

# **Model Clauses for Australian Skills Guarantee Procurement Connected Policy**

**Version 1**

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## **INTRODUCTION**

The model clauses contained in this document can be included by Commonwealth entities in approach to market, contract or panel arrangement documentation, as relevant, to give effect to the requirements of the Australian Skills Guarantee Procurement Connected Policy.

Some of the model clauses have been drafted for the purposes of meeting the mandatory requirements for non-corporate Commonwealth entities set out in the Australian Skills Guarantee Procurement Connected Policy. Other model clauses have been drafted to address optional matters set out in the Australian Skills Guarantee Procurement Connected Policy. The explanatory text in relation to these model clauses notes that they are 'optional clauses' and 'may be used'.

Commonwealth entities are able to modify and adapt these clauses to ensure consistency with their approach to market, contract or panel arrangement documentation, provided that the requirements of the Australian Skills Guarantee Procurement Connected Policy are met.

For a copy of and information about the Australian Skills Guarantee Procurement Connected Policy go to: <https://www.dewr.gov.au/australian-skills-guarantee>.

Commonwealth entities and tenderers should refer to the Australian Skills Guarantee Procurement Connected Policy to ensure that all requirements of that policy are met and for further information on how the policy applies.

Further guidance is available at <https://www.dewr.gov.au/resources/australian-skills-guarantee> and in the Australian Skills Guarantee – Guidance for Using the Model Clauses for Commonwealth Contracting Agencies available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

## 1. Approach to market clauses for a Major Construction Project

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Clauses A to E below are appropriate for inclusion in Approach to Market documentation for a Major Construction Project. Terms such as 'Tender', 'Tenderer' and 'Customer' should be amended to reflect the terminology used in your Approach to Market documentation.

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### A. Australian Skills Guarantee Procurement Connected Policy

#### A.1 Definitions

**Note to drafter:** Insert the below definitions in the appropriate section of your Approach to Market documentation.

<b>ANZSCO</b>	means the Australian and New Zealand Standard Classification of Occupations.
<b>Apprentice</b>	(also known as a trainee or an Australian Apprentice) means a person who is: <ul style="list-style-type: none"><li>a. employed under a Training Contract that has been registered with, and validated by, their State/Territory training authority;</li><li>b. undertaking paid work and structured training which comprises both on and off the job training;</li><li>c. undertaking a negotiated training program that involves obtaining a nationally recognised qualification; and</li><li>d. either directly employed by the supplier or sub-contractors, or indirectly employed through a Group Training Organisation to work on the Major Construction Project.</li></ul>
<b>Australian Skills Guarantee Procurement Connected Policy</b>	means the policy available on the Australian Skills Guarantee website available at: <a href="https://www.dewr.gov.au/australian-skills-guarantee">https://www.dewr.gov.au/australian-skills-guarantee</a> , as amended from time to time.
<b>Australian Skills Guarantee Targets</b>	means the: <ul style="list-style-type: none"><li>a. Overarching Apprentice Target</li><li>b. Overarching Apprentice Target for Women;</li><li>c. Trade-specific Apprentice Target for Women.</li></ul>

<b>Group Training Organisation</b>	means an organisation that employs Apprentices under a Training Contract and places them with Host Employers.
<b>Host Employer</b>	means an employer who hires an Apprentice through a Group Training Organisation.
<b>Labour Hours</b>	<p>means the number of hours a Worker worked on the Services. This may include:</p> <ul style="list-style-type: none"> <li>a. hours worked on-site;</li> <li>b. hours worked off-site that deliver inputs to the Services; or</li> <li>c. formal off-site training and education.</li> </ul> <p>provided that in circumstances where off-site hours are to be split between multiple projects, the sum of the reported hours must not be greater than the total hours the person worked off-site.</p>
<b>Major Construction Project</b>	means procurements with an estimated individual value of \$10 million and above (GST inclusive). United Nations Standard Products and Services Codes (UNSPSCs) that fall within the scope of construction services for the Skills Guarantee are specified in Appendix C of the Australian Skills Guarantee Procurement Connected Policy.
<b>Overarching Apprentice Target</b>	is a target for suppliers of Major Construction Projects that requires a minimum of 10% of all Labour Hours spent on the project are undertaken by Apprentices. Performance against this target will be calculated using Labour Hours, not headcount.
<b>Overarching Apprentice Target for Women</b>	is a target for suppliers of Major Construction Projects that requires a minimum percentage of all Apprentice Labour Hours spent on the project must be undertaken by Women. Both Trade and non-Trade Apprentices can be counted towards this target. Performance against this target will be calculated using Labour Hours, not headcount. Table 1 of the Australian Skills Guarantee Procurement Connected Policy provides further

	information on the level of the target and the annual increase.
<b>Trade</b>	means sub-major occupations that are classified as Technicians and Trades Workers using ANZSCO.
<b>Trade Apprentice</b>	is a person who: <ul style="list-style-type: none"> <li>a. is classified as an Apprentice; and</li> <li>b. works in a role that is classified as a Trade.</li> </ul>
<b>Trade-specific Apprentice Target for Women</b>	is a target for suppliers of Major Construction Projects that requires a minimum percentage of Trade Apprentice Labour Hours spent on the Major Construction Project must be undertaken by Women. Women working in Trades would be eligible to be counted towards this Trade-specific Apprentice Target for Women and the Overarching Apprentice Target for Women. Performance against this target will be calculated using Labour Hours, not headcount. Table 1 of the Australian Skills Guarantee Procurement Connected Policy provides further information on the level of the target and the annual increase.
<b>Training Contract</b>	means a legally binding agreement between an employer and Apprentice administered under state/territory legislation.
<b>Women</b>	means people, who regardless of their sex assigned at birth, identify as a woman irrespective of age.
<b>Worker or Employee</b>	means a person who is paid to work for an organisation for more than one hour in a week.

**B. Australian Skills Guarantee Procurement Connected Policy - Major Construction Project**

- B.1 Tenderers should note that the Australian Skills Guarantee Procurement Connected Policy applies to this Approach to Market. The Australian Skills Guarantee Procurement Connected Policy aims to address gender segregation and acute skills shortages by introducing the Australian Skills Guarantee Targets. This Approach to Market is for a Major Construction Project for the purposes of the Australian Skills Guarantee Procurement Connected Policy.

- B.2 In accordance with the Australian Skills Guarantee Procurement Connected Policy, the Tenderer should in its Tender:
- a. identify the total estimated Labour Hours required for completion of the Major Construction Project;
  - b. identify the percentage of Labour Hours to be undertaken by Apprentices;
  - c. identify the percentage of all Apprentice Labour Hours to be undertaken by Apprentices who are Women (including annual increases for multi-year projects);
  - d. identify the percentage of all Apprentice Labour Hours to be undertaken by Trade Apprentices who are Women (including annual increases for multi-year projects); and
  - e. include a declaration that it is able to meet the Australian Skills Guarantee Targets in the delivery of any resultant contract for this procurement.

### C. Evaluation criterion

**Note to Drafter:** Insert the below paragraph C.1 in the appropriate section of your Approach to Market documentation. Drafters should also consider whether other changes to the Approach to Market documentation are appropriate to facilitate evaluation of compliance with the Australian Skills Guarantee Procurement Connected Policy. It is a matter for each agency how to evaluate the below matters for example, as part of existing evaluation criteria, as a standalone criterion or as part of overall value for money/risk. Agencies should have regard to the extent to which a Tenderer is able to demonstrate it will meet the Australian Skills Guarantee Targets and adjust Tenderer's scores against the relevant evaluation criteria accordingly.

- C.1 In evaluating Tenders, the Customer will take into consideration:
- a. the Tenderer's past performance and reporting in accordance with the Australian Skills Guarantee Procurement Connected Policy (if any);
  - b. the extent to which the Tenderer demonstrates it will meet the Australian Skills Guarantee Targets in the delivery of any resultant contract for this procurement.

**Note to Tenderers:** A Tenderer that has no past experience with any Australian Skills Guarantee Targets will not be disadvantaged by this alone.

### D. Tender Response Forms - Tenderer declaration/deed poll

**Note to drafter:** Insert the below paragraph in the Tenderer declaration/deed poll (as applicable) tender response form. Drafters should amend the wording below as appropriate to reflect the terminology of the Tenderer declaration/deed poll.



- D.1 The Tenderer declares that it is able to meet the proposed targets as set out in its Tender in the delivery of any resultant contract for this procurement, as required by the Australian Skills Guarantee Procurement Connected Policy.

## E. Tender Response Forms

**Note to drafter:** Insert the below paragraphs in the service delivery tender response form or capability tender response form (or other appropriate tender response form). This may depend on how agencies propose to consider Tenderer compliance with the Australian Skills Guarantee Procurement Connected Policy, for example, whether as part of existing evaluation criteria as to service delivery or capability, as a new standalone evaluation criterion or as part of overall value for money. Refer also to supplementary guidance on procurements partly delivered overseas available at: <https://www.dewr.gov.au/resources/australian-skills-guarantee>.

- E.1 In accordance with the Australian Skills Guarantee Procurement Connected Policy, the Tenderer should identify:
- a. the total estimated Labour Hours required for completion of the Major Construction Project;
  - b. the percentage of Labour Hours to be undertaken by Apprentices;
  - c. the percentage of all Apprentice Labour Hours to be undertaken by Apprentices who are Women (including annual increases for multi-year projects); and
  - d. the percentage of all Apprentice Labour Hours to be undertaken by Trade Apprentices who are Women (including annual increases for multi-year projects).

**Note to Tenderers:** Tenderers should specify where Labours Hours will be performed both overseas and in Australia and provide the above information at E.1.b to E.1.d in relation to the Australian Labour Hours.

## 2. Contract clauses for a Major Construction Project

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Clauses A to C below are appropriate for inclusion in the contract terms for a Major Construction Project. For panel arrangements, the clauses below may be included in the standard contract terms to be applied to contracts made under the relevant deed of standing offer together with optional clause A.1. If optional clause A.1 is included, no specific clauses are required to be included in the overarching deed of standing offer terms but the relevant Work Order issued by the Customer/buying agency should identify whether the Australian Skills Guarantee Procurement Connected Policy applies to the particular contract. Refer to sections 7 and 8 of this document below and the Australian Skills Guarantee – Guidance for Using the Model Clauses for Commonwealth Contracting Agencies available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

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### A. Australian Skills Guarantee Targets

**Note to drafter:** Insert the below clauses A to C in the contract terms for a Major Construction Project. Clause A.1 is optional for use in panel arrangements. Terms such as 'Supplier', 'Contract', 'Work Order', 'Services', 'Customer' should be amended to reflect the terminology used in your contract terms.

- A.1 [Clauses A, B and C apply to the extent that the Work Order states that the Australian Skills Guarantee Procurement Connected Policy applies to a contract between the Supplier and the Customer for the provision of the Services.]
- A.2 In clauses A, B and C:
- |                   |  |
|-------------------|--|
| <b>ANZSCO</b>     | means the Australian and New Zealand Standard Classification of Occupations.   |
| <b>Apprentice</b> | (also known as a trainee or an Australian Apprentice) means a person who is: <ol style="list-style-type: none"><li>employed under a Training Contract that has been registered with, and validated by, the relevant State/Territory training authority;</li><li>undertaking paid work and structured training which commonly comprises both on and off the job training;</li><li>undertaking a negotiated training program that involves obtaining a nationally recognised qualification; and</li><li>either directly employed by the Supplier or Sub-contractors, or indirectly employed through a Group Training Organisation to work on the Services.</li></ol> |

**Australian Skills Guarantee Procurement Connected Policy Australian Skills Guarantee Targets**

means the policy available on the Australian Skills Guarantee website available at: <https://www.dewr.gov.au/australian-skills-guarantee>, as amended from time to time.

means the:

- a. Overarching Apprentice Target;
- b. Overarching Apprentice Target for Women; and
- c. Trade-specific Apprentice Target for Women.

**Group Training Organisation**

means an organisation that employs Apprentices under a Training Contract and places them with Host Employers.

**Host Employer**

means an employer who hires an Apprentice through a Group Training Organisation.

**Labour Hours**

means the number of hours a Worker worked on the Services. This may include:

- a. hours worked on-site;
- b. hours worked off-site that deliver inputs to the Services; or
- c. formal off-site training and education, provided that in circumstances where off-site hours are to be split between multiple projects, the sum of the reported hours must not be greater than the total hours the person worked off-site.

**Overarching Apprentice Target**

means a minimum of 10% of all Labour Hours spent on the Services must be undertaken by Apprentices.

**Overarching Apprentice Target for Women**

means the minimum targets specified in the table below of all Apprentice Labour Hours that must be undertaken by Apprentices who are Women during the relevant contract period:

<b>Contract period</b>	<b>Targets</b>
1 July 2024 to 30 June 2025	6%
1 July 2025 to 30 June 2026	7%
1 July 2026 to 30 June 2027	8%

1 July 2027 to 30 June 2028	9%
1 July 2028 to 30 June 2029	10%
1 July 2029 to 30 June 2030	11%
1 July 2030 onwards	12%

**Skills Guarantee Information**

means Skills Guarantee Reports or other documents or information provided by the Supplier in connection with its obligations under Clause A.

**Skills Guarantee Report**

means a report submitted by the Supplier to the Customer on its performance against the Australian Skills Guarantee Targets;

**Skills Guarantee Reporting Worksheet**

means the worksheet in the form at Schedule A.

**Trade-specific Apprentice Target for Women**

means the minimum targets specified in the table below of all Apprentice Labour Hours that must be undertaken by Trade Apprentices who are Women during the relevant contract period:

<b>Contract period</b>	<b>Targets</b>
1 July 2024 to 30 June 2025	4%
1 July 2025 to 30 June 2026	5%
1 July 2026 to 30 June 2027	6%
1 July 2027 to 30 June 2028	7%
1 July 2028 to 30 June 2029	8%

1 July 2029 to 30 June 2030	9%
1 July 2030 onwards	10%

**Trade** means sub-major occupations that are classified as ‘Technicians and Trades Workers’ using ANZSCO.

**Trade Apprentice** is a person who:

- a. is classified as an Apprentice; and
- b. works in a role that is classified as a Trade.

**Training Contract** means a legally binding agreement between an employer and Apprentice administered under state/territory legislation.

**Women** means people who, regardless of their sex assigned at birth, identify as a woman irrespective of age.

**Worker or Employee** means a person who is paid to work for an organisation for more than one hour in a week.

A.3 The Supplier must meet the Australian Skills Guarantee Targets in its performance of the Services under this Contract, as calculated in accordance with the Australian Skills Guarantee Procurement Connected Policy.

A.4 Clause A.3 does not limit and must not be construed as limiting the Supplier’s responsibility to provide the Services in accordance with and otherwise comply with the requirements of this Contract.

A.5 The Supplier must submit a Skills Guarantee Report, in accordance with the reporting requirements of the Australian Skills Guarantee Procurement Connected Policy.

A.6 Without limiting clause A.5, a Skills Guarantee Report:

- a. must be submitted within 10 Business Days after the end of every quarter during the Term, reporting on performance against the Australian Skills Guarantee Targets during the preceding quarter; and
- b. must be submitted within 10 Business Days after the end of every financial year during the Term, reporting on performance against the Australian Skills Guarantee Targets during the preceding financial year; and
- c. must be submitted within 10 Business Days after the end of the Term, reporting on performance against the Australian Skills Guarantee Targets during the Term; and

d. must be submitted using the Skills Guarantee Reporting Worksheet or such other form approved by the Customer.

A.7 If the Supplier did not meet one or more of the Australian Skills Guarantee Targets during the relevant reporting period, the Supplier must include details of the non-compliance in the relevant Skills Guarantee Report.

**B. Right to use Skills Guarantee Information**

B.1 The Supplier consents to the Customer using and providing a copy of Skills Guarantee Information to the Department of Employment and Workplace Relations, for the purposes of:

- i. meeting the objectives and requirements of the Australian Skills Guarantee Procurement Connected Policy;
- ii. evaluation and monitoring;
- iii. policy research and development; and
- iv. administration of the Australian Skills Guarantee Procurement Connected Policy.

B.2 The Supplier acknowledges that Skills Guarantee Information may also be used and disclosed as may be otherwise authorised or required by law.

B.3 By submitting Skills Guarantee Information to the Customer, which includes personal information of Apprentices within the meaning of the Privacy Act, the Supplier warrants and represents that:

- a. it has made its Apprentices aware that their personal information will be collected by the Supplier, and disclosed to the Customer and the Department of Employment and Workplace Relations for use in the manner contemplated in this clause B and as set out in more detail at <https://www.dewr.gov.au/australian-skills-guarantee/resources/australian-skills-guarantee-privacy-notice>; and
- b. it has obtained all necessary consents from its Apprentices in accordance with relevant privacy laws to the collection, use and disclosure of their personal information in the manner contemplated by this clause B. The Supplier will provide evidence of such consents to the Customer on request.

B.4 The Supplier agrees that high level aggregated data on the Supplier's performance against the Australian Skills Guarantee Targets may be recorded in a central repository that is able to be accessed by Commonwealth entities for the purposes of evaluation

of an offer by the Supplier to provide goods and/or services to a Commonwealth entity.

**C. Customer's rights**

- C.1 If the Customer considers, in its absolute discretion at any time during the term of this Contract, that it has concerns in relation to the Supplier's ability to meet the Australian Skills Guarantee Targets, the Customer may direct the Supplier to provide additional information and implement strategies to ensure it meets the Australian Skills Guarantee Targets.
- C.2 The Supplier must comply with all reasonable directions issued by the Customer under clause C.1.

**Note to drafter:** Clause C.3 is optional and may be included should the Customer wish to include express rights to terminate the contract in the event of Supplier non-compliance with the Australian Skills Guarantee Targets or non-compliance with reasonable directions issued by the Customer. This clause may require further adjustment for consistency with terminology used in the contract and the existing termination clauses.

- C.3 Without limiting its other rights under the Contract or at law, a failure by the Supplier to:
- a. comply with the Australian Skills Guarantee Targets; or
  - b. comply with its obligations under clause C.2,
- will be a breach of this Contract, and the Customer may terminate this Contract in accordance with clause [insert termination for default clause reference].

**Schedule [A] to Contract – Skills Guarantee Reporting Worksheet**

**Note to drafter:** Insert a new Schedule to your contract and insert the Skills Guarantee Reporting Worksheet available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

### **3. Approach to market clauses for a Flagship Construction Project**

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Clauses A to F below are appropriate for inclusion in Approach to Market documentation for a Flagship Construction Project. Terms such as 'Tender', 'Tenderer' and 'Customer' should be amended to reflect the terminology used in the relevant Approach to Market.

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#### **A. Australian Skills Guarantee Procurement Connected Policy**

##### **A.1 Definitions**

**Note to drafter:** Insert the below definitions in the appropriate section of your Approach to Market documentation.

<b>ANZSCO</b>	means the Australian and New Zealand Standard Classification of Occupations.
<b>Apprentice</b>	(also known as a trainee or an Australian Apprentice) means a person who is: <ul style="list-style-type: none"><li>a. employed under a Training Contract that has been registered with, and validated by, the relevant State/Territory training authority;</li><li>b. undertaking paid work and structured training which commonly comprises both on and off the job training;</li><li>c. undertaking a negotiated training program that involves obtaining a nationally recognised qualification; and</li><li>d. either directly employed by the Supplier or Sub-contractors, or indirectly employed through a Group Training Organisation to work on the Flagship Construction Project.</li></ul>
<b>Australian Skills Guarantee Procurement Connected Policy</b>	means the policy available on the Australian Skills Guarantee website available at: <a href="https://www.dewr.gov.au/australian-skills-guarantee">https://www.dewr.gov.au/australian-skills-guarantee</a> , as amended from time to time.
<b>Australian Skills Guarantee Targets</b>	means: <ul style="list-style-type: none"><li>a. the Overarching Apprentice Target;</li><li>b. an Apprentice Target for Women that is higher than the Overarching Apprentice Target for Women specified for Major Construction Projects; and</li></ul>



	<ul style="list-style-type: none"> <li>c. a Trade-specific Apprentice Target for Women that is higher than Trade-specific Apprentice Target for Women for Major Construction Projects.</li> </ul>
<b>Flagship Construction Project</b>	means procurements with an estimated individual value of \$100 million and above (GST inclusive). United Nations Standard Products and Services Codes (UNSPSCs) that fall within the scope of construction services for the Skills Guarantee are specified in Appendix C of the Australian Skills Guarantee Procurement Connected Policy.
<b>Gender Equality Action Plan</b>	means the plan outlining the Tenderer's recruitment and retention strategies to ensure the Australian Skills Guarantee Targets applicable to Women are achieved and sustained, as required for Flagship Construction Projects in accordance with the Australian Skills Guarantee Procurement Connected Policy.
<b>Group Training Organisation</b>	means an organisation that employs Apprentices under a Training Contract and places them with Host Employers.
<b>Host Employer</b>	means an employer who hires an Apprentice through a Group Training Organisation.
<b>Labour Hours</b>	<p>means the number of hours a Worker worked on the Services. This may include:</p> <ul style="list-style-type: none"> <li>a. hours worked on-site;</li> <li>b. hours worked off-site that deliver inputs to the Services; or</li> <li>c. formal off-site training and education.</li> </ul> <p>provided that in circumstances where off-site hours are to be split between multiple projects, the sum of the reported hours must not be greater than the total hours the person worked off-site.</p>
<b>Major Construction Project</b>	means procurements with an estimated individual value of \$10 million and above (GST inclusive). United Nations Standard Products and Services Codes (UNSPSCs) that fall within the scope of construction

	services for the Skills Guarantee are specified in Appendix C of the Australian Skills Guarantee Procurement Connected Policy.
<b>Overarching Apprentice Target</b>	is a target for suppliers of Major Construction Projects that requires a minimum of 10% of all Labour Hours spent on the project are undertaken by Apprentices. Performance against this target will be calculated using Labour Hours, not headcount.
<b>Overarching Apprentice Target for Women (for Major Construction Projects)</b>	is a target for suppliers of Major Construction Projects that requires a minimum percentage of all Apprentice Labour hours spent on the project must be undertaken by Women. Both Trade and non-Trade apprentices can be counted towards this target. Performance against this target will be calculated using Labour Hours, not headcount. Table 1 of the Australian Skills Guarantee Procurement Connected Policy provides further information on the level of the target and the annual increase.
<b>Trade</b>	means sub-major occupations that are classified as Technicians and Trades Workers using ANZSCO.
<b>Trade Apprentice</b>	is a person who: <ul style="list-style-type: none"> <li>a. is classified as an Apprentice; and</li> <li>b. works in a role that is classified as a Trade.</li> </ul>
<b>Trade-specific Apprentice Target for Women (for Major Construction Projects)</b>	is a target for suppliers of Major Construction Projects that requires a minimum percentage of Trade Apprentice Labour Hours spent on the Major Construction Project must be undertaken by Women. Women working in Trades would be eligible to be counted towards this Trade-specific Apprentice Target for Women and the Overarching Apprentice Target for Women. Performance against this target will be calculated using Labour Hours, not headcount. Table 1 of the Australian Skills Guarantee Procurement Connected Policy provides further information on the level of the target and the annual increase.

<b>Training Contract</b>	means a legally binding agreement between an employer and Apprentice administered under state/territory legislation.
<b>Women</b>	means people who, regardless of their sex assigned at birth, identify as a woman irrespective of age.
<b>Worker or Employee</b>	means a person who is paid to work for an organisation for more than one hour in a week.

**B. Australian Skills Guarantee Procurement Connected Policy – Flagship Construction Project**

- B.1 Tenderers should note that the Australian Skills Guarantee Procurement Connected Policy applies to this Approach to Market. The Australian Skills Guarantee Procurement Connected Policy aims to address gender segregation and acute skills shortages by introducing the Australian Skills Guarantee Targets. This Approach to Market is for a Flagship Construction Project for the purposes of the Australian Skills Guarantee Procurement Connected Policy.
- B.2 In accordance with the Australian Skills Guarantee Procurement Connected Policy, the Tenderer should, in its Tender:
- a. identify the total estimated Labour Hours required for completion of the Flagship Construction Project;
  - b. identify:
    - i. the percentage of Labour Hours to be undertaken by Apprentices, and
    - ii. a target specifying the proposed percentage of all Apprentice Labour Hours to be undertaken by Apprentices who are Women and Trade Apprentices who are Women in each financial year of the Flagship Construction Project, (including annual increases for multi-year projects) which should be higher than the equivalent Overarching Apprentice Target for Women and Trade-specific Apprentice Target for Women specified for Major Construction Projects;
  - c. include a declaration that it is able to meet or exceed the targets as set out in its Tender Response and comply with its Gender Equality Action Plan in the delivery of any resultant contract for this procurement; and
  - d. include a copy of its Gender Equality Action Plan that covers this Approach to Market.

## C. Evaluation criterion

**Note to Drafter:** Insert the below paragraph C.1 in the appropriate section of your Approach to Market documentation. Drafters should also consider whether it would be appropriate to make other changes to the Approach to Market documentation to facilitate evaluation of compliance with the Australian Skills Guarantee Procurement Connected Policy. It is a matter for each agency how to evaluate the below matters for example, as part of existing evaluation criteria, as a standalone criterion or as part of overall value for money/risk. Agencies should have regard to the extent to which a Tenderer is able to demonstrate it will meet the Australian Skills Guarantee Targets and adjust Tenderer's scores against the relevant evaluation criteria accordingly.

- C.1 In evaluating Tenders, the Customer will take into consideration:
- a. the Tenderer's past performance and reporting in accordance with the Australian Skills Guarantee Procurement Connected Policy (if any);
  - b. the extent to which the Tenderer demonstrates it will:
    - i. meet or exceed the targets as set out in its Tender, as required by the Australian Skills Guarantee Procurement Connected Policy; and
    - ii. comply with its Gender Equality Action Plan,in the delivery of any resultant contract for this procurement;

**Note to Tenderers:** A Tenderer that has no past experience with any Australian Skills Guarantee Targets will not be disadvantaged by this alone.

## D. Tender Response Forms - Tenderer declaration/deed poll

**Note to drafter:** Insert the below paragraph in the Tenderer declaration/deed poll (as applicable) tender response form. Drafters should amend the wording below as appropriate to reflect the terminology of the Tenderer declaration/deed poll.

- D.1 The Tenderer declares that:
- a. it is able to meet or exceed the targets as set out in its Tender; and
  - b. it will comply with its Gender Equality Action Plan,
- in the delivery of any resultant contract for this procurement, as required by the Australian Skills Guarantee Procurement Connected Policy.

## E. Tender Response Forms

**Note to drafter:** Insert the below paragraphs in the service delivery tender response form or capability tender response form (or other appropriate tender response form). This may depend on how agencies propose to consider Tenderer compliance with the Australian Skills Guarantee Procurement Connected Policy, for example,

whether as part of existing evaluation criteria as to service delivery or capability, as a new standalone evaluation criterion or as part of overall value for money. Refer also to supplementary guidance on procurements partly delivered overseas available at: <https://www.dewr.gov.au/resources/australian-skills-guarantee>.

- E.1 In accordance with the Australian Skills Guarantee Procurement Connected Policy, the Tenderer should identify:
- a. the total estimated Labour Hours required for completion of the Flagship Construction Project;
  - b. the percentage of Labour Hours to be undertaken by Apprentices;
  - c. the percentage of all Apprentice Labour Hours to be undertaken by Apprentices who are Women in each financial year of the Flagship Construction Project, (including annual increases for multi-year projects), which should be higher than the equivalent Overarching Apprentice Target for Women and Trade-specific Apprentice Target for Women for Major Construction Projects; and
  - d. the percentage of all Apprentice Labour Hours to be undertaken by Trade Apprentices who are Women in each financial year of the Flagship Construction Project, (including annual increases for multi-year projects), which should be higher than the equivalent Overarching Apprentice Target for Women and Trade-specific Apprentice Target for Women for Major Construction Projects.

**Note to Tenderers:** Tenderers should specify where Labours Hours will be performed both overseas and in Australia and provide the above information at E.1.b to E.1.d in relation to the Australian Labour Hours.

## F. Tender Response Form - Template Gender Equality Action Plan

**Note to drafter:** Include a new Tender Response Form and template Gender Equality Action Plan as follows. The successful Tenderer's Gender Equality Action Plan will form part of its resultant contract.

- F.1 Each Tenderer must submit with its Tender a Gender Equality Action Plan that addresses the requirements of the Australian Skills Guarantee Procurement Connected Policy.
- F.2 A suggested format for the Gender Equality Action Plan is set out at: <https://www.dewr.gov.au/resources/australian-skills-guarantee>.

#### 4. Contract clauses for a Flagship Construction Project

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Clauses A to D below are appropriate for inclusion in the contract terms for a Flagship Construction Project. For panel arrangements, the below clauses may be included in the standard contract terms to be applied to contracts made under the relevant deed of standing offer together with optional clause 0. If optional clause 0 is included, no specific clauses are required to be included in the overarching deed of standing offer terms but the relevant Work Order issued by the Customer/buying agency should identify whether the Australian Skills Guarantee Procurement Connected Policy applies to the particular contract. Refer to sections 7 and 8 of this document below and the Australian Skills Guarantee – Guidance for Using the Model Clauses for Commonwealth Contracting Agencies available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

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##### A. Australian Skills Guarantee Targets

**Note to drafter:** Insert the below clauses A.2 to A.7 in the contract terms for a Flagship Construction Project. Clause 0 is optional for use in panel arrangements. Terms such as ‘Supplier’, ‘Contract’, ‘Work Order’, ‘Services’, ‘Customer’ should be amended to reflect the terminology used in your contract terms.

**A.1** [Clauses A to D apply to the extent that the Work Order states that the Australian Skills Guarantee Procurement Connected Policy applies to a contract between the Supplier and the Customer for the provision of the Services.]

**A.2** In clauses A to D:

**ANZSCO**

means the Australian and New Zealand Standard Classification of Occupations.

**Apprentice**

means a person who is:

- a. employed under a Training Contract that has been registered with, and validated by, the relevant State/Territory training authority;
- b. undertaking paid work and structured training which commonly comprises both on and off the job training;
- c. undertaking a negotiated training program that involves obtaining a nationally recognised qualification; and
- d. either directly employed by the Supplier or Sub-contractors, or indirectly employed through a Group Training Organisation to work on the Services.

**Australian Skills Guarantee Procurement Connected Policy Australian Skills Guarantee Targets**

means the policy available on the Australian Skills Guarantee website available at: <https://www.dewr.gov.au/australian-skills-guarantee>, as amended from time to time.

means the:

- a. Overarching Apprentice Target;
- a. Overarching Apprentice Target for Women; and
- b. Trade-specific Apprentice Target for Women.

**Gender Equality Action Plan**

means the plan in Schedule [B] (Gender Equality Action Plan) to this Contract.

**Group Training Organisation**

means an organisation that employs Apprentices under a Training Contract and places them with Host Employers.

**Host Employer**

means an employer who hires an Apprentice through a Group Training Organisation.

**Labour Hours**

means the number of hours a Worker worked on the Services. This may include:

- a. hours worked on-site;
- b. hours worked off-site that deliver inputs to the Services; or
- c. formal off-site training and education,

provided that in circumstances where off-site hours are to be split between multiple projects, the sum of the reported hours must not be greater than the total hours the person worked off-site.

**Overarching Apprentice Target**

means a minimum of 10% of all Labour Hours spent on the Services must be undertaken by Apprentices.

**Overarching Apprentice Target for Women**

**Note to drafter:** Insert the text below and amend the table to include the agreed target percentage for each year of the Term of the Contract. Delete the rows/columns that do not apply as appropriate.

means the percentages specified in the table below of all Apprentice Labour Hours that must be undertaken by Apprentices who are Women during the relevant contract period:

<b>Contract period</b>	<b>Targets</b>
1 July 2024 to 30 June 2025	[insert]

1 July 2025 to 30 June 2026	[insert]
1 July 2026 to 30 June 2027	[insert]
1 July 2027 to 30 June 2028	[insert]
1 July 2028 to 30 June 2029	[insert]
1 July 2029 to 30 June 2030	[insert]
1 July 2030 onwards	[insert]

**Skills Guarantee Information**

means Skills Guarantee Reports or other documents or information provided by the Supplier in connection with its obligations under Clause A.

**Skills Guarantee Report**

means a report submitted by the Supplier to the Customer on its performance against the Australian Skills Guarantee Targets;

**Skills Guarantee Reporting Worksheet**

means the worksheet in the form at Schedule A.

**Trade-specific Apprentice Target for Women**

**Note to drafter:** Insert the text below and amend the table to include the agreed target percentage for each year of the Term of the Contract. Delete the rows/columns that do not apply as appropriate.

means the percentages specified in the table below of all Apprentice Labour Hours that must be undertaken by Trade Apprentices who are Women during the relevant contract period:

<b>Contract period</b>	<b>Targets</b>
1 July 2024 to 30 June 2025	[insert]
1 July 2025 to 30 June 2026	[insert]



1 July 2026 to 30 June 2027	[insert]
1 July 2027 to 30 June 2028	[insert]
1 July 2028 to 30 June 2029	[insert]
1 July 2029 to 30 June 2030	[insert]
1 July 2030 onwards	[insert]

<b>Trade</b>	means sub-major occupations that are classified as ‘Technicians and Trades Workers’ using ANZSCO.
<b>Trade Apprentice</b>	is a person who: <ul style="list-style-type: none"> <li>a. is classified as an Apprentice; and</li> <li>b. works in a role that is classified as a Trade.</li> </ul>
<b>Training Contract</b>	means a legally binding agreement between an employer and Apprentice administered under state/territory legislation.
<b>Women</b>	means people who, regardless of their sex assigned at birth, identify as a woman irrespective of age.
<b>Worker or Employee</b>	means a person who is paid to work for an organisation for more than one hour in a week.

- A.3 The Supplier must meet the Australian Skills Guarantee Targets in its performance of the Services under this Contract, as calculated in accordance with the Australian Skills Guarantee Procurement Connected Policy.
- A.4 Clause A.3 does not limit and must not be construed as limiting the Supplier’s responsibility to provide the Services in accordance with and otherwise comply with the requirements of this Contract.
- A.5 The Supplier must submit a Skills Guarantee Report, in accordance with the reporting requirements of the Australian Skills Guarantee Procurement Connected Policy.
- A.6 Without limiting clause A.5, a Skills Guarantee Report:
  - a. must be submitted within 10 Business Days after the end of every quarter during the Term, reporting on performance

against the Australian Skills Guarantee Targets during the preceding quarter; and

- b. must be submitted within 10 Business Days after the end of every financial year during the Term, reporting on performance against the Australian Skills Guarantee Targets during the preceding financial year; and
- c. must be submitted within 10 Business Days after the end of the Term, reporting on performance against the Australian Skills Guarantee Targets during the Term; and
- d. must be submitted using the Skills Guarantee Reporting Worksheet or such other form approved by the Customer.

A.7 If the Supplier did not meet one or more of the Australian Skills Guarantee Targets during the relevant reporting period, the Supplier must include details of the non-compliance in the relevant Skills Guarantee Report.

**B. Gender Equality Action Plan**

- B.1 Without limiting clause A.3, the Supplier must comply with the Gender Equality Action Plan.
- B.2 The Gender Equality Action Plan must not be construed as limiting the Supplier's responsibility to provide the Services in accordance with and otherwise comply with the requirements of this Contract.
- B.3 Without limiting clause A.5 to A.7, the Supplier must, in its Skills Guarantee Reports, report to the Customer on its compliance with the Gender Equality Action Plan, in accordance with the requirements of the Australian Skills Guarantee Procurement Connected Policy.

**C. Right to use Skills Guarantee Information**

- C.1 The Supplier consents to the Customer using and providing a copy of Skills Guarantee Information to the Department of Employment and Workplace Relations, for the purposes of:
  - i. meeting the objectives and requirements of the Australian Skills Guarantee Procurement Connected Policy;
  - ii. evaluation and monitoring; and
  - iii. policy research and development; and
  - iv. administration of the Australian Skills Guarantee.
- C.2 The Supplier notes that Skills Guarantee Information may also be used and disclosed as may be otherwise authorised or required by law.

- C.3 By submitting Skills Guarantee Information to the Customer, which may include personal information within the meaning of the Privacy Act, the Supplier warrants and represents that:
- a. it has made its Apprentices aware that their personal information will be collected by the Supplier, and disclosed to the Customer and the Department of Employment and Workplace Relations for use in the manner contemplated in this clause B and as set out in more detail at <https://www.dewr.gov.au/australian-skills-guarantee/resources/australian-skills-guarantee-privacy-notice>; and
  - b. it has obtained all necessary consents from its Apprentices in accordance with relevant privacy laws to the collection, use and disclosure of their personal information in the manner contemplated by this clause C. The Supplier will provide evidence of such consents to the Customer on request.
- C.4 The Supplier agrees that high level aggregated data on the Supplier's performance against the Australian Skills Guarantee Targets may be recorded in a central repository that is able to be accessed by Commonwealth entities for the purposes of evaluation of an offer by the Supplier to provide goods and/or services to a Commonwealth entity.

**D. Customer's rights**

- D.1 If the Customer considers, in its absolute discretion at any time during the term of this Contract, that it has concerns in relation to the Supplier's ability to meet the Australian Skills Guarantee Targets, the Customer may direct the Supplier to provide additional information and implement strategies to ensure it meets the Australian Skills Guarantee Targets.
- D.2 The Supplier must comply with all reasonable directions issued by the Customer under clause D.1.

**Note to drafter:** Clause D.3 is optional and may be included should the Customer wish to include express rights to terminate the contract in the event of Supplier non-compliance with the Australian Skills Guarantee Targets or non-compliance with a reasonable direction issued by the Customer. This clause may require further adjustment for consistency with terminology used in the contract and the existing termination clauses.

- D.3 Without limiting its other rights under the Contract or at law, a failure by the Supplier to:
- a. comply with the Australian Skills Guarantee Targets; or
  - b. comply with its obligations under clause D.2,

will be a breach of this Contract, and the Customer may terminate this Contract in accordance with clause [insert termination for default clause reference].

**Schedule [A] to Contract – Skills Guarantee Reporting Worksheet**

**Note to drafter:** Insert a new Schedule to your contract and insert the Skills Guarantee Reporting Worksheet available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

**Schedule [B] to Contract – Gender Equality Action Plan**

**Note to Tenderer:** Gender Equality Action Plan submitted as part of your tender response will be included here

## **5. Approach to market clauses for a Major ICT Project**

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Clauses A to E below are appropriate for inclusion in Approach to Market documentation for a Major ICT Project where you have determined it is reasonable to apply targets to the relevant Major ICT Project based on the nature of the services being procured. Terms such as 'Tender', 'Tenderer' and 'Customer' should be amended to reflect the terminology used in the relevant Approach to Market.

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### **A. Australian Skills Guarantee Procurement Connected Policy**

#### **A.1 Definitions**

**Note to drafter:** Insert the below definitions in the appropriate section of your Approach to Market documentation.

<b>Apprentice</b>	(also known as a trainee or an Australian Apprentice) means a person who is: <ul style="list-style-type: none"><li>a. employed under a Training Contract that has been registered with, and validated by, their State/Territory Training Authority;</li><li>b. undertaking paid work and structured training which comprises both on and off the job training;</li><li>c. undertaking a negotiated training program that involves obtaining a nationally recognised qualification; and</li><li>d. either directly employed by the supplier or sub-contractors, or indirectly employed through a Group Training Organisation to work on the Services.</li></ul>
<b>Australian Skills Guarantee Procurement Connected Policy</b>	means the policy available on the Australian Skills Guarantee website available at: <a href="https://www.dewr.gov.au/australian-skills-guarantee">https://www.dewr.gov.au/australian-skills-guarantee</a> , as amended from time to time.
<b>Australian Skills Guarantee Targets</b>	means the agreed target Labour Hours to be undertaken by Apprentices, ICT Cadets and Apprentices who are Women and ICT Cadets.
<b>Group Training Organisation</b>	means an organisation that employs Apprentices under a Training Contract and places them with Host Employers.
<b>Host Employer</b>	means an employer who hires an Apprentice through a Group Training Organisation.
<b>ICT Cadet</b>	means a paid Employee who is:

- a. working on a major ICT project;
- b. employed in an entry-level role; and
- c. undertaking academic study through either the VET or higher education system towards a qualification under the Australian Qualification Framework, where the employer has formally committed to providing the Employee with on-the-job training and support to complete the specific course of academic study.

**Labour Hours**

means the number of hours a Worker worked on the Services. This may include:

- a. hours worked on-site;
- b. hours worked off-site that deliver inputs to the Services; or
- c. formal off-site training and education.

provided that in circumstances where off-site hours are to be split between multiple projects, the sum of the reported hours must not be greater than the total hours the person worked off-site.

**Major ICT Project**

are those procurements with an estimated individual value of \$10 million and above (GST inclusive) in the United Nations Standard Products and Services Codes (UNSPSCs) specified in Appendix D of the Australian Skills Guarantee Procurement Connected Policy.

**Training Contract**

means a legally binding agreement between an employer and Apprentice administered under state/territory legislation.

**Women**

means people who, regardless of their sex assigned at birth, identify as a woman irrespective of age.

**Worker or Employee**

means a person who is paid to work for an organisation for more than one hour in a week.

**B. Australian Skills Guarantee Procurement Connected Policy – Major ICT Project**

- B.1 Tenderers should note that the Australian Skills Guarantee Procurement Connected Policy applies to this Approach to Market. The Australian Skills Guarantee Procurement Connected Policy

aims to address gender segregation and acute skills shortages by introducing the Australian Skills Guarantee Targets. This Approach to Market is for a Major ICT Project for the purposes of the Australian Skills Guarantee Procurement Connected Policy.

- B.2 In accordance with the Australian Skills Guarantee Procurement Connected Policy, the Tenderer should, in its Tender:
- a. identify:
    - i. the total estimated Labour Hours required for completion of the Major ICT Project;
    - ii. a target specifying the percentage of all Labour Hours to be undertaken by Apprentices and/or ICT Cadets;
    - iii. a target specifying the percentage of all Apprentice and/or ICT Cadet Labour Hours to be undertaken by Apprentices who are Women and/or ICT Cadets;
    - iv. how the proposed targets would increase the proportion of Apprentices and/or ICT cadets engaged in the workforce of the Tenderer (including its subcontractors);
    - v. up-to-date workforce data on which the proposed targets are based;
    - vi. an outline of why the targets have been set at the proposed levels; and
  - b. include a declaration that it is able to meet the proposed targets as set out in its Tender, in the delivery of any resultant contract for this procurement.

### C. Evaluation criterion

**Note to Drafter:** Insert the below paragraph C.1 in the appropriate section of your Approach to Market documentation. Drafters should also consider whether it would be appropriate to make other changes to the Approach to Market documentation to facilitate evaluation of compliance with the Australian Skills Guarantee Procurement Connected Policy. It is a matter for each agency how to evaluate the below matters for example, as part of existing evaluation criteria, as a standalone criterion or as part of overall value for money/risk. Agencies should have regard to the extent to which a Tenderer is able to demonstrate it will meet the Australian Skills Guarantee Targets and adjust Tenderer's scores against the relevant evaluation criteria accordingly.

- C.1 In evaluating Tenders, the Customer will take into consideration:
- a. the Tenderer's past performance and reporting in accordance with the Australian Skills Guarantee Procurement Connected Policy (if any);

- b. the extent to which the Tenderer demonstrates its proposed targets would increase the proportion of Apprentices and ICT Cadets engaged in the workforce of the Tenderer (including its subcontractors).

**Note to Tenderers:** A Tenderer that has no past experience with any Australian Skills Guarantee Targets will not be disadvantaged by this alone.

#### **D. Tender Response Forms - Tenderer declaration/deed poll**

**Note to drafter:** Insert the below paragraph in the Tenderer declaration/deed poll (as applicable) tender response form. Drafters should amend the wording below as appropriate to reflect the terminology of the Tenderer declaration/deed poll.

- D.1 The Tenderer declares that it is able to meet the proposed targets as set out in its Tender in the delivery of any resultant contract for this procurement, as required by the Australian Skills Guarantee Procurement Connected Policy.

#### **E. Tender Response Forms**

**Note to drafter:** Insert the below paragraphs in the service delivery tender response form or capability tender response form (or other appropriate tender response form). This may depend on how agencies propose to consider Tenderer compliance with the Australian Skills Guarantee Procurement Connected Policy, for example, whether as part of existing evaluation criteria as to service delivery or capability, as a new standalone evaluation criterion or as part of overall value for money. Refer also to supplementary guidance on procurements partly delivered overseas available at: <https://www.dewr.gov.au/resources/australian-skills-guarantee>.

- E.1 In accordance with the Australian Skills Guarantee Procurement Connected Policy, the Tenderer should identify:
  - a. the total estimated Labour Hours required for completion of the Major ICT Project;
  - b. the percentage of Labour Hours to be undertaken by Apprentices and/or ICT Cadets;
  - c. the percentage of all Apprentice Labour Hours to be undertaken by Apprentices who are Women and/or ICT Cadets;
  - d. how the proposed targets would increase the proportion of Apprentices and/or ICT cadets engaged in the workforce of the Tenderer (including its subcontractors);
  - e. up-to-date workforce data on which the proposed targets are based; and



- f. an outline of why the targets have been set at the proposed levels.

**Note to Tenderers:** Tenderers should specify where Labours Hours will be performed both overseas and in Australia and provide the above information at E.1.b to E.1.d in relation to the Australian Labour Hours.

## 6. Contract clauses for a Major ICT Project

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Clauses A to C below are appropriate for inclusion in the contract terms for a Major ICT Project. For panel arrangements, the below clauses may be inserted into the standard contract terms to be applied to contracts made under the relevant deed of standing offer together with optional clause 0. If optional clause 0 is included, no specific clauses are required to be included in the panel deed terms but the relevant Work Order issued by the Customer/buying agency should identify whether the Australian Skills Guarantee Procurement Connected Policy applies to the particular contract. Refer to sections 7 and 8 of this document below and the Australian Skills Guarantee – Guidance for Using the Model Clauses for Commonwealth Contracting Agencies available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

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### A. Australian Skills Guarantee Targets

**Note to drafter:** Insert the below clauses A.2 to A.7 in the contract terms for a Major ICT Project. Clause 0 is optional for use in panel arrangements. Terms such as 'Supplier', 'Contract', 'Work Order', 'Services', 'Customer' should be amended to reflect the terminology used in your contract terms.

A.1 [Clauses A, B and C apply to the extent that the Work Order states that the Australian Skills Guarantee Procurement Connected Policy applies to a contract between the Supplier and the Buyer for the provision of the Services.]

A.2 In clauses A, B and C:

#### **Apprentice**

means a person who is:

- a. employed under a Training Contract that has been registered with, and validated by, the relevant State/Territory training authority;
- b. undertaking paid work and structured training which commonly comprises both on and off the job training;
- c. undertaking a negotiated training program that involves obtaining a nationally recognised qualification; and
- d. either directly employed by the Supplier or Sub-contractors, or indirectly employed through a Group Training Organisation to work on the Services.

#### **Australian Skills Guarantee Targets**

means the

- a. Overarching Apprentice and ICT Cadet Target;
- b. Apprentice and ICT Cadet Target for Women.

<b>Australian Skills Guarantee Procurement Connected Policy</b>	means the policy available on the Australian Skills Guarantee website available at: <a href="https://www.dewr.gov.au/australian-skills-guarantee">https://www.dewr.gov.au/australian-skills-guarantee</a> , as amended from time to time.
<b>Group Training Organisation</b>	means an organisation that employs Apprentices under a Training Contract and places them with Host Employers.
<b>Host Employer</b>	means an employer who hires an Apprentice through a Group Training Organisation.
<b>ICT Cadet</b>	means a person who is: <ul style="list-style-type: none"> <li>a. working on the Services;</li> <li>b. employed in an entry-level role; and</li> <li>c. undertaking academic study through either the VET or higher education system towards a qualification under the Australian Qualification Framework,</li> </ul> where the employer has formally committed to providing the Employee with on-the-job training and support to complete the specific course of academic study.
<b>Labour Hours</b>	means the number of hours a Worker worked on the Services. This may include: <ul style="list-style-type: none"> <li>a. hours worked on-site;</li> <li>b. hours worked off-site that deliver inputs to the Services; or</li> <li>c. formal off-site training and education,</li> </ul> provided that in circumstances where off-site hours are to be split between multiple projects, the sum of the reported hours must not be greater than the total hours the person worked off-site.
<b>Overarching Apprentice and ICT Cadet Target</b>	means [insert agreed percentage] of all Labour Hours spent on the Services must be undertaken by Apprentices and/or ICT Cadets during the relevant contract period.
<b>Apprentice and ICT Cadet Target for Women</b>	means [insert agreed percentage] of all Labour Hours must be undertaken by Apprentices who are Women and/or Women ICT Cadets during the relevant contract period.
<b>Skills Guarantee Information</b>	means Skills Guarantee Reports or other documents or information provided by the Supplier in connection with its obligations under Clause A.

<b>Skills Guarantee Report</b>	means a report submitted by the Supplier to the Customer on its performance against the Australian Skills Guarantee Targets;
<b>Skills Guarantee Reporting Worksheet</b>	means the worksheet in the form at Schedule A.
<b>Training Contract</b>	means a legally binding agreement between an employer and Apprentice administered under state/territory legislation.
<b>Women</b>	means people who, regardless of their sex assigned at birth, identify as a woman irrespective of age.
<b>Worker or Employee</b>	means a person who is paid to work for an organisation for more than one hour in a week.

- A.3 The Supplier must meet the Australian Skills Guarantee Targets in its performance of the Services under this Contract, as calculated in accordance with the Australian Skills Guarantee Procurement Connected Policy.
- A.4 Clause A.3 does not limit and must not be construed as limiting the Supplier's responsibility to provide the Services in accordance with and otherwise comply with the requirements of this Contract.
- A.5 The Supplier must submit a Skills Guarantee Report, in accordance with the reporting requirements of the Australian Skills Guarantee Procurement Connected Policy.
- A.6 Without limiting clause A.5, a Skills Guarantee Report:
- a. must be submitted within 10 Business Days after the end of every quarter during the Term, reporting on performance against the Australian Skills Guarantee Targets during the preceding quarter;
  - b. must be submitted within 10 Business Days after the end of every financial year during the Term, reporting on performance against the Australian Skills Guarantee Targets during the preceding financial year;
  - c. must be submitted within 10 Business Days after the end of the Term, reporting on performance against the Australian Skills Guarantee Targets during the Term; and
  - d. must be submitted using the Skills Guarantee Reporting Worksheet or such other form approved by the Customer.
- A.7 If the Supplier did not meet one or more of the Australian Skills Guarantee Targets during the relevant reporting period, the Supplier must include details of the non-compliance in the relevant Skills Guarantee Report.

**B. Right to use Skills Guarantee Information**

- B.1 The Supplier consents to the Customer using and providing a copy of Skills Guarantee Information to the Department of Employment and Workplace Relations, for the purposes of:
- i. meeting the objectives and requirements of the Australian Skills Guarantee Procurement Connected Policy;
  - ii. evaluation and monitoring; and
  - iii. policy research and development; and
  - iv. administration of the Australian Skills Guarantee; and
- B.2 The Supplier notes that Skills Guarantee Information may also be used and disclosed as may be otherwise authorised or required by law.
- B.3 By submitting Skills Guarantee Information to the Customer, which may include personal information within the meaning of the Privacy Act, the Supplier warrants and represents that:
- a. it has made its Apprentices aware that their personal information will be collected by the Supplier, and disclosed to the Customer and the Department of Employment and Workplace Relations for use in the manner contemplated in this clause B and as set out in more detail at <https://www.dewr.gov.au/australian-skills-guarantee/resources/australian-skills-guarantee-privacy-notice>; and
  - b. it has obtained all necessary consents from its Apprentices and ICT Cadets in accordance with relevant privacy laws to the collection, use and disclosure of their personal information in the manner contemplated by this clause B. The Supplier will provide evidence of such consents to the Customer on request.
- B.4 The Supplier agrees that high level aggregated data on the Supplier's performance against the Australian Skills Guarantee Targets may be recorded in a central repository that is able to be accessed by Commonwealth entities for the purposes of evaluation of an offer by the Supplier to provide goods and/or services to a Commonwealth entity.

**C. Customer's rights**

- C.1 If the Customer considers, in its absolute discretion at any time during the term of this Contract, that it has concerns in relation to the Supplier's ability to meet the Australian Skills Guarantee Targets, the Customer may direct the Supplier to provide additional

information and implement strategies to ensure it meets the Australian Skills Guarantee Targets.

- C.2 The Supplier must comply with all reasonable directions issued by the Customer under clause C.1.

**Note to drafter:** Clause C.3 is optional and may be included should the Customer wish to include express rights to terminate the contract in the event of Supplier non-compliance with the Australian Skills Guarantee Targets or non-compliance with a reasonable direction issued by the Customer. This clause may require further adjustment for consistency with terminology used in the contract and the existing termination clauses.

- C.3 Without limiting its other rights under the Contract or at law, a failure by the Supplier to:
- a. comply with the Australian Skills Guarantee Targets; or
  - b. comply with its obligations under clause C.2,

will be a breach of this Contract, and the Customer may terminate this Contract in accordance with clause [insert termination for default clause reference].

#### **Schedule [A] to Contract – Skills Guarantee Reporting Worksheet**

**Note to drafter:** Insert a new Schedule to your contract and insert the Skills Guarantee Reporting Worksheet available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

**7. Approach to market for the establishment of a new panel arrangement or standing offer which may include procurements for Major Construction Projects, Flagship Construction Projects or Major ICT Projects**

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C.4 In this clause A:

**Australian Skills Guarantee Targets**

means the relevant workforce participation target requirements for a Major Construction Project, Flagship Construction Project or Major ICT Project, as those terms are defined in the Australian Skills Guarantee Procurement Connected Policy.

**Australian Skills Guarantee Procurement Connected Policy**

means the policy available on the Australian Skills Guarantee website available at: <https://www.dewr.gov.au/australian-skills-guarantee>, as amended from time to time.

**Note to drafter:** The below clause should be adjusted as necessary depending on the scope of the procurement/panel arrangement.

C.5 Tenderers should note that the Australian Skills Guarantee Procurement Connected Policy applies to this Approach to Market and accordingly, the Australian Skills Guarantee Targets will apply to the delivery of any resultant contract for a made under the standing offer established by this Approach to Market, where the relevant thresholds are met.

**D. Deed of Standing Offer terms - Australian Skills Guarantee Procurement Connected Policy**

**Note to drafter:** The below clause is **optional** – if it is included, it may assist buyer agencies to request the provision of information and/or plans required by the Australian Skills Guarantee Procurement Connected Policy. However, this clause may not be required if the Deed of Standing Offer terms already provide broad scope for the buying agency to request information to be provided by the Supplier in response to a Request for Quote. Terms such as ‘Buyer’ and ‘Request for Quote’ should be amended to reflect the terminology used in your Deed of Standing Offer documentation.

D.1 The Supplier must comply with any requirements set out in a Customer’s Request for Quote and as notified by the Customer when responding to a Request for Quote including the provision of information and/or plans in accordance with the Australian Skills Guarantee Procurement Connected Policy.

**E. Deed of Standing Offer – Schedule [X] - Standard contract terms**

**Note to drafter:** Include the model contract clauses for a Major Construction Project, Flagship Construction Project or Major ICT Project (refer sections 0, 4, and 6 of this document above) as appropriate in the relevant schedule of the Deed Of

Standing Offer that sets out the standard contract terms for contracts made under the Deed of Standing Offer (eg Schedule 2 – Standard Contract Terms). The appropriate clause may depend on the scope of the procurement in question. Note that the optional clause A.1 should be included (refer sections 0, 4, and 6 of this document above).

**8. Procurements from existing panel arrangements established prior to 1 July 2024**

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For further guidance on panel arrangements, refer to the Australian Skills Guarantee – Guidance for Using the Model Clauses for Commonwealth Contracting Agencies available on the Australian Skills Guarantee Operational Resources and Stakeholder Engagement GovTEAMS community.

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