



# NEMS Standing Offer Panel - Frequently Asked Questions

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## 1. How does the National Stockpile differ from the Panel?

The Stockpile is a physical stockpile of goods that the Australian Government owns, which NEMA holds, maintains and deploys as required.

The Panel is a pre-vetted 'virtual marketplace' of suppliers that offer a range of goods and services. NEMA does not own any of the goods or services offered on the Panel.

For more information on this point, watch our NEMS Panel information session please at

## 2. Is the National Emergency Management Stockpile (NEMS) Standing Offer Panel operational yet?

Yes, the NEMS Standing Offer Panel (the **Panel**) became operational on 3 May 2024.

## 3. What mechanism allows state, territory and local government entities to access the Panel?

Access to the Panel by local, state and territory government entities does not rely on any legislative approvals to be exercised by the Commonwealth. The open market Request for Tender (RFT) undertaken by NEMA to establish the Panel provided advice to the market that, in addition to other Commonwealth entities, the states and territories may opt into this procurement arrangement by completing the Deed of Inclusions and attending a short training session. More information can be found at Questions 8 and 9 below.

## 4. How can I purchase through the Panel?

In order to purchase through the Panel, your entity needs to become an approved Customer of the Panel which is done by completing the Deed of Inclusion and attending a short training session on the use of the Panel. See Questions 8 and 9 below for more information.

## 5. How are Customers defined?

A Customer is a Commonwealth, state, territory, local or other government entity approved by NEMA to obtain Supplies under the Panel arrangement.

## 6. Can non-government entities such as Peak Bodies, access the Panel?

No. Only government entities, including state, territory and local government entities, may access the Panel once they have obtained approval from NEMA. Private and partially government-funded entities are not eligible to become Customers of the Panel.



## 7. How long will it take for a government entity to become an approved Customer of the Panel? (Processing times)

The NEMS Panel team aims to process all applications to become an approved Customer within 10 business days, noting that during Higher Risk Weather Season (HRWS) or times of crises, this timeframe may be affected.

## 8. How do I become an approved Customer of the Panel?

Your entity must complete the requirements of and arrange for an authorised representative from your entity to sign and submit the *Notice of Inclusion* (Schedule 10 to the Deed) to NEMA.

Your entity must also arrange for at least one relevant procurement person from your entity to attend a short training session on the operation of the Deed. This session is provided by NEMA.

Once NEMA has received and approved your request to be included as a Customer, NEMA will provide you with written confirmation of approval via email and read-only access to the Suppliers' Deeds.

NEMA will also advise all Suppliers on the Panel that your entity is an approved Customer.

For further information on this process, or on upcoming training dates please email [nemspaneloperations@nema.gov.au](mailto:nemspaneloperations@nema.gov.au)

## 9. What is the purpose of the Notice of Inclusion?

The *Notice of Inclusion* allows the Customer to apply the Deed against the Supplier, without making the Customer a party to the Deed. This enables the Customer to issue Purchase Orders, to access Supplies for the Contract price and to be invoiced in accordance with the Deed.

There are differing laws and policies which apply to procurement across states and territories. The *Notice of Inclusion* (Schedule 10 of the Deed):

- allows a state or territory entity (or other government entity) to identify the Commonwealth laws and policies (as set out at clause 26.2 of the Deed) which will not apply to procurements under the Panel by that non-Commonwealth entity; and
- instructs the state, territory or local government entity to identify state, territory and local government laws and policies that are to apply to procurements under the Panel by that entity.

The same law and policy requirements that a local, state or territory government entity identifies in the Notice of Inclusion must be included in the relevant sections of Requests for Quotation and Purchase Orders issued by your entity to a Supplier in accordance with the Deed, so that a valid Contract can be formed.



### **10. If another government entity in my state or territory has already been approved as a Customer, does my (separate) entity also need to be approved?**

Yes. Each separate legal entity will need to request approval from NEMA to become a Customer in order to use the Panel.

### **11. If my entity becomes a Customer, am I locked in to using the Panel?**

No. Customers are not obliged to use the Panel. Nothing in the Head Agreement prevents a Customer from obtaining goods and services the same as or similar to the Offered Supplies from any Supplier, whether or not that Supplier is a Panellist.

### **12. Are there examples of non-Commonwealth Government entities accessing Commonwealth panel arrangements?**

Yes. Many state and territory entities have signed on to a number of Commonwealth panels. The Commonwealth Digital Transformation Agency's Whole-of-Government Amazon Web Services (Cloud Services) Standing Offer Panel is one example. This link (<https://www.itnews.com.au/news/nsw-dcs-signs-aws-megadeal-for-576m-580857>) discusses a transaction undertaken by the NSW Department of Customer Services in which it signed an agreement with Amazon Web Services (AWS) for infrastructure hosting services. The contract was established under the AWS Whole of Australian Government Arrangement (refer SON 3588479 on Austender ([www.tenders.gov.au](http://www.tenders.gov.au))) in June 2023 with a reported valued of \$57.6m.

The National Emergency Management Stockpile Standing Offer Panel is the first Panel which provides access to approved state, territory, local government entities for Commonwealth-selected emergency and disaster mitigation goods and services.

### **13. How do I demonstrate open and effective competition and value for money when buying off the Panel?**

NEMA undertook a competitive, open market tender process to establish the Panel. The technical solution, cost of the goods and services offered, corporate capabilities and capacities and the associated risks of the goods and services offered by the successful panellists was assessed to determine overall value for money.

However, noting there is variability of maximum prices and discounts provided by suppliers, Customers will need to make an assessment of value for money in accordance with their own procurement processes each time they issue a Request for Quote under the Panel.



## 14. How does the pricing structure of the Panel work?

The Panel's pricing has been established on a maximum (ceiling) price with discounting (where offered by individual suppliers) basis. Depending on a range of factors, for example the type and volume of goods/services to be procured, a Customer may receive a quote which is less than the maximum price provided under the Panel. However, a Supplier's quoted price **cannot exceed the maximum price** in the Deed.

To maintain pricing commercial-in-confidence in the absence of a (planned) electronic procurement portal, Customers will be given access to a read-only SharePoint page containing all the Panel's Supplier Deeds.

NEMA will refresh the Panel pricing at least every 12 months.

## 15. Is there a difference between the Deed and a Contract?

Yes. The Deed is an overarching legal document in which the Commonwealth and the Suppliers have agreed to enter into an agreement in which the Commonwealth agrees that it seeks to have access to the supplies and services which the suppliers agree to offer - at certain prices - for a specified period (three years plus extensions). Contracts are formed under the umbrella of the overarching Deed.

When NEMA or other Commonwealth entities place a Purchase Order with a Supplier – that is the point at which a contract is formed. All of the terms and condition in the Deed apply to that Contract.

Where a state, territory or local government entity (Customer) places a Purchase Order with a Supplier, a Contract is also formed between that Customer and the Supplier. In this case, the Contract includes only certain terms of the Deed which do not relate to some of the Commonwealth legislation and policies listed and referenced in the Deed, the relevant terms of supply (e.g. terms for the specific goods or services), the Statement of Work, the Purchase Order and documents incorporated by express reference as part of the Contract.

## 16. What if I need to procure goods and/or services urgently in response to a disaster?

The Deed includes arrangements for an Emergency Order, which is an expedited order for goods and/or services where the Customer requires those supplies to meet its needs for an actual or potential emergency. Notwithstanding this, states and territories are encouraged to consider their own strategic procurement plans in advance of higher risk weather seasons.

The Emergency Order function presents some procurement risk as the contract is entered into without regard to price. Further, Emergency Orders are only effective where the goods sought are in stock. Many of the goods available on the Panel have long lead times and may not be in stock at the time of request. Nevertheless, single-use goods are generally held in numbers by Panel Suppliers. The Emergency Order function is most effective when seeking services such as skilled personnel to provide disaster or emergency relief and for the provision of road transport.



### 17. Is there a way to stop Customers from buying up all the stock of a particular product and not leaving any for others?

In the event that the Australian Government activates an [Australian Government Disaster Response Plan \(COMDISPLAN\)](#) under the [Australian Government Crisis Management Plan \(AGCMF\)](#), one or more categories under the Panel may be made temporarily unavailable to states and territories. If this occurs, the NEMS Panel Manager will provide advice to all approved Customers who have signed onto the Panel.

### 18. Is the Panel closed to new Suppliers?

No. NEMA may add new Suppliers to the Panel under the often-open principle. NEMA will conduct an open approach the market to add new Suppliers at its discretion. This can only be done by NEMA as the Panel owner and will be undertaken via an open market approach.

### 19. How were the current Panel categories and subcategories decided on?

The Panel categories are based on historical data for Requests for Assistance (RFA) which resulted in the provision of support from the Australian Defence Force (ADF). These were compiled into categories that were feasible to have on a Panel. NEMA also engaged with state and territory government representatives through a series of workshops in 2022 and 2023 before deciding on the current list.

### 20. Can new goods and services be added to the Panel?

Yes. NEMA may add or remove categories for goods and services, and approach the market to add these new goods or services. This can only be done by NEMA as the Panel owner and will be undertaken via an open market approach through AusTender.

### 21. Will the Panel reopen for Tender in the future?

The Panel operates on an often-open basis which allows NEMA to add goods, services or categories to the Panel at its discretion. It is likely that NEMA will undertake Refreshes - if required - following the Higher Risk Weather Season.

### 22. Will the Panel categories and subcategories change in future?

As mentioned previously, the Panel operates on an often-open basis. Following a Higher Risk Weather Season, the Panel's operation will be assessed by NEMA to see if its categories remain fit-for-purpose. If the categories require changes, the market will be approached via an open tender through AusTender.



### 23. How can my business apply to become a Panel supplier?

Please set up alerts on AusTender and monitor NEMA social media channels for announcements of when NEMA seeks additional suppliers or goods and services. NEMA does not accept unsolicited proposals for inclusion on the Panel.

### 24. Who can I talk to if I have more questions about how the Panel operates or how my entity can become a Customer?

The NEMS Panel Management team are here to assist you with any questions you might have. You can reach the NEMS Panel Management team via email at [nemspaneloperations@nema.gov.au](mailto:nemspaneloperations@nema.gov.au)

Please click on the relevant links below to visit NEMA's social media

