Australian Government
Department of Finance

User Guide – People Panel

Phase 2: Labour Hire Services (SON3965020)

January 2026

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Introduction

1. About the Panel

The Phase 2 – Labour Hire Services Panel (SON3965020) (the Panel) is a subset of the broader People Panel arrangement. The People Panel arrangement will be comprised of a series of panels which are being established to improve the quality, consistency and efficiency of the procurement of recruitment and search services, labour hire services and professional contractor services by Commonwealth entities (entities). Each Panel under the People Panel will have its own standing offer notice (SON), head agreement and user guide.

For guidance material relating to Phase 1 – Recruitment and Search, refer to the People Panel Phase 1 webpage.

2. Purpose of this user guide

This user guide provides information to entities on how to access and use the Panel. It 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 this user guide, the deed of participation and the head agreement, the terms of the head agreement will prevail. Clause 1 of the head agreement contains definitions and interpretations of terms used in this user guide.

Entities may have additional operational guidelines that need to be considered when undertaking a procurement. Officials are encouraged to consult 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).
- **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 replaces:

- in scope labour hire related panels
- in scope labour hire related categories on existing panels
- non-panel approaches to procuring labour hire services.

For additional detail on the scope of the Panel along with scope exclusions, refer to items 9 and 10 of this guide.

5. Benefits of the Panel

The Panel provides a range of benefits, including:

- replacing multiple panel arrangements across government with a single panel
- a standardised rate structure for entities
- a reduction in the time and effort to establish contracts
- improved quality, consistency and efficiency of purchasing labour hire with standard terms and conditions
- a standardised performance management framework
- centralised oversight of labour hire services utilised by participating entities, including improved data capture
- cost savings and efficiencies by reducing administration and tendering efforts for service providers and across Government.

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 People Panel webpages on the Finance website which provides guidance and tools to assist entities using the Panel
- overseeing the 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
- monitoring the flexibility framework.

6. Term of the Panel

The Panel commenced on 7 August 2023 and will expire on 30 June 2027. Finance may 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.

Finance will determine the process for refreshing the Panel during the Panel term. This may include adding or removing service categories or service providers to the Panel in one or more service categories.

7. How to opt-in to use the Panel

NCEs can manage Panel access for their staff through AusTender's administration site: 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 labour hire services must first notify the People Panel contract management team via email: PeoplePanelContract@finance.gov.au. The contract 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 integrity and consistency for service providers.

Access will be granted once an approved and executed deed of participation is provided to Finance.

8. Panel scope of services

Phase 2 covers labour hire services, defined as a "triangular employment arrangement", involving three parties:

- a worker supplying labour
- an entity
- an intermediary, such as a labour hire supplier.

Services provided under this Phase are:

- Labour hire services: provision of labour hire workers, APS1 – SES equivalent, for a defined period.
- Conversion services: where the labour hire worker accepts an offer of direct APS employment from that entity into a similar position.
- Introduction services: where the service provider introduces to the entity an APS employee from another entity (section 26 transfers).
- Placement services: where the service provider facilitates the sourcing of a candidate for a non-ongoing APS position of employment.

9. Services not in scope of the Panel

The following services are not available under the Panel:

- provision of labour hire workers for information, communication and technology services roles (roles commonly listed in the ICT and digital solutions job family)
- provision of labour hire workers for resource and construction roles (including industrial, agricultural, infrastructure, mining, forestry, fisheries, maritime, meatworkers, manufacturing, textiles, building)
- provision of labour hire workers for military engineering roles

- provision of labour hire workers for statutory appointments
- provision of labour hire workers for non-statutory appointments (for example to audit committee and consultative committees)
- provision of labour hire workers for learning and development services roles
- services provided under other Whole of Australian Government coordinated procurements such as legal services and property services roles
- the provision of consultancy services as defined in the Australian Government's guide on Procurement Publishing and Reporting Obligations (RMG423)
- recruitment of Australian Public Service (APS) employees, other than the provision of introduction and placement services as described in Schedule 2 of the head agreement.

10. 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 greater, to purchase in scope labour hire services from service providers not on the Panel. An additional five per cent allowance 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 businesses, and other small and medium enterprises (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 labour hire procurements 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

11. Engaging services

Labour hire services

Labour hire workers may be engaged:

- where there are short-term absences
- to meet urgent unforeseeable demands or peak workloads
- to meet specific budget allocation for projects.

The labour hire services under the Panel comprise of the provision of suitably qualified and appropriately skilled personnel to undertake work for an entity for a defined period.

Entities seeking to engage labour hire workers should identify the following information for inclusion in the Request for Quotation (RFQ):

- the service category
- the job family and job role
- the equivalent APS classification and pay scale for the level for each position to be filled
- any security clearances required
- the number of working hours per week (this may be standard full-time hours or part time hours)
- the length of the engagement.

Job families and job roles are generic role descriptions that reflect the APSC Job Family Framework. Entities can use the Job Mapping Matrix to identify the service categories, job families and job roles required for the engagement. The tool includes role descriptions to assist with selecting the most appropriate job role.

Generally, the costs for engaging a labour hire worker under the Panel comprises of the following:

- the hourly amount paid to the worker
- employment oncosts, which include costs such as workers compensation insurance, payroll tax and superannuation
- the service provider's gross profit margin
- coordinated procurement fee.

The gross profit margin (GPM) is an hourly rate set according to the APS equivalent classification of the labour hire worker engaged and whether the worker was identified by the service provider (non-referred) or by the entity (referred).

The coordinated procurement fee (CPF) represents an administration fee payable to Finance, separate to an order under the Panel. The CPF will cover the cost of administering the Panel, reviewing its effectiveness and refreshing the Panel as required.

Referred labour hire workers

A referred labour hire worker is a specific person an entity wants to engage as a labour hire worker. Entities may apply discretion as to when a person can be referred to a service provider for engagement as a labour hire worker.

An entity that has identified a person they wish to engage as a referred labour hire worker should negotiate the terms of the engagement directly with the person, and this may include:

- the hourly rate paid to the worker (excluding employment oncosts such as superannuation)
- engagement length
- extension options
- work location
- any flexible work agreement, including work from home.

Once the entity has agreed the terms of the engagement, the referred worker should be made aware of the service providers on the Panel that are approved for the relevant service category and APS equivalent level. The referred worker can then select which service provider they would prefer to be engaged through. The entity should then issue an RFQ to the selected service provider.

A non-referred labour hire worker is identified and vetted by the service provider and put forward to the entity through the RFQ process. A non-referred GPM is generally higher than referred as a service provider undertakes additional activities in sourcing potential candidate labour hire workers for a non-referred engagement.

SME rule for referred workers

In accordance with the item 17 of this user guide, entities must include only SMEs in panel quotations under $125,000 and must include at least one SME in quotations expected to be greater than $125,000.

In instances where the referred worker does not select an SME for their engagement, entities are advised to document the reason for not approaching an SME.

Bulk engagements

Entities seeking to engage labour hire workers on a bulk or express basis may do so by completing the ‘bulk engagements’ section of the Request for Quotation form (RFQ).

To initiate a bulk recruitment, entities should specify in the RFQ:

- the number and location of labour hire workers to be provided
- the mandatory pre-engagement checks and clearances that are required for those labour hire workers.

To allow service providers to meet their reporting obligations, additional information will be sought by the service provider on the specifics of the engagement (job families, job roles etc, as with a non-bulk engagement). The bulk engagement method allows entities with large or urgent requirements for labour hire workers to initiate the process on an expedited basis, and full supporting information will remain a requirement for Panel compliance.

Service provider licencing

Various Australian states and territories require labour hire providers to hold licences to provide services, with additional obligations for host businesses to ensure that any labour hire companies they engage are appropriately licenced.

The head agreement includes obligations for service providers to hold all licences relevant to the provision of services.

Entities should ensure that any service provider they seek to engage via an order is properly licenced for the jurisdictions relevant to the work. The RFQ template includes drafting guidance that prompts entities to seek confirmation of licences held by a service provider. Entities are strongly encouraged to retain the licencing prompt and consider the responses when assessing quotations.

Conversions of labour hire workers to entity employment

In certain circumstances an entity may offer a labour hire worker an opportunity to become an APS employee. Conversion occurs where a labour hire worker who is engaged through the Panel under an order accepts an offer of employment by the host entity.

The service provider that has supplied the labour hire worker to the entity may be eligible for a conversion fee if head agreement criteria are met.

A service provider would be eligible if:

- at the time when the offer of employment is accepted by the relevant labour hire worker, the worker has been engaged to fill the relevant position for the entity under an order for a period less than 12 months in aggregate
- the relevant labour hire worker is made an offer of employment by the entity for either the same position which the labour hire worker has filled under the relevant order immediately prior to accepting the offer or a similar role* (including where that role is publicly advertised by the entity).

*Note: A **similar role** is defined as being substantially similar to the role which the relevant Labour hire worker has performed under the order immediately prior to accepting the offer of employment from the host entity, and is within the same branch or branch equivalent.*

A conversion fee is not applicable if:

- the labour hire worker has been engaged for a period of 12 months or more in aggregate by the entity under an order prior to accepting the offer of employment from the entity
- the labour hire worker is made an offer of employment by the entity for a position other than either the position which the labour hire worker has filled under the relevant order immediately prior to accepting the offer or a similar role
- the offer of employment to the labour hire worker is made as a result of the labour hire worker applying for any position (other than the position the labour hire worker has filled under the relevant order or a similar role) that is publicly advertised by the entity
- the labour hire worker was referred by the entity to the service provider.

If the criteria for a conversion fee have been met, the entity or service provider can initiate the fee process by varying the order under which the worker was engaged. The

variation form can be found via DS4P. The fee amount is determined via the formula, available in the head agreement (Schedule 3, clause 2.4).

Introduction services

Introduction services facilitate the introduction of an entity to an APS employee from another entity for the purposes of a section 26 transfer under the *Public Service Act 1999.*

Introduction fees are only payable if the initiating entity has a contract in place with the facilitating service provider and the APS employee subsequently moves to the entity under a section 26 transfer. Fees are structured on the APS equivalent classification of the role being filled.

Introduction services are a one-off fee.

Placement services

Placement services facilitate the sourcing of a candidate for a non-ongoing position of APS employment for a one-off fee. Fees are structured on the APS equivalent classification of the role being filled.

12. Head agreement provisions

The head agreement is a deed of standing offer between Finance, representing the Commonwealth, and each service provider. It sets out how services can be procured from the service provider under the Panel.

To gain a detailed understanding of the services and structure of the Panel, entities should review:

- Schedule 2, labour hire services (also includes introduction and placement services)
- Schedule 3, pricing
- Schedule 7, performance management framework and service levels.

A sample head agreement, excluding pricing or service provider data, can be found on the People Panel website or DS4P.

A single head agreement has been developed to apply to all service providers. The only differences between agreements are:

- service provider's contact details
- the service categories they have been approved to provide
- the service provider's fees.

The Schedule 6, order template should be used as it ensures consistent application of the terms and conditions of the head agreement to individual procurements.

If the order template is not used, there is a higher risk of a service provider breaching the head agreement which must be reported to Finance at PeoplePanelContract@finance.gov.au and can lead to the suspension of the service provider.



13. Accessing Panel rates

Panel fees are available to entities' central procurement teams via Finance's secure GovTEAMS community, where a requirement for the information can be clearly demonstrated. To verify service provider fees, please contact your central procurement team in the first instance.

If you are from a central procurement team and need to arrange access to the community, please contact the People Panel contract management team on (02) 6215 3080 or email PeoplePanelContract@finance.gov.au.

14. Use of Dynamic Sourcing for Panels (DS4P)

DS4P is an AusTender functionality that provides government buyers with a standard and streamlined approach to sourcing their goods and services from panels.

In DS4P, 'RFx' is a collective term for request documentation. This may include terms such as a request for quote (RFQ) or a request for information (RFI).

Entities can access the Panel and RFx functionality, along with documents such as templated RFQ and order forms, and a service provider pricing matrix. It is strongly recommended that only forms developed for the Panel and made available on DS4P are used. The forms provide a consistent structure to RFQs and orders under the Panel and delivers efficiencies for service providers in their engagement with entities.

All RFQs for the Panel should be submitted through DS4P.

Where an entity is unable to access DS4P that entity should contact their central procurement area in the first instance or contact the People Panel contract management team.

Further information on completing the RFx process in DS4P is available on the People Panel website or on AusTender.

Entities are encouraged to download the RFQ Form available on DS4P and complete it offline. Once complete, the form should be uploaded into the DS4P RFx functionality and published to the relevant service providers.

15. Use of Artificial Intelligence (AI) by service providers

The RFQ and Order forms include clauses covering the use of AI by service providers, ensuring entities identify if AI systems can be used by service providers in the delivery of services. When undertaking a procurement, entities should consider that excluding AI could increase the delivery time and project costs. If AI can be used, the service provider must provide information in its response about its proposed use of AI systems in the delivery of the services.

16. Requirement to Issue RFQ to Australian SMEs

When procuring from the Panel:

- For procurements with an estimated valued under $125,000 (including GST), only SMEs may be approached unless paragraph 5.5 of the CPRs is used.
- For procurements with an estimated value of $125,000 (including GST) and above, it is Government policy that at least one SME must be included in the request for quotation (RFQ). If there is no SME available under the relevant service sub-category or an SME has advised it 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.

Entities are encouraged to support procurement officials in undertaking market research of Australian SME businesses.

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 businesses.

The People Panel webpage contains a service provider search tool which enables entities to filter their search by SME, Australian Business or First Nations providers. Entities can also search the Supplier Portal to identify suitable service providers to approach.

It is the responsibility of entities to ensure they meet these requirements by identifying and including SMEs in the procurement activities they undertake. Finance will undertake compliance checks to ensure entities are meeting these requirements.

17. Issuing a Request for Quote (RFQ)

In accordance with Clause 9.14 of the CPRs, to maximise competition entities should, where possible, approach multiple service providers listed in the relevant service category to submit a quote. The number of quotes sought should be proportionate to the scale and scope of the business requirement (refer 4.4e of the CPRs).

The website and DS4P include a search tool to enable entities to identify potential service providers by service category prior to approaching them for an RFQ.

Entities should consult with their internal procurement advisors as there may be entity specific requirements in determining an approach to market or access to DS4P. 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. Competition is a key element of the Commonwealth procurement framework.

When seeking quotations from service providers, an entity should have regard to the reasonable timeframes required to prepare and submit a quotation.

18. Issuing an order for services

The Schedule 6 order template, available through DS4P, should be used for procurements through the Panel to ensure the terms and conditions of the overarching



arrangement apply to the individual procurements.

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 and is stated in the order. Service provider rates and approved service categories are available in DS4P via the pricing matrix.

Entities must ensure they only engage service providers approved to deliver services under the service category the entity is seeking. If a service provider accepts an order from a service category 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.

> Please consult with your entity's central procurement area 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.

The service provider must not subcontract any aspect of the ordered services without the prior written approval of the relevant entity (such approval may be subject to conditions). Subcontractors specified in an order are considered to have been approved by the entity for the purposes of the relevant contract.

19. 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
- a comparative analysis of fees against other tenderers
- 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 and assessing quotes, entities are still required to assess and achieve value for money. A service provider may not charge more than the Panel rates set out in Schedule 3 of the head agreement. DS4P provides access to service providers' Panel rates to ensure compliance. If a service provider proposes a higher rate, the entity should reject the rate and notify Finance via email: PeoplePanelContract@finance.gov.au or phone: (02) 6215 3080.

It is important that contracts are managed consistently and actively in accordance with their terms. This will ensure that service provider performance is satisfactory, stakeholders are well informed, requirements are met and the contract delivers the anticipated value for money.

Where a service provider sets out any charges for requirements that are additional to the fees, the service provider must provide an explanation for the difference. The entity must then assess whether there is a reasonable basis for any such charges when evaluating the quotation.

Any additional requirements must be progressed in accordance with section 19 (*entity additional requirements*) below.

20. Dynamic Sourcing for Panels (DS4P) training

To support panel buyers, Finance has developed a suite of e-learning tutorials to support new users to gain the knowledge needed to use DS4P. User will learn how to:

- search and view panels
- download documentation
- select service providers
- create and amend a RFx
- publish notifications to service providers
- check panel access
- download service provider responses.

To access the e-learning tutorials, you will need to register for a GovTEAMS OFFICIAL account. Once registered, you can access the tutorial suite via GovTEAMS - DS4P e-Learning Tutorials.

If you have any questions, or would like to suggest improvements to this content, please email the AusTender team at tenders@finance.gov.au.

Should you require additional information on procuring from panels, please visit the buying for Australian Government website: procuring from a panel - panels 101.

21. 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 within 42 calendar days of entering the contract.

The contract details on 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 SON3965020 so that your contract is correctly reported as part of the WOAG People Panel arrangement.
- use the United Nations Standard Product and Services Category Codes (UNSPSC) for temporary personnel services (80111600) to ensure that your procurement is properly categorised.
- select the procurements method as “open tender”, regardless of the

number of service providers you approached (as the Panel was formed through an open approach to market).

22. Entity additional requirements

The Schedule 6 order template is designed so that, if necessary, entities may include additional requirements relating to conditions such as medical checks and vaccinations, overtime, flexible work, entity service levels or software platforms used for interacting with the entity 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 template allows the liability clause in the head agreement to be varied to a higher, contract-specific liability cap.

23. Insurance requirements

Under the head agreement the service provider has undertaken, prior to the commencement of an order and for the duration of an order, to hold:

- 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
- 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
- workers' compensation insurance as required by law.

Finance will periodically monitor insurance compliance as part of contract management activities and entities may request additional insurance requirements if necessary. The RFQ and order templates 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 an RFQ.

Invoicing and Acquittal

24. Coordinated procurement fee

The Panel is funded through a coordinated procurement fee (Panel Fee) to be levied quarterly on participating entities. The Panel Fee covers Finance's costs of procuring and administering the Panel, reviewing its effectiveness and refreshing the Panel as required.

The Panel Fee is set by Finance at 1.5 per cent of the GST exclusive contract commitment.

Order information is reported by Suppliers in the Contractor Reporting, Integrity Information Solution (CRIIS). Entities are not required to provide any expenditure

reporting to Finance. Panel Fee invoices and acquittal information will be available for entities to view in CRIIS.

25. eInvoicing

Entities are encouraged to opt for eInvoicing where both the entity and the service provider are Peppol enabled for eInvoicing. eInvoicing facilitates payment to businesses within 5 calendar days. The ATO has published records of which Commonwealth entities are able to support eInvoicing.

Drafting guidance in the RFQ includes a prompt to allow respondents to confirm if they are eInvoicing enabled. If both parties are eInvoicing enabled, the terms in the order should be updated to nominate 5 day payment terms.

Entities should refer to the Supplier Pay On-Time or Pay Interest Policy (RMG 417), on the Finance website.

Performance management framework

26. Service levels

The service levels and minimum expected performance requirements are outlined in Table 1 of Schedule 7 of the head agreement and apply from the commencement date. The service levels specified in the head agreement will be monitored and managed by Finance, with entity feedback used to determine the outcomes for service level 3.

Entities may apply service levels to contracts. Suggested service levels are included in the RFQ and order templates, however entities can apply their own service levels as required. Service provider performance against entity service levels should be assessed by each entity.

Concerns with service provider performance should be brought to the attention of the People Panel contract management team at PeoplePanelContract@finance.gov.au.

27. 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. 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
- entities can provide reporting to Finance on the service provider's performance via the entity satisfaction survey.

Quality

The following quality performance measures apply to the head agreement:

- capability and availability of personnel
- documentation provided to high standard
- 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
- 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
- reasonable assistance provided in respect of any inquiry concerning the service provider's performance of ordered services.

28. 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 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.

29. 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
- keep service provider information confidential (such as pricing, information listed in Schedule 9 of their head agreement and/or described in an order)
- 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
- report any unresolved performance issues to Finance
- report any suspected breaches by the service provider to Finance at PeoplePanelContract@finance.gov.au.

30. 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 failure[1] and must be reported to Finance using the entity satisfaction survey or via email at PeoplePanelContract@finance.gov.au.

Once a potential service level failure has been reported, Finance will work with the service provider on the issue.

31. 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 non-compliance with the head agreement.[2]

If a service provider is suspended due to a service level failure, they will no longer be available for selection via DS4P or the People Panel website. Entities must not issue an RFQ or an order to a service provider that has been suspended (until that suspension is lifted) or removed from the Panel – doing so would be a breach of the head agreement.

Compliance with procurement policies and legislation

32. 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.

Entities can specify additional security requirements in an order, for example, that personnel working on the matter must have or obtain a national security clearance.[3]

33. Confidential information not to be disclosed

Entities and service providers party to an order under the head agreement must not,

[1] Service Level Failure is a term defined in the Head agreement – see Schedule 7 of the Head agreement
[2] As described in clause 27 of the Head agreement
[3] Clause 24 of the head agreement outlines security requirements that a Service provider must meet.

without the prior written consent of the other party, disclose any confidential information of the other party to a third party.[4] 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 personnel from a service provider.

34. Indigenous Procurement Policy

The mandatory set aside component of the Indigenous Procurement Policy (IPP) generally does not apply to WoAG arrangements. However, entities are encouraged to apply the principles of the IPP by procuring from First Nations businesses. Contracts with First Nation businesses from the People 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 Mandatory Requirements of the Indigenous Procurement Policy IPP may apply (refer to the checklist at Table 1 of the Indigenous Procurement Policy (IPP). For procurements over this threshold, entities must request an Indigenous Procurement Plan when seeking quotations.

Entities can use the search tool on the People Panel website to identify First Nations businesses on the Panel. These service providers will also be flagged in the service provider matrix, also available via the People Panel website.

The Flexibility Framework allows entities to purchase up to five per cent of their total labour hire expenditure per financial year on labour hire services from service providers, such as First Nations people, who are not approved on the People Panel. An additional five per cent allowance is provided for directly engaging First Nations businesses.

When an entity procures through the Flexibility Framework, the procurement is no longer through a WoAG arrangement, and the requirements of the IPP applies.

35. 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; you can contact the relevant area on 02 6213 6404 or email aip@industry.gov.au to discuss these requirements.

[4] Clause 23 of the head agreement outlines requirements around Confidential Information. Confidential Information is a term defined in s.1.1 of the Head agreement.

36. 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.

37. 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 in request documentation and standard clauses for Commonwealth contracts have been developed and are available in the Commonwealth Contracting Suite and within ClauseBank

Further information and guidance on the Code can be found here.

38. 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 People Head Agreement.

39. 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 People Panel. This document can be found under 'Panel Documents' in DS4P.

For further information on tax residency, visit the Australian Taxation Office.

40. 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.

41. Useful links

Commonwealth Procurement Rules

AusTender

DS4P

People Panel Website

Contact Us

Email:	PeoplePanelContract@finance.gov.au
Ph:	(02) 6215 3080
Website:	People Panel Website