy](https://buy.nsw.gov.au/__data/assets/pdf_file/0010/990478/0621-01_Procurement-Policy-Reports_SME-and-Regional-Procurement-Policy_v5a.pdf).

## Aboriginal Procurement Policy

This scheme is aligned to the principles of NSW Government’s Growing NSW’s First Economy framework. It has been developed to create opportunities for Aboriginal owned businesses and encourage Aboriginal employment and training through the supply chain of NSW Government contracts. The Application will ask Applicants if they are an Aboriginal business, as defined by the Aboriginal Procurement Policy.

## NSW Supplier Code of Conduct

An Agency must ensure their procurement processes require suppliers to comply with relevant standards of behaviour and must report findings of dishonest, unfair, unconscionable, corrupt or illegal conduct in accordance with the [NSW Government Supplier Code of Conduct](https://buy.nsw.gov.au/__data/assets/pdf_file/0017/600371/nsw_supplier_code_of_conduct_v1.1.pdf).

Approved Suppliers and their supply chains must commit to the highest ethical standards when conducting business with NSW Government and comply with the NSW government Supplier Code of Conduct requirements.

## Modern Slavery Laws

The [*Modern Slavery Act 2018*](https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2018-030) (NSW) came into effect on 1 January 2022. The *Modern Slavery Act 2018* (NSW) recognises that modern slavery is prevalent around the world and in NSW and sets out steps to ensure NSW is not contributing to these crimes.

Approved Suppliers are expected to comply with the Modern Slavery obligations as set out in the Standard Form Agreement. Refer to the following link for more information about Modern Slavery and Procurement: <https://buy.nsw.gov.au/resources/modern-slavery-and-procurement>.

## Australian Disability Enterprise (ADE) and Social Enterprise

Agencies [are encouraged to buy from ADE organisations](https://buy.nsw.gov.au/buyer-guidance/source/select-suppliers/australian-disability-enterprises) or Social Enterprises where possible.

# Scheme usage

## The following organisations are entitled to use the Scheme and the Scheme Procurement List:

1. Agencies and NSW state-owned corporations;
2. local or federal government entities; and
3. eligible non-NSW Government buyers (click here for an updated list of all non-agency eligible buyers https://buy.nsw.gov.au/buyer-guidance/get-started/non-agency-buyers).

## The Scheme Procurement List is open for a 3-year period and may be renewed.

## The Scheme Procurement List may be updated from time to time as necessary.

## The Standard Form Agreement is intended for use on Projects of a value up to $2 million.

# Purpose of approved prequalification providers

## The purpose of an approved prequalification provider scheme is to engage with a wider range of suppliers and achieve more competitive pricing.

## The benefits of an open prequalification scheme are:

1. to have several Approved Suppliers that meet the requirements of the Department and Agencies to supply and carry out (or procure the supply and carrying out of) EVSE Goods, EVSE Works and EVSE Services;
2. to have a simple process to add new Approved Suppliers;
3. to easily accommodate emerging technologies and consequent change of offerings;
4. to provide a simplified process to the Agencies to access suppliers that are prequalified to supply and carry out (or procure the supply and carrying out of) EVSE Goods, EVSE Works and EVSE Services; and
5. ensure value for money by including maximum rates for EVSE Goods, EVSE Works and EVSE Services.

# Applications for prequalification

## The Scheme Procurement List will be composed of Applicants which are determined by the Assessment Committee to be accepted following an assessment of each submitted Application in accordance with the Scheme Conditions.

## The process to apply to be included on in the Scheme Procurement List is as follows:

1. an Applicant must submit an Application in accordance with the Scheme Conditions;
2. the Assessment Committee will assess each duly submitted Application;
3. in assessing an Application, the Assessment Committee may investigate an Application and/or carry out a financial assessment of the Applicant;
4. the Assessment Committee will either reject an Application or a accept an Application (with or without qualifications and/or conditions); and
5. an Applicant that has had their Application accepted by the Assessment Committee will be included in the Scheme Procurement List and be an Approved Supplier.

## Applicants must submit a completed Application in accordance with the Scheme Conditions to be considered for inclusion in the Scheme Procurement List.

## All Applications must be submitted online via the “Supplier Application Form”

## Applicants must have a current Australian Business Number (ABN) and/or an Australian Company Number (ACN) and be registered for the Goods and Services Tax (GST).

## Applications will be determined without discrimination due to degree of foreign affiliation or ownership, location, or the origin of the services, except where the provision of services concerned would be a procurement that is specified in Schedule 2 of the EPP Direction (exempt procurements) or would be part of a procurement that is a measure or preference specified in Schedule 3 of the EPP Direction (exempt measures and preferences).

## Only those Applications which fully satisfy all requirements set out in these Scheme Conditions and the online Supplier Application Form will be considered by the Assessment Committee.

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

## An Approved Supplier that has been in the Scheme Procurement for certain Capabilities may apply at any time to be included in the Scheme Procurement List for additional Capabilities (the Approved Supplier will be an Applicant for the purposes of that application).

## Applicants must comply with the Scheme Conditions.

## Trust arrangements: Trustees (e.g. Trustee for the Smith Family Trust) are eligible to apply if, under the terms of the trust deed, they have power to enter into a contract on behalf of the trust. Trusts (e.g. Smith Family Trust) are not eligible for prequalification, as they cannot enter into a contract for services with an agency. Both ABN of the trust and ACN of the Trustee are required.

# Application content

## All Applications must be submitted online via the “Supplier Application Form”.

Enquiries are to be directed to [NSWBuy@service.nsw.gov.au](mailto:NSWBuy@service.nsw.gov.au)

## To be eligible for prequalification under the Scheme, Applicants must nominate and seek prequalification for Capability A – EVSE Goods, Works and Services which includes each of the following:

1. to supply (either directly, or via the engagement of subcontractors for whom the Applicant will remain responsible) EVSE Goods;
2. to carry out (either directly, or via the engagement of subcontractors for whom the Applicant will remain responsible) EVSE Works;
3. to supply (either directly, or via the engagement of subcontractors for whom the Applicant will remain responsible) Maintenance Services; and
4. in addition, Applicants have the option (if they so choose) to nominate and seek prequalification to supply (either directly, or via the engagement of subcontractors for whom the Applicant will remain responsible) CAAS Services.

## Applicants must provide Rates Card (maximum rates and prices) for goods and services delivered under Capability A – EVSE Goods, Works and Services.

1. Benchmark rates and prices have been provided by the Department as a reference point for Applicants to provide rates and prices for the goods and services they are offering under the Scheme.
2. Applicants must set out in the form provided the maximum rates and prices for the goods and services it offers under the Scheme (if the Application is approved, the rates provided in the Application will remain firm for an initial 3-year period from the date of the approval but may be adjusted in accordance with the Scheme Conditions).
3. Applicants must provide rates in the format requested in its Application.
4. Applicants must provide maximum rates exclusive of GST.
5. Agencies will have access to these rates and prices for the purposes of evaluating tenders or quotes from relevant Approved Suppliers.

# Evaluation Criteria & Assessment of Applications

## Applicants must demonstrate compliance with the Evaluation Criteria in their Application.

## The Evaluation Criteria are the minimum conditions that an Applicant must demonstrate compliance with, to be included in the Scheme Procurement List. The Evaluation Criteria have been prepared to satisfy the requirements of clause 16 of the EPP Direction. For the avoidance of doubt, the Evaluation Criteria apply whether or not the EPP Direction applies to the procurement of goods and services by an Agency under this Scheme.

## The Evaluation Criteria and method of assessment are:

|  |  |
| --- | --- |
| **Application Evaluation Criteria** | **Method of assessment** |
| Company & Capability details | * Whether the Applicant has provided a complete response to the information requested in the Company and Capability template. * Whether the company has the capability to deliver Capability A – EVSE Goods, Works and Services, either directly through its own internal Capability or via the engagement of any associated entities, sub-contractors and suppliers for whom the applicant remains responsible for under any Project Agreement that is formed. * Whether the company’s key personnel, hold relevant qualifications/licenses and experience relating to delivery of Capability A – EVSE Goods, Works and Services. |
| Compliance to specifications | * Whether the Applicant has confirmed “Yes” that they comply with the EVSE Specification. |
| Company experience | * Whether the Applicant has provided a complete response to the information requested in the Company Experience template. * Whether the response to the information requested demonstrates that the company has relevant previous experience to deliver the Capability A – Goods, Works, Services. |
| Referee Report | * Whether the two (2) referee report reports requested are complete and address all the requested information. * Whether the client referee reports are for projects completed over the last three (3) years. * Whether the referee report is signed by the client referee for it be considered. * Whether the referee reports highlight and support (at minimum) an acceptable level of performance across all key performance areas. * Whether the reports are for works/services/projects completed by the company delivering services under capability A over the last three (3) years. |
| Rates card | * Whether the information in the company Rates card is complete and in requested format. Including whether the maximum rates have been provided exclusive of GST. |
| Insurances | * Whether the Applicant has confirmed “Yes” to in agreeing to providing evidence that it has, or is able to procure, all insurances which they are required to maintain and effect under the Scheme or which it may be required to maintain and effect under a Project Agreement. |
| Quality Assurance | * Whether the Applicant demonstrates an appropriate level of Quality Assurance controls, by providing evidence of one (1) of the following:  1. accreditation from a recognised body; 2. example of site-specific quality inspection and test plan 3. Completed Certificate Compliance Electrical Work (CCEW) and a Commissioning test reports. |
| Environmental Management | * Whether the applicant demonstrates an appropriate level of Environmental Management controls by providing evidence of one (1) of the following:  1. site-specific Environmental Management Plan 2. Completed site specific checklist/procedure to address environmental management. or 3. Provided details of their approach, including any checklists or procedures they will have in place to control environmental management requirement. |
| Other Licences and Certifications | * Whether the applicant has confirmed “Yes” ensuring that all licenses and certifications required by NSW Fair Trading and NSW laws will be held by them or any nominated sub-contractors for whom they remain responsible under any Project Agreement. |
| Workplace Health and Safety (WHS) Statutory Obligations | * Whether the applicant demonstrates an appropriate level of Workplace Health and Safety (WHS) controls, by providing evidence of one (1) of the following:  1. Evidence of any WHS Management System certification 2. Example of a completed safe work method statement  * Whether the applicant has disclosed any prosecutions or fine(s) for a breach of any Australian WHS and/or environmental legislation during the past two (2) years. |
| Supplier Code of Conduct | * Whether the applicant has confirmed that they will comply with the NSW Government Supplier Code of Conduct |
| NSW Procurement Policy Framework | * Whether the applicant has confirmed that they will comply with the NSW Procurement Policy Framework |
| Scheme Conditions & Requirements | * Whether the applicant has confirmed that they agree to the scheme conditions, and the Standard Form Agreement |
| Applicant Declaration | * Whether the applicant authorised representative has disclosed that they are financially solvent, not subject to any legal proceedings or ICAC inquiry/ies. |

## Assessment of Applications

1. The Assessment Committee will (at its discretion) periodically assess Applications.
2. The Assessment Committee will assess each Application (including the extent to which an Applicant has satisfied each of the Evaluation Criteria) and determine whether an Applicant will be included in the Scheme Procurement List.
3. The Assessment Committee may investigate an Application. Applicants must cooperate with any investigation carried out by the Assessment Committee.
4. The Assessment Committee may carry out a financial assessment of the Applicant. Applicants must cooperate with any financial assessment carried out by the Assessment Committee.
5. The Assessment Committee may either:
   * + Accept an Application; or
     + Reject the Application.
6. If an Application is accepted by the Assessment Committee, the Applicant will be included in the Scheme Procurement List for the Capability applied for by the Applicant and will be an Approved Supplier for the purposes of the Scheme. If an Application is rejected by the Assessment Committee, the Applicant will not be included in the Scheme Procurement List for the Capability applied for by the Applicant.
7. The Assessment Committee may set qualifications and/or conditions for an Applicant to be included in the Scheme Procurement List. An Approved Supplier must comply with any qualifications and/or conditions set as part of being included in the Scheme Procurement List.
8. Assessment outcomes will be recorded in the NSW Procurement eTendering system.
9. Applicants will be notified of the outcome of their Application via an email or a system notification sent to the contact details provided by the Applicant in its Application.

# Approved Supplier Obligations

## Approved Suppliers must comply with the Scheme Conditions.

## Inclusion in the Scheme Procurement List is subject to the following conditions:

1. Approved Suppliers may be required to meet with the Department from time to time at no charge, to discuss the Scheme and Project Agreements.
2. Approved Suppliers must keep their profile updated on the NSW Procurement eTendering system and update their profile as soon as possible. Failure by an Approved Supplier to keep its profile updated on the NSW Procurement eTendering system may result in suspension from the Scheme Procurement List.
3. Approved Suppliers must immediately inform the Department of any significant change to their financial capacity, capability, ownership and/or corporate status, contact details or address by writing with full details to:

Scheme Manager  
Scheme: SCM13381

NSW Treasury  
Martin Place  
SYDNEY NSW 2000

AND

[NSWGFleetElectrification@treasury.nsw.gov.au](mailto:NSWGFleetElectrification@treasury.nsw.gov.au) (sent with full email signature)

1. The terms and conditions for each Project will be the Project Agreement and Approved Suppliers must not to seek any amendment to the Standard Form Agreement.
2. The details of scope of work, fees and other requirements for a Project will be set out in each Project Agreement between an Agency and Approved Supplier.

## Approved Suppliers must ensure that, to the extent required by a Project Agreement, they:

1. supply (either directly, or via the engagement of subcontractors for whom the Approved Supplier remains responsible) EVSE Goods;
2. carry out (either directly, or via the engagement of subcontractors for whom the Approved Supplier remains responsible) EVSE Works;
3. supply (either directly, or via the engagement of subcontractors for whom the Approved Supplier remains responsible) Maintenance Services; and/or
4. where relevant, as contemplated by section 8.2, supply (either directly, or via the engagement of subcontractors for whom the Approved Supplier remains responsible) CAAS Services,

that comply with the EVSE Specification and in accordance with the Scheme.

## In undertaking work in connection with the Scheme, Approved Suppliers must:

1. keep and maintain proper accounts and records (including information stored by computer or other devices) for a period of seven (7) years following the end of a Project;
2. effect and maintain all insurances which they are required to effect and maintain by law or under a Project Agreement;
3. ensure the confidentiality of documents and information provided by or on behalf of the Agency;
4. ensure the return of all confidential information, documents and copies in hard and electronic format upon expiry or termination of the project;
5. if the Approved Supplier is a small business (being an Australian or New Zealand based firm that has an annual turnover of under $2 million in the latest financial year), inform the relevant Agency of its status.

## The Approved Suppliers acknowledge and agree that:

1. An Agency may require an Approved Supplier to engage a Selected Subcontractor to perform Selected Subcontract Work under a Project Agreement. The Selected Subcontractors may be another Approved Supplier or any other contractor.
2. If an Approved Supplier is required to engage a Selected Subcontractor, the Approved Supplier is permitted to depart from the rates in its Rates Card in relation to the Selected Subcontract Work but the Approved Supplier must use its best endeavours to engage the Selected Subcontractor on rates the same as, or similar to, the rates in its Rates Card.
3. An Agency may carry out work, or have work carried out on its behalf by another person (including another Approved Supplier), at the same time that an Approved Supplier carries out work under a Project Agreement.
4. The rates and prices in a Rates Card is the maximum amount the Approved Supplier may charge for the goods and services it provides under the Scheme. An Approved Supplier may submit lower rates and prices than the rates and prices in its Rates Card when tendering for a Project with an Agency.
5. An Approved Supplier may, once every quarter following acceptance of its Application, submit an application to the Department to change the rates and prices in its Rates Card. The rates and prices in a Rates Card will only be updated if the application to update the rates and prices is accepted by the Department. The rates and prices in a Rates Card will otherwise remain firm for an initial 3-year period from when the Approved Supplier’s Application was approved or the Approved Supplier’s rates and prices were last updated.
6. The Department may, from time to time, undertake benchmarking of the rates and prices in the Rates Cards of Approved Suppliers and may request revisions and adjustments to those rates and prices where necessary based on the outcome of the benchmarking.
7. Approved Suppliers must provide quotes to Agencies for work if requested and to ensure any quotes provided are exclusive of GST. To the extent applicable, or unless otherwise permitted by an Agency, an Approved Supplier’s quote for work under this Scheme must be based on the rates in the Rates Card or on lower rates and prices.
8. The amount payable by an Agency to an Approved Supplier under a Project Agreement is to be negotiated and agreed between the Agency and the Approved Supplier.

## Approved Suppliers must immediately notify the Department if they are:

1. subject to an Independent Commission Against Corruption proceedings; or
2. being prosecuted or convicted of any breach of work health and 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.

## Approved Suppliers must cooperate with any financial assessment or investigation required by the Department or the Assessment Committee.

## An Approved Supplier must inform the Department and any Agency that has entered into a Project Agreement with in connection with the Scheme of any change of its name or ABN.

# Approved Supplier reporting obligations

## An Approved Supplier must provide the Department upon request, evidence (to the Department’s reasonable satisfaction) that:

1. it has, or is able to procure, all insurances which it is required to maintain and effect under this Scheme or it may be required to maintain and effect under a Project Agreement; and
2. it has procured and is maintaining all insurances it is required to procure and maintain under a Project Agreement.

## At the completion of each Project, Approved Suppliers that have been engaged for one or more Projects must submit a report on the Projects to the Department. The report must be provided using the template in Appendix 2 and sent via email to [nswgfleetelectrification@treasury.nsw.gov.au](mailto:nswgfleetelectrification@treasury.nsw.gov.au) within 10 business days of completion of the Project.

## The Department may share with Agencies any information or documents provided by an Approved Supplier under, or in connection with, the Scheme or any Project.

## Approved Suppliers must provide the Department with any other documents or information relating to its participation in the Scheme or a Project Agreement or any other documents or information reasonably required by the Department.

# Agency obligations

## Before engaging an Approved Supplier for a Project, an Agency must:

1. consider the scope of the work required for the Project;
2. determine the level of risk for the Project;
3. determine a proper estimate of the costs for the works ; and
4. determine the insurance types and levels of coverage which are required based on the nature of the works to be carried out and the risks for the Project.
5. Receive quotations or tender submissions from suppliers.

## Agencies must undertake appropriate due diligence, value for money assessment and comply with the Agency’s procurement policies in selecting an Approved Supplier and ensure that the Approved Supplier has the necessary levels of capability and experience for the Project.

## Agencies are required to complete Contractor Performance Reports (CPR’s) in the form of Appendix 5 and ensure they are returned to the Scheme Manager via Email: [NSWGFleetElectrification@treasury.nsw.gov.au](mailto:NSWGFleetElectrification@treasury.nsw.gov.au) at the completion of each Project or where contractor is not performing in accordance with the agreed Project Agreement terms and conditions.

# Performance management

## For each Project, it is the responsibility of each relevant Agency to monitor and ensure compliance with the Scheme by the Agency and the Approved Supplier.

## For each Project, the Agency and the Approved Supplier will be responsible for the co-ordination and management between the parties and the performance of the parties’ rights and obligations under the relevant Project Agreement.

## An Agency may require an Approved Supplier which it has engaged under a Project Agreement to attend regular performance review meetings to review the performance of the Approved Supplier’s obligations under the Project Agreement, including but not limited to:

1. the performance of the Approved Supplier under the Project Agreement;
2. the occurrence of any defects in the goods or materials supplied, or works carried out, under the Project Agreement and the actions the Approved Supplier has undertaken or will undertake to resolve the defects; and
3. actions that can be taken to improve its performance.

## If an Approved Supplier’s performance under a Project Agreement is unsatisfactory (including, but not limited to, where there are defects in the goods or materials supplied, or works carried out, under the Project Agreement), the Agency must document the unsatisfactory performance and provide the Department details of the unsatisfactory importance.

## If an Approved Supplier disagrees with the decisions taken by an Agency under a Project Agreement, the Agency and the Supplier must attempt to resolve the disagreement in the first instance. Without limiting or otherwise affecting the rights and obligations of the Agency and the Supplier under the Project Agreement or otherwise at law, if the Agency and Supplier are unable to resolve the disagreement, the Supplier may request the Department to help resolve the disagreement by submitting a request with details of the disagreement to:

Scheme Manager  
Scheme: SCM13381  
NSW Treasury,  
52 Martin Place  
SYDNEY NSW 2000

AND

[NSWGFleetElectrification@treasury.nsw.gov.au](mailto:NSWGFleetElectrification@treasury.nsw.gov.au) (sent with full email signature).

## If the Scheme Manager receives a request under section 13.5, the Scheme Manager may:

1. for any reason, decline to assist with resolving the disagreement;
2. arrange a meeting between the Approved Supplier and the Agency to discuss the matter;
3. assist with resolving the disagreement in consultation with the Department; and
4. recommend a solution to the Agency and the Approved Supplier.

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

1. monitoring performance on tendering, financial capability*,* compliance with the NSW Procurement Policy Framework, performance under Project Agreements and Project outputs and outcomes, including but not limited to Contractor Performance Reports (CPR’s) submit by an agency in respect to a suppliers performance;
2. applying sanctions where performance is determined to be unsatisfactory, such as temporary suspension from the Scheme Procurement List;
3. removing an Approved Supplier from the Scheme Procurement List, following due consideration of the circumstances, where performance is determined to be unsatisfactory; and
4. providing the opportunity for an Approved Supplier to request a review of the decisions referred in paragraphs (b) and (c) above.

# Temporary suspension from the Scheme Procurement List

## The Department may suspend an Approved Supplier from the Scheme Procurement List for up to 3 months if the Department considers that the Approved Supplier has:

1. not complied with the Scheme Conditions;
2. demonstrated unsatisfactory performance under the Scheme; or
3. demonstrated unsatisfactory performance in relation to a Project.

## Before an Approved Supplier is suspended from the Scheme Procurement List, the Department will advise the Approved Supplier in writing of the matters prompting the proposed suspension and will give the supplier the opportunity to provide reasons as to why it should not be suspended.

## If the Department elects to suspend an Approved Supplier from the Scheme Procurement List, the Department will advise the Approved Supplier of its decisions, the reasons for the suspension and what actions the Approved Supplier is required to take to have the suspension removed. When the Approved Supplier has taken the actions required, the Approved Supplier must inform the Department it has taken those actions and provide the Department with evidence of those actions and any other information reasonably required by the Department.

## The Department will regularly review the status of Approved Suppliers that have been suspended under section 14.1. If the Department considers that the Approved Supplier has not taken the required actions or the actions taken by the Approved Supplier are insufficient, the Department may extend the suspension period and will inform the Approved Supplier of the extension of the suspension. The Department may revoke a suspension at any time if it is satisfied that an Approved Supplier has taken appropriate action to address the reasons for the suspension.

# Removal from the Scheme Procurement List

## The Department may remove an Approved Supplier from the Scheme Procurement List if the Department considers that the Approved Supplier has:

1. breached the Scheme Conditions;
2. failed to meet the financial requirements required by the Scheme Conditions;
3. been the subject of substantiated reports of unsatisfactory performance by other Agencies;
4. been determined by the Assessment Committee as not suitable for future work;
5. rejected opportunities to tender/quote to such an extent that it is considered unsatisfactory by the Assessment Committee;
6. experienced an adverse change in capacity or Capability;
7. experienced an adverse change in business status;
8. failed to address the reasons promptly and adequately for a temporary suspension from the Scheme under section 14;
9. breached its obligation under work health and safety legislation, environmental protection legislation, industrial relations legislation, competition and consumer legislation, or any other laws, which the Assessment Committee finds necessitates removal from the Scheme Procurement List;
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. provided false and/or misleading information in making an Application under the Scheme.

## Before an Approved Supplier is removed from the Scheme Procurement List, the Department will advise the Approved Supplier in writing of the matters prompting the proposed removal and will give the Approved Supplier the opportunity to provide reasons as to why it should not be removed.

## The Department will notify the Approved Supplier of its decision to either:

1. remove the Approved Supplier from the Scheme Procurement List; or
2. allow the Approved Supplier to remain in the Scheme Procurement List and the actions the Approved Supplier must take to remain in the Scheme Procurement List or conditions the Supplier must comply with while remaining in the Scheme Procurement List.

# Request for review of a decision under the Scheme

## If an Applicant or an Approved Supplier (as applicable) considers that there are substantive grounds for a review of a decision under the Scheme to:

1. admit the Applicant to the Scheme Procurement List; or
2. downgrade the status of the Approved Supplier under the Scheme; or
3. suspend the Approved Supplier from the Scheme Procurement List; or
4. remove the Approved Supplier from the Scheme Procurement List,

within 20 days of receipt in writing of the original decision, the Applicant or Approved Supplier (as applicable) may request a review of the decision by submitting a request for the decision to be reviewed (including full details of the reasons why the decision should be changed) to:

Scheme Manager  
Scheme: SCM13381  
NSW Treasury  
52 Martin Place  
SYDNEY NSW 2000

AND

[NSWGFleetElectrification@treasury.nsw.gov.au](mailto:NSWGFleetElectrification@treasury.nsw.gov.au) (sent with full email signature).

## If the Department receives a request for a review of a decision by an Applicant or Approved Supplier under clause 16.1, the Department will conduct a review of the decision. The Department will inform the Approved Supplier of the outcome of the review in writing.

## In accordance with section 176A of the *Public Works and Procurement Act 1912* (NSW), an Applicant or an Approved Supplier may make a written complaint to the Secretary of Treasury if it alleges the assessment of their Application contravenes the EPP Direction (where applicable).

# Disclaimer

## The Assessment Committee reserves the absolute discretion to:

1. accept an Application (with or without qualifications);
2. reject an Application;
3. suspend an Approved Supplier from the Scheme Procurement List; and
4. remove an Approved Supplier from the Scheme Procurement List.

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

# Prequalification no guarantee of work or work outside of the Scheme

## The inclusion of an Approved Supplier in the Scheme Procurement List does not guarantee:

1. the continued inclusion in the Scheme Procurement List for the duration of the Scheme;
2. receipt of opportunities to tender; or
3. that Project Agreements or work of any kind or quantity will be offered.

## Approved Suppliers acknowledge and agree that their inclusion in the Scheme Procurement List does not entitle the Approved Supplier to be prequalified to any other prequalification schemes administered by the Department or any Agency.

# Assignment or Novation

## An Approved Suppliers must not assign its rights under the Scheme or novate its rights and obligations under the Scheme without the prior written approval of the Department.

## The Department may at any time novate its rights and/or obligations under the Scheme, or assign all or any part of its rights and/or obligations under the Scheme to any Agency or any other body created by or under legislation of NSW for the purpose of administering the functions or discharging the role of the Department. The Department does not need to obtain the consent of Approved Suppliers to novate or assign its rights or obligations under the Scheme.

# Amendments to the Scheme

## The Department will monitor the Scheme and the Scheme Procurement List to assess whether the objectives and intent of the Scheme are being met.

## The Department may, at its sole discretion, modify the Scheme at any time.

# Termination of the Scheme

## The Department may, at its sole discretion, terminate the Scheme with 90 days’ notice by posting a scheme termination notice on the NSW Government eTendering website.

## The Scheme Procurement List will be terminated when the Scheme is terminated. The Department will give Approved Suppliers a notice of termination upon termination of the Scheme and the Scheme Procurement List.

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

## Notwithstanding the termination of the Scheme or an Approved Supplier discontinuing its participation in the Scheme Procurement List, an Approved Supplier must continue to fulfil its contractual obligations under any Project Agreement and continue to comply with the Scheme Conditions to the extent applicable to any Project or any Project Agreement.

# Appendix 1: EVSE Specification

Refer to the Resources section on [NSW Government Electric Vehicle Fleet Charging Infrastructure Prequalification Scheme page](https://info.buy.nsw.gov.au/schemes/ev-charging-infrastructure-scheme) on buy.nsw

# Appendix 2: Supplier Reporting Template

Refer to the Resources section on [NSW Government Electric Vehicle Fleet Charging Infrastructure Prequalification Scheme page](https://info.buy.nsw.gov.au/schemes/ev-charging-infrastructure-scheme) on buy.nsw

# Appendix 3: Supplier Application Form

Supplier Application Form is available via NSW Government [eTendering](https://www.tenders.nsw.gov.au/?event=public.scheme.show&RFTUUID=2614F49F-E156-DC6E-0F8065E0CBBD3CEC)

# Appendix 4: Standard Form Agreement

Refer to the Resources section on [NSW Government Electric Vehicle Fleet Charging Infrastructure Prequalification Scheme page](https://info.buy.nsw.gov.au/schemes/ev-charging-infrastructure-scheme) on buy.nsw

# Appendix 5: Contractor Performance Report

Refer to the Resources section on [NSW Government Electric Vehicle Fleet Charging Infrastructure Prequalification Scheme page](https://info.buy.nsw.gov.au/schemes/ev-charging-infrastructure-scheme) on buy.nsw

# Version control

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| --- | --- | --- |
| Version | Date | Details of update |
| 1.0 | 25/11/2022 | Initial version |
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