

Annexure A - Feedback Form

Note: Please use this form to provide comments/feedback in relation to the New Framework.

Entity name:

Note: By providing information below you agree that the Department of Customer Service (DCS) may use this information for the purpose of considering and assessing your feedback and comments on the New Framework, further developing the New Framework and for any other purpose related to the carrying out or exercise of DCS' functions or powers. DCS may disclose any information you provide below or to DCS in connection with the New Framework to DCS' employees, representatives and lawyers as well as other government agencies. You also agree that DCS may use your personal details below should it wish to contact you to seek further clarification of your feedback.

You may elect to provide feedback on an anonymous basis. However, DCS will not be able to contact you, should it wish to seek clarification about your feedback.

Entity's name:	Name: Australian Information Industry Association
Entity's representative	Name: Simon Bush Email: simon@aiaa.com.au Telephone: 0417 642 200

New Framework

Please insert your comments and feedback in relation to the documents forming part of the New Framework in the table below. If you have specific recommendations in relation to amendments to particular clauses of the New Framework Documents, please show those changes in mark-up below.

Document	Clause ref	Comments/feedback
Master ICT Agreement (MICTA)		
ICT Agreement (ICTA)		
Hardware and Other ICT Deliverables Module		

Document	Clause ref	Comments/feedback
Software (non-Cloud) Module		
Services (non-Cloud) Module		
Cloud Module		

General

Please provide any additional comments in relation to the New Framework

The feedback that the AIIA provides to the NSW Department of Customer Service relates to the long-form contract applying to purchases over \$2,000,000 or those deemed to post a high risk to the government. The AIIA questions the viability of the default minimum liability for large projects of \$2,000,000 for high-risk projects of a dollar value under \$2,000,000. For example, if a supplier is engaged in a \$50,000 contract that is deemed high risk, the minimum amount the supplier would be liable for is \$2,000,000, unless another value were otherwise agreed in Item 54 of the Purchase Order by buyer and supplier, which strikes the AIIA as potentially disproportionate.

Ascertaining the feasibility of accepting this amount of liability from an insurance and underwriting perspective will be critical to the success of these changes, and the AIIA notes with concern the absence of consultation with the insurance industry, as acknowledged in question and answer sessions with industry. Obtaining insurance for this level of liability must be both affordable to the supplier and acceptable to those stakeholders of the insurance industry who are in the business of insuring these kinds of contractual arrangements. The AIIA also encourages government to carry out an economic impact assessment to ensure that the new framework does not make it unviable for certain suppliers to contract with government on purchases that have the potential to be deemed as high-risk.

In the previous iteration of the purchasing framework, liability was tethered much more closely to the size of the contract, which the AIIA does not necessarily suggest should be a causal connection, only that liability needs to be manageable and proportionate for suppliers lest the high level of liability incumbent on suppliers prove prohibitive. Risk analysis processes on part of the purchaser need to be transparent and proportionate in setting a dollar value of liability for the long-form contract.

The AIIA has received feedback from members that the new framework possesses a high level of complexity and a low level of navigability. Government in the revision of the purchasing framework has referred even more issues to the purchase order level, which does not necessarily reduce the number of issues for suppliers or make the provisions less complex and issue-dense. The AIIA considers that the new framework is therefore a missed opportunity to improve ease of customer contracting, even though it might make agreeing to the new head terms easier on face value.

Although the contract appears to be more flexible and customisable, especially in its numerous references to the order form, this itself poses the difficulty of suppliers having to undertake legal and insurance analysis on a case-by-case basis for every supply to government. If the contract itself were simpler and streamlined, carrying out this case-by-case analysis would be less prohibitive as a proposition for smaller suppliers of ICT.