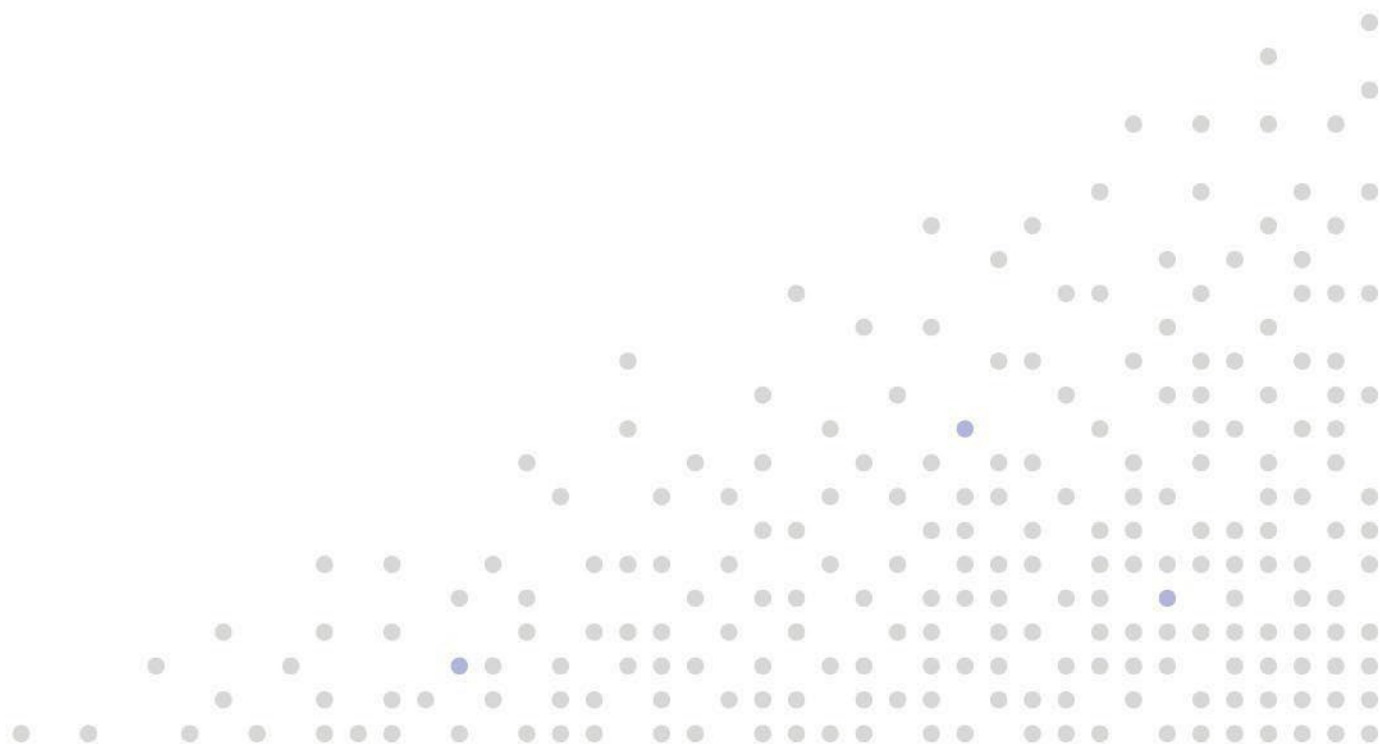




Australian Government
Department of Finance



Management Advisory Services Panel for the Whole of Australian Government User Guide



Contents

Introduction	5
1. About the Panel	5
2. Purpose of this User Guide	5
3. Eligibility to use the Panel	6
4. Establishment of the Panel	6
5. Benefits of the Panel	3
6. Term of the Panel	3
7. Transitioning to the new Panel	4
8. How to opt-in to use the Panel	4
9. Panel Scope of Services	4
10. Associated Output	5
11. Services not in scope of the Panel	5
12. Flexibility Framework	6
Purchase Services from the Panel	6
13. Accessing Panel Rates	6
14. Issuing a Request for Quote (RFQ)	7
15. Requirement to Issue RFQ to at least one SME	8
16. Issuing an Order for Services	8
17. Value for money	9
18. Arrangements across multiple Service Categories	10
19. AusTender Reporting	10
20. Head Agreement Provisions	11
21. Agency Additional Requirements	11
22. Insurance requirements	12
Invoicing and Acquittal	12
23. Coordinated Procurement Fee	12
24. Purchase Order for the Panel Fee	13
25. Acquittal Statement	13
26. Materiality Threshold	13
27. Machinery of Government impact on Panel Fee	13
Performance Management Framework	14
28. Service Levels	14
29. Performance Measures	14
30. Responsibilities of the Service Provider	15
31. Responsibilities of the entity	15
32. Process for determining a Service Level Failure	15
33. Service Provider Suspension	16

Compliance with Procurement Policies and Legislation	16
34. Security	16
35. Confidential Information not to be disclosed	16
36. Indigenous Procurement Policy	16
37. Australian Industry Participation Framework	18
38. Shadow Economy Policy	18
39. Supplier Code of Conduct	18
40. National Anti-Corruption Commission Requirements	18
41. Country of Tax Residency Disclosure	18
42. Other Relevant legislation, policies and guidance	19

Tables

Table 1 – Panel Phase Service commencement dates	4
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Management Advisory Services Panel User Guide

July 2024



Introduction

1. About the Panel

The Management Advisory Services Panel (the Panel) has been established to improve the quality, consistency and efficiency of the procurement of Management Advisory Services by Commonwealth entities (entities).

For the purposes of the Panel, Management Advisory Services is defined in the Head Agreement as:

“provision of professional, independent, expert advice, and other strategic services, that involve the development of an intellectual output, which represents the independent view of the Service Provider and assists with entity decision-making. Services procured by an Agency under the Panel must meet the definition of a consultancy as per [Resource Management Guide No 423: Procurement Publishing and Reporting Obligations](#) (RMG 423).¹”

2. Purpose of this User Guide

This Panel User Guide provides information to entities on how to access and use the Panel.

This User Guide must be read in conjunction with the relevant Commonwealth Frameworks and policies, as outlined in the [Head Agreement](#). In the event of any inconsistency between the User Guide and the Head Agreement or the Deed of Participation, the terms of the Head Agreement will prevail. Clause 1 of the Head Agreement contains Definitions and interpretations of terms used in the User Guide.

Entities may have additional internal procedures/operational guidelines that will need to be considered when undertaking a procurement. Officials are encouraged to consult internally within their entity on any additional requirements.

3. Eligibility to use the Panel

As a coordinated procurement, use of the Panel is:

- **mandatory** for non-corporate Commonwealth entities (NCEs) that are subject to the *Public Governance, Performance and Accountability Act 2013* (PGPA Act); and
- **optional** for corporate Commonwealth entities (CCEs) and Commonwealth companies (CCs), including Government Business Enterprises (GBEs), authorised by the Department of Finance (Finance) to use the Panel through a Deed of Participation.

The PGPA Act Flipchart and List available on the Finance [website](#) identifies NCEs, CCEs and CCs.

4. Establishment of the Panel

The Panel has been established as a coordinated procurement, also referred to as a Whole of Australian Government (WoAG) arrangement.

The Panel was established in three phases, with each phase conducted via a separate open approach to market.

The three procurement phases are aligned with the Panel Service Areas:

Phase 1

Financial
Management
Advisory
Services

Financial Management Advisory Services includes Accounting, Financial Advisory, Financial Audit and Actuarial services

Phase 2

Corporate
Management
Advisory
Services

Corporate Management Advisory Services includes Organisation planning and development, Human Resources, Corporate Governance and Internal Audit services.

Phase 3

Commercial
Management
Advisory
Services

Commercial Management Advisory Services includes Government Policy, Programs and Projects, Procurement and Probity, Risk, and Research services.

The Panel replaces all:

- Commonwealth Management Advisory Services related panels;
- Management Advisory Services related categories on existing panels; and
- non-panel approaches to procuring management advisory services.

5. Benefits of the Panel

The Panel provides a range of benefits, including:

- improved quality, consistency and efficiency of purchasing Management Advisory Services with standard terms and conditions and a Performance Management Framework;
- cost savings and efficiencies for Service Providers by reducing administration and tendering efforts;
- reduction in the time and effort for entities and for Service Providers to establish contracts;
- replacing multiple panel arrangements across Government with a single panel arrangement; and
- providing standardised rate structures for entities, noting that Service Providers' rates can vary significantly across other panels for the same types of Services.



Established through a competitive process, the Panel offers better rates overall than previous panels.

Finance will administer the Panel for the benefit of participating entities, including:

- managing the Head Agreements between Service Providers and Finance, on behalf of the Commonwealth;
- monitoring the Panel to implement efficiencies for the Commonwealth;
- hosting and maintaining the MAS Panel webpages on the Finance website which provides guidance and search functions for service offerings of Service Providers;
- overseeing a Performance Management Framework for Service Providers and addressing performance issues;
- providing internal reporting and strategic advice to support WoAG decision making, planning and delivery across the Commonwealth;
- reviewing and refreshing the Panel; and
- monitoring the Flexibility Framework.

6. Term of the Panel

The Panel will expire on 30 September 2025. Finance may, at its sole discretion, extend the Panel for a further period (or periods) of up to four years in total, which may be taken in whole or in part, and in any number or combination of time periods.

The Panel structure allows it to be refreshed during its term to allow new Service Providers to join and existing Service Providers to qualify for additional Service Categories that may be added over time.

7. Transitioning to the new Panel

The MAS Panel is fully operational with all three phases (Financial, Corporate and Commercial) rolled out. Entities should not be running consultancy panels and instead should be using the MAS Panel to procure services. Finance will work with entities to shut down panels where required.

8. How to opt-in to use the Panel

NCEs are able to manage Panel access for their staff through AusTender's Dynamic Sourcing for Panels (DS4P).

Other entities such as CCEs, CCs and GBEs who wish to access the Panel and gain procurement efficiencies when sourcing Management Advisory Services, must first notify the MAS Panel Management Team via email: MASPanel@finance.gov.au. The MAS Panel Management team will review your request to participate and provide you with further details including a Deed of Participation which establishes the conditions of participation for CCEs, CCs and GBEs. The Deed of Participation standardises the use of the Panel which is essential to maintain the integrity of the Panel and consistency for Service Providers.

Access will be granted once a duly approved and executed Deed of Participation is provided to Finance.

9. Panel Scope of Services

Services are provided under three Service Areas which are Financial, Corporate and Commercial. The Services provided under the Panel are for Management Advisory Services, commonly known as consultancies.

Services procured by an entity under the Panel must meet the definition of a consultancy as set out in Resource Management Guide No 423: Procurement Publishing and Reporting Obligations (RMG 423).¹

The Panel does not include the following non-consultancy services:

- contractor services performed under the supervision of an entity, except where this is an Associated Output; or
- recruitment or labour hire services.

The Panel cannot be used to purchase services that fall outside the [Scope of Services](#).

Entities may issue a Request for Quotation or Order for Services at the Service Subcategory level. The Service descriptors provided under each Service Subcategory are a broad indication of the types of Services available under that Service Subcategory. These service descriptors are not intended to be definitive or exhaustive, and should be interpreted as a general guide as to the types of services under each Service Subcategory.



The Service Categories and Service Subcategories can be viewed on the MAS Panel website [Scope of Services](#), [Search Tool](#) and in the Quick Guide – Scope of Services. For any questions regarding the scope of these services please contact the MAS Panel Management team by phone: (02) 6215 3399 or email: MASPanel@finance.gov.au

10. Associated Output

At an entity's discretion, the Services may also include the delivery of a limited amount of contractor services, termed an 'Associated Output²'.

The Head Agreement defines an Associated Output as:

'the delivery of services that are (in the view of the Agency) consequential to and/or necessary for facilitating the Management Advisory Services required by the Agency in a Contract, and where these services are described in a Contract.'

Any Associated Output must be identified prior to entering into a contract. The RFQ calls for a detailed description of the Services required and any Associated Outputs in the 'Detailed Statement of Work' section.

11. Services not in scope of the Panel

The Services available under the Panel do not include:

- contractor (non-consultancy) services performed under the supervision of an entity (except where this is an Associated Output identified prior to entering into a contract);
- recruitment or labour hire services;

¹ Management Advisory Services is a term defined in clause 1.1 of the Head Agreement

² Associated Output is a term defined in clause 1.1 of the Head Agreement

- services available under other WoAG arrangements such as legal services;
- services that are unique to information and communication technology, and property consultancy services;
- environmental management and assessments;
- delivery of training;
- the engagement of an ‘eminent person’³ or prominent individual appointed by an entity to provide particular services; and
- specialist consultancy services that are unique to entities that are not provided through the Service Categories.

12. Flexibility Framework

The Flexibility Framework provides entities with a minimum allowance of \$50,000 or up to five per cent of their total expenditure per financial year, whichever is greatest, to purchase Management Advisory Services within scope of the Panel from Service Providers not on the Panel, including First Nations businesses. An additional five per cent allowance or a minimum of \$50,000, whichever is greatest, is available for entities to engage First Nations businesses.

The objective of these allowances is to provide entities with additional flexibility to meet their specific business needs, and to provide opportunities for new market entrants, specialist, niche consultancies, and other SMEs to provide services to the Government without being on the Panel. The allowances also allow for entities to undertake procurements that support the Commonwealth Indigenous Procurement Policy by engaging First Nations Service Providers that may not be on the panel, helping to build capability and increase participation of First Nation businesses in Australian Government procurement.

The Flexibility Framework applies to all NCEs who are mandated to use the WoAG arrangement. Other Commonwealth entities, such as CCEs, CCs and GBEs who opt in to use the panel are not required to comply with the Flexibility Framework.

Entities are responsible for tracking their annual expenditure on off-panel consultancies to stay within the allowances. Entities can base their calculation of off-panel expenditure on actual average annual expenditure over the previous three-year period, minus any off-panel expenditure over the same period.

Finance may seek confirmation of compliance at the end of each financial year. In assessing compliance with the five per cent off-panel allowances, Finance will consider data sources such as AusTender reporting, annual reports and panel operational reporting provided to Finance from Service Providers.

Entities must manage their own off-panel procurements, and comply with the Commonwealth Procurement Rules (CPRs).



Purchase Services from the Panel

13. Accessing Panel Rates

A secure GovTeams community, has been established to provide entities with access to

identifiable rates where a requirement for the information can be clearly demonstrated. To gain access:

- Ensure you are logged into your GovTeams account
- Access the Strategic Contracting - Panel Info & Pricing community [here](#).
- Request access to the combemunity
- Once you have access to the community, you will see a private pricing channel, for the MAS Panel. This hosts the Supplier Matrix with Pricing. Access to the private pricing channel is restricted to Central Procurement Teams.
- To access the private pricing channel, an Access Request Form (found on the General page within the GovTeams community) must be completed which will require:
 - Your contact information;
 - Confirmation of ongoing APS employment; and
 - SES endorsement and their contact details.

Once access request is granted, you will be able to access the Supplier Matrix with Pricing. Only three contacts from an agency can have access to the GovTeams channel at once.

If you have any questions, please contact the MAS Contract Management Team on (02) 6215 3399 or email MASPanel@finance.gov.au.

14. Issuing a Request for Quote (RFQ)

Relevant to the scale and scope of the procurement, entities may request any number of the Service Providers listed in the relevant Service Subcategory to submit a quote. The MAS Panel website provides a [Search Tool](#) to enable you to search suppliers by approved Service Category and Subcategory.

Entities should consult with their internal procurement advisers as there may be entity specific requirements in determining an approach to market. It is important to document the reasons underpinning the approach to market, including the number of quotes requested and how [value for money](#) will be determined. Finance recommends approaching more than one supplier for each quote to drive the best value for money, with at least one SME Service Provider included in all RFQs. Competition is a key element of the Commonwealth Procurement Framework.

Entities should use the downloadable [RFQ template](#) available on the [MAS Panel webpage](#) under the 'Documents' drop down menu. The document provides a simple, streamlined and consistent approach to using the Panel.

³ Eminent person has the meaning given under the Commonwealth Procurement Rules Appendix B: Definitions where eminent individual is given as an example of a type of contract for labour hire as an appointment of a person or persons to a special role by an Accountable Authority. An example is given of someone appointed to a governance committee, and does not include the engagement of consultants.

Service Providers have been assessed at the organisational level but there is allowance in the RFQ template for entities to specify any particular skills, qualifications or professional recognition required for Personnel. Entities may also request curriculum vitae (CV's) for Personnel.

Entities can approach Service Providers to submit detailed quotes that are more competitive than the Panel rates or represent better value for money in terms of innovative pricing structures (such as through fixed prices).

When seeking quotations from Service Providers, an entity should have regard to the reasonable time frames required to prepare and submit a quotation.

When issuing an RFQ, entities can select whether or not a Service Provider can nominate Subcontractors to undertake any or all of the Services. When assessing a quotation that nominates subcontractors, the fees cannot exceed the Service Provider's fees in the Head Agreement.

15. Requirement to Issue RFQ to at least one SME

When seeking quotations from Service Providers, entities must include at least one SME in the RFQ process when procuring from the MAS Panel. Entities are encouraged to support procurement officials in researching SME business.

The objective of this requirement is to provide more opportunity for SMEs to compete for Australian Government contracts and participate in procurement. This participation will help build capability and maximise opportunities for Australian and SME business.

If there is no SME in the relevant service sub-category or an SME does not have capacity and capability to deliver the required services, an entity should clearly explain and document this as part of its procurement process. Note the Flexibility Framework provides entities with the option to approach suppliers that are not on the panel.

The MAS Panel webpage contains a Service Provider [Search Tool](#) which enables entities to filter their search by SME or First Nations providers.

It is the responsibility of entities to ensure they meet this requirement by identifying and including at least one SME in the procurement activities they undertake. Finance will undertake compliance checks to ensure entities are meeting this requirement.

Further guidance on issuing RFQs can be found in the [Management Advisory Services \(MAS\) Panel and People Panels: Best Practice Guide for Approaching the Market](#).

16. Issuing an Order for Services

The [Order for Services downloadable template](#) available on the [MAS Panel webpage](#) under the 'Documents' drop down menu should be used for procurements through the Panel to ensure the terms and conditions of the overarching arrangement apply to the individual procurements. The document provides a consistent structure to Orders under the Panel and prompts entities to use milestone payments as best practice. The template also delivers efficiencies for Service Providers in their engagement with entities.

Only templates developed for the Panel should be used. The Commonwealth Contracting Suite templates **must not** be used when ordering Services from the Panel as these templates may contain terms that differ from the Head Agreement.



Please consult with your entity's internal procurement advisers prior to issuing final documents to ensure you are acting in accordance with your entity's internal processes and that any approvals required have been obtained.

When an entity issues an Order, a separate contract will be formed between the Service Provider and the entity at the rates provided in the Head Agreement, unless a lower rate has been negotiated, or alternative pricing (e.g. fixed pricing) has been quoted and is stated in the Order for Services. Identifiable rates can be accessed through the [Strategic Contracting – Panel Info & Pricing GovTeams Community here](#).

Entities must ensure they select the correct Subcategory of Services from the Service Provider. If a Service Provider accepts an Order for Services for a Subcategory of Services for which it is not listed under the Panel, it will constitute a breach of the Head Agreement by the Service Provider and must be reported to Finance.

17. Value for money

Finance has conducted a value for money assessment of each Service Provider prior to their inclusion on the Panel, including:

- the extent to which the Service Provider demonstrated its capacity and capability to provide the offered Services;
- the extent to which the Service Provider demonstrated its relevant experience in the last five years;
- a comparative analysis of fees against other tenderers with consideration to their size and experience;
- benchmarking of the Service Providers' rates against other similar current or previous panel arrangements;
- an assessment of risk;
- the level of compliance with Commonwealth legislation and policy; and
- the benefit the Service Provider provides to the Australian economy.

When requesting quotes, entities may negotiate lower fees or request alternative pricing arrangements (e.g. fixed price) with Service Providers, particularly for larger bodies of work.

Entities should be aware that some Service Providers offer Order Value Discounts under the Head Agreement for larger bodies of work.

When requesting and assessing quotes, entities are still required to achieve value for money.

Setting up milestone payments or linking milestones to a payment schedule can be a practical way to



When viewing rate ranges, note SME rate ranges are often more competitive than larger organisations. Entities could consider whether an SME may meet their needs.

actively manage a contract and achieve value for money. Milestones help to monitor time-dependent deliverables, and control payments associated with those deliverables. Milestones facilitate timely communication with suppliers and can help to manage the contract effectively.

A payment schedule setting out each expected stage of delivery can be included under the 'Fees' item of the RFQ or Order for Services.

It is important that contracts are managed consistently and actively throughout their life in accordance with their terms. This will ensure that Service Provider performance is satisfactory, stakeholders are well informed, and all contract requirements are met thereby ensuring that the contract delivers the anticipated value for money.

Where a Service Provider sets out any charges that are additional to the Fees, the entity must assess whether there is a reasonable basis for any such charges when evaluating the quotation and provide an explanation for the extra expenses under the Fees item of RFQ or Order for Services.

A Service Provider may not charge more than the Panel rate for the Personnel Classifications. If a Service Provider proposes a higher rate, the entity should reject the rate and notify Finance via email: MASPanel@finance.gov.au or phone: (02) 6215 3399.

An entity may accept 'Expert Personnel⁴' in an Order, as defined in the Head Agreement. However there are no rates provided in the Head Agreement for Expert Personnel. Entities must consider whether or not the fees proposed for Expert Personnel represent value for money.

18. Arrangements across multiple Service Categories

Entities may procure work across multiple Service Subcategories with a single Service Provider. However, in such circumstances the entity must ensure the Service Provider is listed against **all** the relevant Service Subcategories required by the entity.

When undertaking an RFQ or Order for Services that crosses multiple Service Categories or Subcategories, entities should select the Service Category and Subcategory that capture the majority of work that is to be undertaken by the Service Provider.

19. AusTender Reporting

All NCEs and prescribed CCEs must comply with the [Resource Management Guide 423 Procurement Publishing and Reporting Obligations \(RMG 423\)](#) which sets out the publishing and reporting obligations under the Commonwealth Procurement Framework and other government policies.

Entities are required to report, on AusTender, all contracts entered into under the Panel that are valued at or above the relevant reporting threshold in the CPRs. The contract details on

⁴ Expert Personnel is a term defined in clause 1.1 of the Head Agreement

AusTender **must** reflect the procurement method used to establish the standing offer and reference the relevant SON ID.

When reporting an Order under the Panel on AusTender, remember to:

- link your Order to SON3751667 so that your contract is correctly reported as part of the WoAG Management Advisory Services arrangement;
- use the UNSPSC code for Management Advisory Services (80100000);
- select the *Procurement Method* as “Open Tender”, regardless of the number of suppliers you approached (as the Panel was formulated through an open approach to market); and
- under *Consultancy* select “Yes” and select the most relevant *Consultancy reason*.¹

20. Head Agreement Provisions

The Head Agreement is a standing offer between Finance and each Service Provider setting out the manner in which the Services can be procured from the Service Provider under the Panel, and in Schedules 2-4:

- the Service Subcategories that the Service Provider has been approved to provide; and
- the rates for each Personnel Classification under each approved Service Subcategory for the Services.

A single Head Agreement has been developed to apply to all Service Providers. The only differences between agreements with Service Providers are:

- the contact details and address for notices;
- the Service Subcategories they have been approved to provide;
- the Service Provider’s rates; and
- any applicable Order Value Discounts.

The Order for Services template should be used as it ensures consistent application of the terms and conditions of the Head Agreement to individual procurements.

If the Order for Services template is not used, there is a higher risk of Service Provider breaching the Head Agreement which must be reported to Finance and can lead to the suspension of the Service Provider.

Legal advice should be obtained prior to making any changes in an Order for Service which may affect or contradict the provisions contained in the Head Agreement. Other than the specific clauses listed in section 20 below, no changes are permitted.

21. Agency Additional Requirements

The Order for Services template is designed so that, if necessary, entities may add Additional Requirements⁵ relating to Confidential Information, Agency Data Storage

⁵ Additional Requirements is a term defined in clause 1.1 of the Head Agreement

Requirements, Security, Conditions/Restrictions for Personal Information, Insurance or Agency Service Levels as allowed under the Head Agreement.

Any Additional Requirements cannot weaken the existing obligations of the Service Provider under the Head Agreement.

The “Additional Requirements” section in the Order for Services Smart Form contains the following specific Head Agreement clauses that may be varied⁶:

- Internal Working Papers
- Intellectual Property
- Key Personnel Requirements
- Return of confidential information
- Liability
- Service Provider’s termination right
- Termination for convenience costs in relation to Fees for Services calculated on a milestone basis.



The website is providing entities with tools to support competition and better decision making.

22. Insurance requirements

Under the Head Agreement, the Service Provider has undertaken, prior to the commencement of an Order and for the duration of an Order⁷, to hold:

- professional indemnity insurance for an amount not less than AU\$2 million per occurrence and AU\$10 million in aggregate, unless specified otherwise in an Order;
- public liability insurance for an amount of not less than AU\$10 million per occurrence, unless specified otherwise in an Order. An Order may also specify an aggregate limit on public liability insurance; and
- workers’ compensation insurance as required by law.

Entities may request additional insurance requirements if necessary. The RFQ and Order for Services Smart Forms allow for additional requirements to be added. The Service Provider may also include the cost of obtaining any insurance, additional to the amounts stipulated in the Head Agreement, in their response to a Request for Quotation.



Invoicing and Acquittal

23. Coordinated Procurement Fee

The Panel will be funded through a Coordinated Procurement Fee (Panel Fee) to be levied quarterly on participating entities, unless the Materiality Threshold has not been met. The Panel Fee will cover Finance’s costs of procuring and administering the Panel, reviewing its effectiveness and refreshing the Panel as required.

For contracts executed from 1 August 2024, the Panel Fee is set by Finance at a rate of 1.0 per cent of actual entity expenditure. Actual entity expenditure refers to the total value of all invoices for MAS Panel services issued by a Service Provider and paid by an entity within a single reporting period. For contracts executed prior to 1 August 2024, the former rate of 0.4 per cent of actual entity expenditure will apply until those contracts expire.

Each entity’s expenditure on Management Advisory Services will be reported by Service Providers on a quarterly basis. Entities are not required to provide any expenditure reporting

⁶ See Schedule 6 of the Head Agreement – Order Template – all these terms are defined in the Head Agreement

⁷ Clause 18 of the Head Agreement

to Finance. An Acquittal Statement will be provided with the Panel Fee invoice to explain how the Fee was calculated.

24. Purchase Order for the Panel Fee

If your entity has a mandatory requirement for invoices to include purchase order numbers, you must take reasonable steps to ensure that this is in place.

If this is relevant to your entity, you should notify Finance of the purchase order number in advance of using the Panel via email: MASPanel@finance.gov.au.

Once the entity has provided Finance with its purchase order number, this will be added to the invoice prior to it being issued to the entity for payment.

25. Acquittal Statement

The Head Agreement requires Service Providers to report to Finance on the value of invoices paid in each quarterly reporting period. This information is used to compile the Acquittal Statement provided to each entity with their quarterly Panel Fee invoice.

The Acquittal Statement provides a breakdown of expenditure used to calculate the Panel Fee by purchase order number.

Where a Service Provider refunds any invoiced expenditure, and reports this to Finance, the Panel Fee will be adjusted accordingly in the following invoice period.

26. Materiality Threshold

To further reduce the administrative effort for Finance and entities, a Materiality Threshold will be applied at \$500 per quarter for the first three quarters and \$100 in the final quarter at the end of the financial year.

The Panel Fee will not be charged to an entity where the Panel Fee calculated for that entity is less than \$500 in any of the first three quarters. However, where this occurs the value of expenditure will be rolled into the next quarter and continue to accrue within that financial year.

At the end of the financial year the materiality threshold will reduce to \$100 and any final amount owing will be invoiced.

27. Machinery of Government impact on Panel Fee

Machinery of Government (MOG) changes will be considered on a case-by-case basis where the changes are material in proportion to the Panel Fee payable. Entities will be asked to assist with attributing any Fees between the entities.



Performance Management Framework

28. Service Levels

The Service Levels and Minimum Expected Performance requirements are outlined in Table 1 of Schedule 7 of the Head Agreement and will apply from the Commencement Date. Only Service Level 3 (SL3) is relevant to entities' performance reporting requirements, incorporating:

- **Performance measures** – The Service Provider's provision of Services must satisfy an entity's requirements as detailed in the Order for Service to the satisfaction of the entity; and
- **Calculation method** – Finance will determine the level of compliance with this Service Level by analysing entity reports on the Service Provider's performance against the Performance Management Framework using information provided in the [Agency Satisfaction Survey](#).

29. Performance Measures

Service Providers must maintain a high standard of quality and delivery of Services by its Personnel and Subcontractors, including compliance with all requirements of the Head Agreement and any additional requirements in an Order for Service. Under the Head Agreement, the Service Providers acknowledge that:

- their performance will be measured against the performance measures in clause 2.2, 2.3, and 2.4 of Schedule 7 of the Head Agreement; and
- Entities can provide reporting to Finance on the Service Provider's performance via the [Agency Satisfaction Survey](#).

Quality

The following Quality performance measures apply to the Head Agreement:

- capability and availability of Key Personnel;
- documentation provided to high standard; and
- Services provided met the entity needs and requirements of the Order.

Communication

The following Communication performance measures apply to the Head Agreement:

- proactive and effective communication with the entity;
- responsiveness; and
- Entity reference numbers included in all correspondence.

Contract Performance

The following Contract Performance measures apply to the Head Agreement:

- understanding of the entity's needs;
- effective management of timelines;
- effective budget management;
- service provision managed diligently; and
- reasonable assistance provided in respect of any inquiry concerning the Service Provider's performance of ordered Services.

30. Responsibilities of the Service Provider

The Service Provider will endeavour to meet or exceed the performance measures and Service Levels during the Head Agreement Period and will make all relevant Key Personnel and Subcontractors aware of the performance measures.

The Service Provider has agreed to meet the reporting requirements as set out in Schedule 8 of the Head Agreement.

31. Responsibilities of the entity

All entities using the Panel have a responsibility to:

- engage with and ensure their own understanding of the Head Agreement;
- identify and manage any perceived or actual conflicts of interest;
- ensure understanding of the performance measures provided;
- not contribute to a perceived Service Provider performance failure;
- take steps and work with the Service Provider to rectify an issue before reporting unsatisfactory performance to Finance; and
- report any unresolved performance issues to Finance via the [Agency Satisfaction Survey](#).

32. Process for determining a Service Level Failure

If there is an occasion where the performance of a Service Provider is not satisfactory and the parties are unable to resolve the issue, it may constitute a Service Level Failure⁸ and must be reported to Finance using the [Agency Satisfaction Survey](#).

Once a potential Service Level Failure has been reported, Finance will work with the Service Provider on the issues.

⁸ Service Level Failure is a term defined in the Head Agreement – see Schedule 7 of the Head Agreement

33. Service Provider Suspension

Finance reserves the right to, at any time during the Head Agreement Period, review the operation of the Panel and suspend or remove a Service Provider from the Panel for noncompliance with the Head Agreement.⁹

If a Service Provider is suspended due to a Service Level Failure they will no longer be available for selection via DS4P or the MAS Panel website. Entities must not issue an RFQ or an Order for Service to a Service Provider that has been suspended (until that suspension is lifted) or removed from the Panel.



Compliance with Procurement Policies and Legislation

34. Security

Service Providers agree to comply with any applicable security requirements specified in the Protective Security Policy Framework (including those provisions relevant to Commonwealth contracted Service Providers), as required by an entity in an Order for Service.

Entities can specify additional security requirements in an Order for Service, for example, that Personnel working on the matter must have or obtain a national security clearance.¹⁰

35. Confidential Information not to be disclosed

Entities and Service Providers party to an Order for Service under the Head Agreement must not, without the prior written consent of the other party, disclose any Confidential Information of the other party to a third party.¹¹ Entities must ensure that all Confidential Information is used or disclosed in accordance with the confidentiality provisions in clause 22 of the Head Agreement.

Entities should be aware of their responsibility to maintain confidentiality when working with secondees from a Service Provider or other contractors/consultants.

36. Indigenous Procurement Policy

The mandatory set aside component of the Indigenous Procurement Policy (IPP) generally does not apply to WoAG Panels. However, entities are encouraged to apply the principles of the IPP by procuring from First Nations businesses. Contracts with First Nations businesses from the MAS Panel also count towards entities' portfolio targets for contracts awarded under the IPP.

Where RFQs or Orders for Services are valued at \$7.5 million or more (GST inclusive), are delivered wholly in Australia and fall within specific industry sectors, the Mandatory Minimum Requirements of the IPP may apply (refer to the checklist at Table 1 of the IPP). For procurements over this



The website has a Search Tool that allows entities to quickly identify relevant suppliers, including SME and First Nations businesses on the Panel.

threshold, entities must request an Indigenous Procurement Plan when seeking quotations.

Entities can use the Search Tool on the MAS Panel website to identify First Nations businesses on the Panel. These Service Providers will also be flagged in Service Provider lists.

The [Flexibility Framework](#) allows entities to purchase up to five per cent of their total consultancy expenditure per financial year on Management Advisory Services from Service Providers, such as First Nations people, who are not approved on the MAS Panel. An additional five per cent allowance or a minimum of \$50,000, whichever is greatest, is provided for directly engaging First Nations businesses. When an entity procures through the Flexibility Framework, the procurement is no longer through a WoAG Panel, and the requirements of the IPP applies.

⁹ As described in clause 25 of the Head Agreement.

¹⁰ Clause 23 of the Head Agreement outlines security requirements that a Service Provider must meet.

¹¹ Clause 22 of the Head Agreement states Agency personnel must not disclose Confidential Information. Confidential Information is a term defined in s.1.1 of the Head Agreement.

37. Australian Industry Participation Framework

For Orders with a value of \$20 million or more, the [Australian Industry Participation National Framework](#) may apply. Information is available on the Australian Industry Participation website and you can contact the relevant area on 02 6213 6404 or email aip@industry.gov.au to discuss these requirements.

38. Shadow Economy Policy

The [Shadow Economy Policy](#) applies to all procurements with a value over \$4 million including GST under this Panel.

All Service Providers have supplied a Statement of Tax Record (STR) as part of the requirements in their tender response. Service Providers are required to hold a valid and satisfactory STR at all times during the Head Agreement period and provide a copy on request to Finance or an entity.

Entities are required to obtain and retain a current STR for each Order where the Shadow Economy Policy applies.

39. Supplier Code of Conduct

On 1 July 2024, the Commonwealth Supplier Code of Conduct (Code) came into effect.

The Code outlines the Commonwealth's minimum expectations of Service Providers and its subcontractors while under contract with the Commonwealth. Service Providers must conduct themselves with high standards of ethics and act with integrity and accountability.

The Code is mandated through the CPRs which states that relevant entities must incorporate the Code into all Commonwealth forms of contract entered into from 1 July 2024. An Accountable Authority may determine that a contract should not include the Code, in part or in full, but must document the basis for this decision.

To enable enforcement of the Code, provisions for request documentation and standard clauses for Commonwealth contracts have been developed and are available in [ClauseBank](#) here.

Further information and guidance on the Code can be found [here](#).

40. National Anti-Corruption Commission Requirements

The National Anti-Corruption Commission (NACC) commenced operations from 1 July 2023. The NACC is an independent Australian Government entity that detects, investigates and reports on serious or systemic corrupt conduct in the Australian Government public sector.

Service Providers are required to comply with the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act) under the terms of the NACC Act and the MAS Head Agreement.

41. Country of Tax Residency Disclosure

For all procurements valued at \$200,000 or more, Service Providers must declare their country

of tax residency (including their ultimate parent entity's country of tax residence), as part of the general business identifier information required by government policy.

Tax residence is a principle that is determined under the domestic tax rules of a country. It is relevant when considering how business income is taxed.

To assist entities to comply with the country of tax residency requirement as part of their procurements, Finance maintains Service Providers' country of tax residency information centrally for the MAS Panel. This document can be found under 'Panel Documents' in DS4P.

For further information on tax residency, visit the [Australian Taxation Office](#).

42. Other Relevant legislation, policies and guidance

Each entity should work with their internal procurement advisers to obtain advice on compliance with other relevant legislation, policies and guidance that may apply to their specific procurement.

Contact Us

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