

Glossary

In the Commonwealth Contracting Suite (CCS):

“Additional Contract Terms” means the terms and conditions set out in the section of the Approach to Market, RFQ or the Contract as relevant with the heading ‘Additional Contract Terms’.

“Additional DoSO Terms” means the terms and conditions set out in the section of the DoSO with the heading ‘Additional DoSO Terms’.

“Approach to Market” or **“ATM”** means the notice inviting Potential Suppliers to participate in the relevant procurement.

“Business Days” means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place concerned, as defined by the *Corporations Act 2001* (Cth), and also excludes the period between Christmas Day and New Year’s Day.

“Closing Time” means the closing time and date as specified in the Approach to Market.

“Commonwealth Contracting Suite” or **“CCS”** means the suite of proprietary documents developed for Commonwealth procurements.

“Commonwealth Procurement Rules” means the legislative instrument issued by the Finance Minister under section 105B of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which establishes the framework under which entities govern and undertake their own procurement.

“Confidential Information” means any information that any Party does not wish to be shared outside those involved in the Contract or Standing Offer Arrangement. It can include anything that has been acquired, developed or made available to any of the Parties in the course of the relationship between the Parties. It includes, but is not limited to, information:

- a) specifically identified as confidential in the Contract or DoSO
- b) where disclosure would cause unreasonable detriment to the owner of the information or another party, or
- c) where the information was provided under an understanding that it would remain confidential.

“Conflicts of Interest” means any real or apparent situation where the personal interests of the Supplier, its officers, employees, agents or Subcontractors could improperly influence the Supplier’s performance of the Contract or DoSO as relevant.

“Contract” means the documents (specified in the Commonwealth Contract Terms or the Commonwealth Purchase Order Terms as relevant) as executed or amended from time to time by agreement in writing between the Supplier and the Customer.

“Contract Details Schedule” means the section in a Contract issued under the DoSO with the heading ‘Contract Details Schedule’.

“Contract Manager” means the ‘Contract Manager’ for the Customer or Supplier representative (as relevant) specified in the Contract.

“Contract Price” means the maximum contract price specified in the Contract, including any GST component payable, but does not include any simple interest payable on late payments.

“Correctly Rendered Invoice” means an invoice that:

- a) is correctly addressed and includes any purchase order number or other Customer reference advised by the Customer’s Contract Manager and the name and specified contact details of the Customer’s Contract Manager
- b) relates only to the Goods and/or Services that have been accepted by the Customer in accordance with the Contract or a payment or milestone schedule identified in the Contract
- c) is correctly calculated and charged in accordance with the Contract
- d) is for an amount which, together with previously Correctly Rendered Invoices, does not exceed the Contract Price, and
- e) is a valid tax invoice in accordance with the GST Act.

“Customer” means the party specified in the Contract as the Customer.

“Deed of Standing Offer” or **“DoSO”** means the documents (specified in the Commonwealth DoSO Terms) as executed or amended by agreement in writing between the Lead Customer and the Supplier.

“Delivery and Acceptance” means the process by which Goods and/or Services are delivered to the Customer and accepted by the Customer as meeting the terms specified in the Contract.

Commonwealth Contracting Suite Glossary and Interpretation

“DoSO Manager” means the ‘DoSO Manager’ for the Lead Customer or Supplier representative (as relevant) specified in the DoSO.

“Electronic invoicing” or **“eInvoicing”** means the automated exchange of invoices directly between the Customer and Supplier’s software or financial systems via the Peppol network, as long as both Parties are Peppol eInvoicing enabled.

“Eligible Data Breach” means an ‘Eligible Data Breach’ as defined in the *Privacy Act 1988* (Cth).

“End Date” means the date specified in the Contract or DoSO (as relevant) on which the agreement ceases.

“Fraud” means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means and includes alleged, attempted, suspected or detected fraud.

“General Interest Charge Rate” means the general interest charge rate determined under section 8AAD of the *Taxation Administration Act 1953* (Cth) on the day payment is due, expressed as a decimal rate per day.

“Goods and/or Services” means:

- a) the Goods and/or Services and any Material, and
- b) all such incidental Goods and/or Services that are reasonably required to achieve the Requirement of the Customer,

as specified in the Contract and, where relevant, offered under a Standing Offer Arrangement.

“GST” means a Commonwealth goods and services tax imposed by the GST Act.

“GST Act” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“Indigenous Procurement Policy” means the procurement connected policy as described at the National Indigenous Australians Agency website <https://www.niaa.gov.au/resource-centre/indigenous-affairs/indigenous-procurement-policy>.

“Intellectual Property Rights” means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are current or future or registered or capable of being registered, including without limitation in relation to, copyright, designs, trade marks (including unregistered marks), business and company names, domain names, databases, circuit layouts, patents, inventions, discoveries, know-how, trade secrets and confidential information, but excluding Moral Rights.

“Lead Customer” means the party specified in the DoSO as the Lead Customer.

“Material” means any material used or brought into existence as a part of, or for the purpose of producing the Goods and/or Services, and includes but is not limited to documents, equipment, information or data stored by any means.

“Moral Rights” means the rights in Part IX of the *Copyright Act 1968* (Cth), including the right of attribution, the right against false attribution and the right of integrity.

“Notice” means an official notice or communication under the Contract or DoSO (as relevant) in writing, from one Contract or DoSO Manager to the other Contract or DoSO Manager (as the case may be), at the postal address, or email address, or facsimile number set out in the Contract or DoSO or as notified by the relevant Party.

“Peppol” means the Pan-European Public Procurement On-Line framework as described at the Australian Taxation Office website <https://softwaredevelopers.ato.gov.au/eInvoicing>.

“Party” or **“Parties”** means (as relevant) the Customer and Supplier specified in the Contract or the Lead Customer and Supplier specified in the DoSO.

“Personal Information” means information relating to a natural person as defined in the *Privacy Act 1988* (Cth).

“Potential Customer” means an Australian Government entity that is identified within the DoSO as being able to use the Standing Offer Arrangement.

“Potential Supplier” means any entity who is eligible to respond to an ATM.

“Pricing Schedule” means a schedule of maximum pricing rates that a Supplier can offer in an RFQ for Goods and/or Services as set out in the DoSO.

“Public Interest Certificate” means a certificate issued under section 22 of the *Government Procurement (Judicial Review) Act 2018* (Cth).

“Referenced Material” means any materials referenced in the ATM, including but not limited to, reports, plans, drawings or samples.

“Request for Quote” or **“RFQ”** means any notice inviting quotations to provide specific Goods and/or Services under the DoSO.

“Required Capabilities” means:

- a) in the DoSO ATM, the description of the Lead Customer’s required Goods and/or Services. These may be categorised into several descriptions of Required Capabilities.
- b) in the DoSO, the description of the Goods and/or Services that a Supplier is approved to offer.

“Requirement” means the description of the Goods and/or Services in:

- a) for the purposes of the Commonwealth ATM Terms, the section of the Approach to Market with the heading ‘The Requirement’
- b) for the purposes of the Commonwealth Contract Terms, the section of the Contract with the heading ‘The Requirement’, or
- c) for the purposes of the Commonwealth Purchase Order Terms, the Customer’s purchase order or similar ordering document setting out the Goods and/or Services.

“Response” means information provided by a Potential Supplier or Supplier demonstrating their capacity and capability to:

- a) provide the Requirement under the ATM or Request for Quote, or
- b) meet a Required Capability under the DoSO ATM.

“Satisfactory” in relation to the Shadow Economy Policy only, means the Statement of Tax Record meets the conditions set out in Part 6.b of the Shadow Economy Policy or, if the circumstances in Part 6.c of the Shadow Economy Policy apply, the conditions set out in Part 8 of the Shadow Economy Policy.

“Shadow Economy Policy” means the *Shadow economy – increasing the integrity of government procurement: Procurement connected policy guidelines March 2019* available at <https://treasury.gov.au/publication/p2019-t369466>.

“Significant Event” means:

- a) any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Supplier or its officers, employees, agents or Subcontractors that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation, or
- b) any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Supplier or its officers, employees, agents or Subcontractors, that may adversely impact on compliance with Commonwealth policy and legislation or the Commonwealth’s reputation.

“Specified Personnel” means personnel specified in the Contract, or who are accepted by the Customer in accordance with clause C.C.13 [Specified Personnel].

“Standing Offer Arrangement” means the DoSO arrangement, any Contract that is executed under the DoSO and any other document that applies to it.

“Standing Offer Details” means the section of the DoSO with the heading ‘Standing Offer Details’.

“Statement of Requirement” means the section of the Approach to Market with the heading ‘Statement of Requirement’.

“Statement of Tax Record” means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting_an_STR.

“Statement of Work” means the section or schedule of the Contract (as the case may be) with the heading ‘Statement of Work’.

“Subcontractor” means an entity contracted by the Supplier to supply some or all of the Goods and/or Services required under the Contract.

“Supplier” means a party specified in the Contract or the DoSO as the Supplier.

“Valid” in relation to the Shadow Economy Policy only, means the Statement of Tax Record is valid in accordance with Part 7.e of the Shadow Economy Policy.

Interpretation

In the Commonwealth Contracting Suite, unless stated otherwise:

- a) if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning
- b) words in the singular include the plural and words in the plural include the singular
- c) the words 'including', 'such as', 'particularly' and similar expressions are not used as and are not intended to be interpreted as words of limitation
- d) a reference to dollars is a reference to Australian dollars
- e) a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision
- f) clause headings are for reference only and have no effect in limiting or extending the language of the terms to which they refer, and
- g) the following clause references used in Commonwealth Contracting Suite documents refer to that section or part of the relevant CCS document listed in the table below:

| Clause Reference | Section / Part | CCS Document |
|------------------|---|-----------------------------------|
| A.A.[x] | Statement of Requirement | CCS Approach to Market (ATM) |
| A.B.[x] | Commonwealth Approach to Market (ATM) Terms | |
| A.C.[x] | Additional Contract Terms | |
| C.A.[x] | Statement of Work | Commonwealth Contract |
| C.B.[x] | Additional Contract Terms | |
| C.C.[x] | Commonwealth Contract Terms | |
| P.C.[x] | Commonwealth Purchase Order Terms | Commonwealth Purchase Order Terms |
| D.A.[x] | CCS DoSO ATM | CCS Deed of Standing Offer (DoSO) |
| D.B.[x] | Commonwealth DoSO ATM Terms | |
| D.C.[x] | DoSO ATM Response Form | |
| D.D.[x] | CCS DoSO | |
| D.D.3(x) | Additional DoSO Terms | |
| D.E.[x] | Commonwealth DoSO Terms | |
| R.A.[x] | Schedule 1 - Statement of Work | CCS DoSO RFQ and Contract |
| R.B.[x] | Schedule 2 - Additional Contract Terms | |
| R.C.[x] | Schedule 3 - Supplier's Response Form | |
| R.D.[x] | Contract Details Schedule | |