

Standing Offer Arrangement (SOA) Details template guidance notes

This document contains guidance notes to help the Customer complete the SOA Details document available on the [Department of Housing and Public Works \(HPW\) website](#).

Can I use the new Standing Offer Arrangement documents (including SOA Details) for ICT purchasing?

No. Standing Offer Arrangements for ICT Goods and Services must use the existing [ICT Standing Offer Arrangement](#) documentation until those documents are reviewed and updated.

Guidance Note #	Guidance
Section 2 – General Information	
1 Principal Name	Insert the name of the legal entity that is entering into the SOA on behalf of the Government. For example, <i>“The State of Queensland acting through the Department of...”</i>
2 Principal Contact Details	<p>The Supplier will use these details to contact the Principal for all communications relating to the SOA. This includes formal notices for items such as Price reviews, notices of breach or extensions, as well as informal day-to-day notices.</p> <p>It is important the Principal provides a general email address and/or contact details that is accessible and monitored by staff within their service area to ensure coverage at times when the Principal may be on leave, away due to illness or general unavailability.</p> <p>Customers will include their own contact details in each Contract associated with the SOA.</p>



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<p>3 Cap on liability</p>	<p>If caps on liability are appropriate, then it is recommended that as part of SOA negotiations, the Principal agrees liability caps between the Supplier and Customers as part of the SOA (captured in the SOA Details). This will create efficiencies by Customers and Suppliers not having to negotiate this each time a Customer buys from the Supplier under the SOA.</p> <p>The liability cap can be:</p> <ul style="list-style-type: none"> • a maximum dollar value (e.g. \$2 million); and/or • a cap based on a multiple of the price payable under the contract (e.g. three times the Contract value). <p>If more than one cap is nominated, the higher amount applies.</p> <p>The Principal may propose a different liability cap to the ‘default’ position as drafted in the SOA Details template, (or alternatively have no liability cap at all if that is a reasonable position and Supplier agrees).</p> <p>Suppliers will generally try to keep liability caps low. For the cap on liability between Suppliers and the Customer, it is important that the Principal carefully considers what is an appropriate liability cap for the Goods or Services being purchased, weighing up the risks if the Goods/Services do not meet the requirements, against the possibility that the Supplier may increase its Prices to reflect increased risk if the liability cap is inappropriately high.</p> <p>Professional Standards Schemes: Some Suppliers that provide certain professional Services might be a member of a Professional Standards Scheme that is approved by the Professional Standards Council (see www.psc.gov.au for more information). Suppliers that are members of a Professional Standards Scheme will have their liability limited under the scheme.</p> <p>Examples of professions where a Professional Standards Scheme exists includes: accountants, valuers, surveyors, engineers, lawyers and ICT professionals. If the SOA is for any of these services and the Supplier is a member of the binding scheme, the SOA Details asks the Supplier to specify details of the scheme.</p> <p>However, the law only requires the Supplier to notify if the Supplier wants its liability to be limited as per the Scheme, so the Principal should also check whether the Supplier has given this notification in another way. If the SOA is for Goods only, or any other Services not mentioned above, then the Principal can delete the text relating to Professional Standards Schemes as it won’t apply to the SOA.</p>

<p>4 Insurance</p>	<p>This item relates to the SOA and to the Contract, but is more important for the Contract.</p> <p>The Principal should consider whether other insurance is necessary. For example, professional indemnity or errors and omissions insurance, product liability insurance.</p> <p>If not using the General Contract Conditions or Comprehensive Contract Conditions, the Principal should note the following: When professional indemnity insurance is on a ‘claims made’ basis the Principal should ask the Supplier to maintain the insurance for a period after all Contracts made under the SOA end. This is because ‘claims made’ policies do not provide coverage if the person’s insurance has lapsed at the time that they claim under the policy, even if they were insured at the time the relevant event happened. This requirement is already incorporated in the General Contract Conditions and Comprehensive Contract Conditions.</p> <p>Where the Contract is higher risk, or where there is doubt as to the Supplier’s ability to meet their potential liabilities, consider whether you should include other insurance requirements. Additional provisions can be found in the Clause Bank for tender and contract documents available on GovNet.</p> <p>It is also possible to specify minimum insurance amounts on a ‘per claim’ basis. If this is important for your SOA, then insert “Minimum insured amount per claim: \$insert” and specify the amount of cover required.</p> <p>If you are not sure what insurances are necessary for the Goods/Services supplied under the Contract consult:</p> <ul style="list-style-type: none"> • your organisation’s procurement advisors, legal advisors, finance or insurance advisors; • Queensland Government Insurance Fund (www.qgif.qld.gov.au); • the relevant category manager for guidance. <p>Also consider asking your suppliers what insurances they have in place. This might help inform you about industry ‘standard practice’ for insurances relevant to those Goods/Services.</p> <p>There is some helpful guidance about how to determine what insurances might be required, and levels of insurance in the GITC Framework Part 5 User Guide (pages 16-19).</p>
<p>5 Security Requirements</p>	<p>Generally, it is not usual for the government to require security from Suppliers. If the SOA is for low risk or low value Goods/Services, security should not be required from the Supplier. If the Supplier is not required to provide security to customers under the SOA then insert “Not applicable”.</p>

	<p>The Principal should determine whether or not it is reasonable (or foreseeable) for Customers to require security from the Supplier under the SOA (based on risks of supply), such as performance guarantees or bank guarantees. Security may help to manage the Customer’s financial risk, but is also likely to increase the Supplier’s costs which may affect the final price.</p> <p>A bank guarantee gives the Customer the right to obtain money from an approved security provider for loss incurred where the Supplier defaults or fails to perform its obligations. The bank guarantee provides financial incentive for the Supplier to carry out its contractual obligations.</p> <p>A performance guarantee is a guarantee, made by the Supplier or another party (which must be an approved security provider) of the Supplier’s performance of its obligations.</p> <p>It is appropriate for Customers to ask for a performance guarantee in higher risk and high value contracts where the supply of deliverables is critical and it would be difficult to substitute another supplier if the Supplier failed to perform its obligations. If a Customer requires security from the Supplier, it will need to be negotiated by the Customer at the time of entering into a Contract with the Supplier. If you think this is likely to occur, then select the Comprehensive Contract Conditions as the terms and conditions for the Contract.</p> <p>Legal advice should be obtained before requiring a performance guarantee, bank guarantee or other form of security. The <i>Financial and Performance Management Standard 2009</i> specifies certain mandatory requirements for guarantees provided concerning contracts with the State. Any security provided must comply with the requirements of the <i>Financial and Performance Management Standard 2009</i> (Qld).</p>
<p>6 Conditions that apply to purchasing Good/Service by the Customer (i.e. the Contract between Customer and the Supplier)</p>	<p>In this section, you have flexibility to choose the terms and conditions (i.e. the contract) that will apply when Customers purchase from the Supplier under the SOA. Select the terms and conditions which are the most appropriate, based on your assessment of value and risk. For example:</p> <ul style="list-style-type: none"> • Select the Basic Purchasing Conditions if the Goods/Services that can be purchased under the SOA are low value and low risk. • Select the General Contract Conditions if neither the Basic Purchasing Conditions or Comprehensive Contract Conditions are appropriate. • Select the Comprehensive Contract Conditions if the Goods/Services that can be purchased under the SOA are high risk and the extra protection of the Comprehensive Contract Conditions (e.g. security, transition out services) is needed. • If there is some other type of contract you want to use for your SOA (e.g. Social Services Agreement, or ‘bespoke’ contract that has been specifically prepared for the goods/services), then attach a copy of it or insert a link to the website where it is available. <p>For more information about which contract to use, see the ‘When to use...’ fact sheet located on GovNet.</p>

<p>7 Contract departures – Principal changes</p>	<p>The Basic Purchasing Conditions are designed for straightforward purchases of low value, low risk Goods and some limited types of Services, and are not intended to be amended.</p> <p>In this section the Principal can insert any terms and conditions that are specific to the Principal or other Customers that will use the SOA, or any additional clauses that it requires, to deal with special circumstances relevant to the Goods or Services. If any of the standard SOA Conditions or contract terms and conditions (between Customer and Supplier) are not appropriate for the Goods or Services (i.e. if the Principal wants to delete or modify them), then the Principal can change them here. This ensures variations to the standard conditions can be easily identified.</p> <p>Examples of other clauses that may be required include:</p> <ul style="list-style-type: none"> (a) agency specific terms and conditions, such as compliance with specific legislation or workplace health and safety requirements; (b) terms and conditions peculiar to the Goods/Services being purchased; (c) transition in services; (d) transition out / disengagement services; (e) disaster recovery and business continuity planning. <p>If there are no special circumstances relevant to the Goods/Services and the Principal does not need to include any extra clauses, insert “Not applicable.”</p> <p>To ensure that Principal changes are clear, it is suggested that Principal:</p> <ul style="list-style-type: none"> (a) number all new clauses following on from the numbering in the applicable Contract; (b) state clearly if they want to delete an entire clause; and (c) when amending clauses, either: <ul style="list-style-type: none"> • copy and paste the clause into this section (keeping the original numbering) and show amendments by striking through words that should be deleted and underlining words that should be inserted; or • delete sentences/clauses in their entirety and “replace with ...”. <p>If the Principal makes changes to the Contract terms and conditions in this section, those changes will apply to all Contracts entered into by Customers under the SOA.</p>
<p>8 Contract departures – Intellectual Property Rights</p>	<p>The default position under the SOA is that the Principal will own any <i>new</i> Intellectual Property Rights created under the SOA. The Principal gives the Supplier a broad licence to use those Intellectual Property Rights (‘IP’) commercially.</p> <p>This clause will be appropriate for most SOAs, as it is more likely that any significant IP will be developed under individual Contracts. It will not be appropriate if the Principal:</p> <ul style="list-style-type: none"> (a) intends to use the newly developed IP commercially – because the Supplier would be free to use the new IP in a competing offering; (b) intends to grant an exclusive licence to a third party – because the Principal is granting a licence to the Supplier; or

	<p>(c) has engaged the Supplier to create a bespoke deliverable that will give the Principal a market advantage – because the advantage would be lost if the Supplier licensed the same deliverable to another party.</p> <p>Alternative IP models can be found in the <i>Clause Bank for new tender and contract documents</i> available on GovNet. You may also find it useful to refer to the IP models in Schedule C2 of GITC (page 68-72).</p> <p>It is recommended that any significant changes to the default position regarding Intellectual Property Rights should be reviewed by your internal legal advisors.</p> <p>In the Basic Purchasing Conditions:</p> <p>The default position is that the Supplier will own any new Intellectual Property Rights created when they are performing the Contract. The Supplier gives the Customer a licence to use all of its existing and new Intellectual Property Rights incorporated into the Goods, Services and Deliverables, as part of those materials, but not to take those existing Intellectual Property Rights and use them to create other materials. The Basic Purchasing Conditions will not be appropriate if the Principal expects there to be significant Intellectual Property Rights provided through performing the Contract.</p>
<p>9 Contract departures – Supplier changes</p>	<p>A Supplier cannot amend the Basic Purchasing Conditions document.</p> <p>The Principal should consider how they will review any Supplier changes made in this section, and insert format requirements if appropriate. For example, you may ask the Supplier to copy and paste the terms in this section using review tools such as Track Changes, strike through or underlining, if that will make it easier to review.</p> <p>If the Principal permits the Supplier to insert an alternative position without drafting an alternative clause, the Principal and Supplier will need to separately agree the drafting and update the SOA Details before the contract can be finalised.</p> <p>Supplier change requests</p> <p>If a Supplier requests changes to the terms and conditions which are not accepted in full by the Principal, then before the SOA Details can be finalised the Principal will need to:</p> <ul style="list-style-type: none"> □ create a new version of the SOA Details which contains only the changes that have been agreed by the parties (for example, delete the changes requested by the Supplier that were not accepted. Or delete the

	<p>table of changes requested by the Supplier and replace it with words to describe the amendments that are agreed)</p> <ul style="list-style-type: none"> □ send the final version of the SOA Details to the Supplier for the Supplier to sign and return to the Principal. <p>The Principal can then finalise the agreement by signing the SOA Details or confirming in writing that it accepts the final version of the SOA Details (and all documents that form part of the SOA Details), signed by the Supplier.</p>
<p>10 Finalising the SOA / Record keeping</p>	<p>Once you finalise negotiations it is important to keep a complete record of the contract with the Supplier, for the benefit of contract managers and anybody else who may need to refer to the contract at a later date. Best practice for good record keeping is to do the following:</p> <ul style="list-style-type: none"> • If you are finalising the SOA by confirming to the Supplier in writing that you accept their offer (i.e. acceptance by letter), then make sure that the letter attaches a copy of all the documents that make up the SOA, including the SOA Details (and any attachments referred to in the SOA Details), the SOA Conditions (current at that time), the terms and conditions of the Customer Contract referred to in the SOA Details, and the Definitions and Interpretation (current at that time). • Make sure you save a copy of all documents that make up the SOA using a contract management system such as Q-Contracts. This ensures there is a complete record of the SOA with the following documents: <ul style="list-style-type: none"> ○ a PDF version of the Definitions and Interpretation used, ○ a PDF version of the SOA Conditions used ○ a PDF version of the Customer contract terms and conditions used (e.g. Basic Purchasing Conditions, General Contract Conditions, Comprehensive Contract Conditions or other contract), and ○ a PDF of the final version of the SOA Details, updated to reflect any agreed amendments, which has been signed by the Supplier (and Principal, if the Principal is signing this document) ○ a copy of the letter of acceptance from the Principal to Supplier (if applicable).

Schedule 1 – Requirements for Goods/Services

<p>11 Description of Goods</p>	<p>The Principal should insert as much detail as possible to describe the Goods that Customers can purchase from the Supplier under the SOA, and the applicable Requirements. It is important that this section clearly sets out specification for the Goods, all the standards, acceptance criteria and other requirements for the Goods (including requirements for documents the Supplier must provide) that will apply to all Contracts under the SOA.</p> <p>This section may include parts that are pre-completed by the Principal (e.g. describing the requirements), and some sections completed by the Supplier (e.g. describing the goods that will be supplied).</p>
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<p>12 Description of Services</p>	<p>The Principal should insert as much detail as possible to describe the Services that Customers can purchase from the Supplier under the SOA, and the applicable Requirements. It is important that this section clearly sets out the Service specification, all the performance standards, acceptance criteria, and other requirements (e.g. requirements for documents the Supplier must provide) that will apply to all Contracts under the SOA.</p> <p>This section may include parts that are pre-completed by the Principal such as describing the requirements, and some sections completed by the Supplier such as describing the actual services that will be performed.</p>
<p>Schedule 2 – Price and Payment Terms</p>	
<p>13 Price</p>	<p>This Schedule contains all Pricing information that applies to Goods/Services that Customers can purchase under the SOA such as price list or applicable rates. The Principal should amend this section to set out any other Pricing requirements not already addressed.</p> <p>If the Principal wants Suppliers to submit Pricing in a specific way such as a table or a Price template in Excel, then attach the Price schedule or insert the table template the Supplier is to complete. The Principal should be careful to ensure that the alternative Price format addresses all of the Price elements referred to in this section.</p>
<p>Schedule 3 – Performance Measurement</p>	
<p>14 Performance Measurement</p>	<p>If the Supplier’s performance will be measured against Key Performance Indicators (KPIs), acceptance criteria, service levels or other measures, insert details of the performance measurement here (e.g. describe the KPIs or minimum Service levels). We recommend that KPI’s are kept to a minimum, and are outcome focused and measurable to ensure effective Contract management.</p> <p>Insert details of required reporting against service measures.</p> <p>Insert consequences if the performance is unsatisfactory such as service credits, rebates or escalation within the Supplier’s organisation.</p> <p>The Principal should ensure that all measures are clear, measurable and have consequences if they are not met. The measures should identify whether the Principal’s objectives have been met and if not, give the Supplier an incentive to correct performance so that the objectives are met.</p> <p>An example KPI table is set out in the SOA Details template located on the HPW website. The Principal should adapt or replace the table with details relevant to the measures being applied (e.g. if the main output of the</p>

	Services is a report, the measures may include that the document is easy to read and contains the necessary information).
Schedule 5 – Minimum SOA Order details	
15 SOA Order details	<p>Describe in this schedule how Customers can place orders under the SOA. This schedule is a free text schedule that can be modified by the Principal so that it is a 'custom fit' for the Goods/Services to be purchased under the SOA.</p> <p>If it is proposed that all Customers purchase from the Supplier in a consistent way by using the same order form, briefing document, request document for example - then the example template for placing orders can be incorporated into Schedule 5.</p> <p>Alternatively, if there is no example SOA Order form/template that you want Customers to use, you could describe the process for placing orders with Suppliers, but Customers will need to ensure that their method of ordering includes at least the minimum information identified in Schedule 5.</p> <p>There is no prescribed process for a Customer to seek an estimate before placing an SOA Order. This does not preclude Customers from seeking estimates. If a Customer asks for an estimate, they should ensure that the request for estimate clearly states that it is a request for an estimate and not an order. Once the Customer receives an estimate, it can then place an SOA Order if the estimate is acceptable.</p>

More information



If you have any questions, please contact betterprocurement@hpw.qld.gov.au.