

# Procure IT...The NSW Government's Answer to Information Technology Procurement

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The NSW Government is a major purchaser of information technology products and services and for this reason, it is not surprising that many information technology based businesses are interested in supplying their products and services to them. In an attempt to simplify the contracting process, increase efficiency and subsequently decrease the costs involved for both contracting parties, the NSW Government introduced "Procure IT", replacing Government Information Technology Conditions (GITC) Version 2 for information technology contracting.

This article provides a brief explanation and overview of the way that Procure IT works and relevantly outlines the NSW Government's Code of Practice for Procurement.

## What is Procure IT?

Procure IT is a set of standard terms and conditions for information technology contracts, developed in 2003 by the NSW Government. It followed consultation with NSW Government clients and various members of the IT industry, including the Australian Information Industry Association (AIIA).

The standard terms and conditions that make up the Procure IT framework are designed to be agreed between the NSW Government (referred to as "Contract Authority" in Procure IT) and the Supplier (referred to as "Contractor" in Procure IT) forming an agreement ("**Agreement**"). Various eligible entities and persons ("**Customers**") are nominated and listed in the Agreement as being entitled to place an 'order' with the Supplier ("**Order**") under the terms of the Agreement (Customers would usually be various departments of the NSW Government that wish to purchase the relevant products/services from the Supplier).

Each Order forms a separate contract between the Customer and Supplier ("**Contract**").

While the terms and conditions of the Agreement between the NSW Government and the Supplier apply to all Orders placed by a Customer pursuant to that Agreement, the Order allows for some flexibility. The Customer and Supplier are able to document their agreed positions on certain provisions of the standard terms and conditions and tailor the Contract provided that any additional provisions or conditions that are inconsistent with the Agreement are approved by the NSW Government in writing.

## Why has Procure IT been developed?

Procure IT encompasses what the NSW Government considers as 'commercially fair conditions', written in plain-English. It has been developed for the procurement of a broad range of IT products and services, from hardware and development services, to personnel services, systems integration services and managed services.

Procure IT will apply to new panel arrangements and GITC will apply to existing panel arrangements, until the arrangement is renewed. The NSW Department of Commerce believes that the Procure IT documentation has been simplified, shortened and has brought the GITC up-to-date to include new technologies and provide greater certainty in contractual dealings.

## The Agreement and the Contract

With reference to the Procure IT framework (examined below), the Agreement between the NSW Government and the Supplier consists of:

- Part 1 – the Standard Terms and Conditions of Agreement;
- Part 2 – the Dictionary;
- Part 3 – all Schedules relevant to the Agreement; and
- Part 4 – any Modules to the Agreement specified to apply.

The Contract between the Customer and the Supplier consists of:

- all parts of the Agreement as set out above;
- Part 5 - the Order Form and details;
- the Service Level Agreement (if one has been agreed); and
- any additional conditions the parties have agreed to in accordance with the Agreement.

## The Procure IT Framework

An understanding of the Procure IT framework is essential for information technology suppliers who are seeking to be successful in securing NSW Government contracts.

The Procure IT framework consists of:

Part 1 - Standard Terms and Conditions: Part 1 sets out the terms and conditions between the NSW Government and the Supplier during the term of the Agreement and as between the Supplier and Customer when the Customer places an Order.

Part 2 - Dictionary: This part lists the defined terms that feature in the Procure IT documentation. Specific terms used only in particular modules are defined in those modules rather than in the Dictionary.