



Australian Government

# Sustainable Procurement Model Clauses

## Appendix D to the Sustainable Procurement Guide



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# APPENDIX D

## Model Clauses for Environmental Sustainability

The model clauses contained in this appendix provide example environmental sustainability requirements for Approach to Market (ATM) documents as well as contract terms for Australian Government procurers.

### How to use these model clauses

All model wording contained within this Guide is optional and can be amended to reflect the scope, complexity and risk of a particular procurement. Officials should consider the context of the procurement before using model wording and ensure the wording is compliant with the Commonwealth Procurement Rules.

### Key tips to interpret the model clauses

- Uses of terms consistent with the Commonwealth Contracting Suite templates. For example: 'Supplier'; 'Customer'; and 'Contract'. Commonwealth entities can amend these terms if required by specific policies.
- Optional wording is indicated by square brackets with red highlight: **[annually]** or **[10]** *business days*.
- Model wording for ATM requirements and contract clauses is *written in italics*.

### Evaluating environmental sustainability

Note to Drafters: After specifying the environmental sustainability requirements in the ATM documents, it is recommended that environmental sustainability be assessed in the overall evaluation process alongside organisation-specific criteria such as cost, quality and reliability. If available, weightings should be assigned according to the agency's objectives, priorities and targets.

### Sustainability reporting requirements

Note to Drafters: The Customer should identify their environmental sustainability reporting requirements early in the procurement process. Reporting requirements can include specific reporting metrics or a standardised reporting framework. These requirements should be included in the ATM documents and Additional Contract Terms. The Customer can use Key Performance Indicators (KPIs) to ensure the Tenderer/Supplier delivers environmental sustainability outcomes over the term of the Contract, and report regularly on this progress. Refer to the KPI examples under *Step 2: Approach the market*.

## A. Environmental Sustainability

Best suited to Goods and/or Services procurements over \$80,000 (GST inclusive) where the Customer has identified potential sustainability and use of Recycled Content opportunities. Detailed information on opportunities may be unknown due to limited market information or subject matter expertise. For support with identifying sustainability opportunities contact [sustainable.procurement@awe.gov.au](mailto:sustainable.procurement@awe.gov.au).

Example procurements: office furniture, office fit outs and outdoor applications (pavements or park benches).

ATM Requirement	Contract Terms
<p>Use the single clause:</p> <p><b>Reduce environmental impacts and / or use Recycled Content</b></p> <p><i>The National Waste Policy (2018) outlines Australia's strategy for transitioning to a circular economy. The National Waste Policy Action Plan (2019) details the actions required across government and industry to implement the National Waste Policy (2018). More information is available at: <a href="https://www.awe.gov.au/environment/protection/waste/how-we-manage-waste/national-waste-policy">https://www.awe.gov.au/environment/protection/waste/how-we-manage-waste/national-waste-policy</a></i></p> <p><i>Sustainability and use of Recycled Content is a priority within the Action Plan (2019) and is of particular importance for this procurement.</i></p> <p><i>The Response should detail how the Potential Supplier will deliver cost effective, practical and fit-for-purpose sustainability outcomes.</i></p> <p><i>The Potential Supplier should demonstrate in their Response how Goods and/or Services will be delivered in a way which:</i></p> <ul style="list-style-type: none"> <li><i>reduces environmental impacts; and/or</i></li> <li><i>uses Recycled Content in Goods and/or Services to the maximum extent possible without compromising the safety, quality or capability of the Goods and/or Services.</i></li> </ul>	<p>Use the single clause:</p> <p><b>Continuous improvement</b></p> <p><i>The Supplier must review and report to the Customer on further opportunities to improve environmental sustainability outcomes and increase use of Recycled Content over the term of the Contract as opportunities arise and at regular intervals with a frequency of no less than <b>annually</b>. The Supplier must utilise these opportunities when directed by the Customer to do so, subject to the parties agreeing any reasonable amendments to the fees and payment arrangements directly associated with the relevant opportunities.</i></p>

An Ideal Response to the ATM Requirement
<p>An ideal response would:</p> <ul style="list-style-type: none"> <li>Outline how the Potential Supplier will manage key environmental risks and the Potential Supplier's plan or process to deliver positive sustainability outcomes. Environmental impacts can include prevention of pollution, sustainable resource use, climate change risks and biodiversity, habitat or environmental protection.</li> <li>Outline how the Potential Supplier will identify opportunities and prioritise use of Recycled Content in Goods and/or Services. The Potential Supplier would also outline how it will meet and maintain safety, quality and capability outcomes while using Recycled Content, including how the Potential Supplier will manage any risks.</li> </ul>

## B. Environmental Management Practices

Best suited to Goods and/or Services procurements over \$200,000 (GST inclusive) where the Customer wants evidence on how the Supplier will manage direct environmental risks and impacts.

Example procurements could be:

- Infrastructure projects which involve development approval and environmental impact assessments.
- Manufacturing or production services which involve resource consumption or pollution. This could include printing, electricity and gas supply or lab research with hazardous chemicals.

ATM requirement	Contract Terms
<p>Use the main clause and the additional clause as needed:</p> <p><b>Main clause – Environmental Management Practices</b></p> <p><i>The Potential Supplier should detail its environmental management practices including any Environmental Management Systems, policies and/or processes as applicable. Where the Potential Supplier has referred to any third party certifications, such as International Organization for Standardization (ISO) ISO14001:2015 Environmental Management Systems and ISO20400:2017 Sustainable Procurement, it should supply a copy of the third party certificates with its Response. Where environmental claims (such as “eco-label”, “green” or other environmental claims) are made in the Response, the Response should include the methodology used to evaluate the claim and any third-party certificates as applicable.</i></p> <p><b>Additional clause – Australian Packaging Covenant Organisation affiliation</b></p> <p><i>If the Potential Supplier is a member of the Australian Packaging Covenant Organisation (APCO), it should advise in its Response which category or categories its membership is under.</i></p>	<p>Use the main clause and additional clauses as needed:</p> <p><b>Main clause</b></p> <p><i>The Supplier must implement and maintain a documented Environmental Management System.</i></p> <p><b>Additional clause – meeting International Standards</b></p> <p><i>The Supplier’s Environmental Management System must address the requirements of ISO14001:2015 Environmental Management Systems.</i></p> <p><b>Additional clause – verifying against International Standards</b></p> <p><i>The Supplier’s Environmental Management System must be third party certified to ISO14001:2015 Environmental Management Systems.</i></p>

An Ideal Response to the ATM Requirement
<p>An ideal response would include an Environmental Management System framework which outlines:</p> <p>Planning – identifies significant environmental impacts, legal environmental obligations and key environmental objectives</p> <p>Implementation and operation – an environmental policy as well as documented roles, responsibilities and other records to deliver environmental obligations and objectives. Other resources may include environmental training, external communication plans for environmental impacts and records of management review.</p> <p>Quality control – processes to monitor and measure environmental performance, evaluate compliance, undertake corrective action for environmental issues and conduct internal audits on the Environmental Management System.</p> <p>Third party certificates for any ISO or other environmental claims.</p>

## International Standards

Note to Drafters: ISO14001:2015 Environment Management Systems sets out a framework for establishing an effective environmental management system. The model wording does not need the Customer nor Potential Suppliers to have access to ISO14001:2015. Rather, the model wording allows Potential Suppliers to provide assurance to the Customer on their efforts to reduce environmental impacts by providing certification.



## C. Environmental Sustainability Plan

Applicable to most Goods and/or Services procurements regardless of value.

Ideal for a Customer seeking:

- a Supplier to actively pursue Recycled Content and sustainability outcomes over the term of their contract; and
- a transparent and accountable reporting system for Recycled Content and sustainability impacts.

ATM requirement	Contract Terms
<p>Use the single clause:</p> <p><b>Request draft Environmental Sustainability Plan</b></p> <p><i>Potential Suppliers should include a draft Environmental Sustainability Plan in its Response to demonstrate how it will satisfy the specified environmental sustainability requirements, including:</i></p> <ul style="list-style-type: none"> <li>• <i>[add sustainability plan requirements outlined below]</i></li> </ul>	<p>Use both clauses:</p> <p><b>Main clause – timeframes &amp; approval</b></p> <p><i>The Supplier must deliver to the Customer an Environmental Sustainability Plan within [20] business days of Contract execution for Customer approval. The Customer must within [10] business days notify the Supplier of its approval of the Environmental Sustainability Plan or outline required changes for the Environmental Sustainability Plan. The Supplier must resubmit a revised Environmental Sustainability Plan which addresses the required changes within [10] business days of being notified of the required changes for approval and this clause will apply to any resubmitted Plan.</i></p> <p><i>The Supplier must report against the Environmental Sustainability Plan on a [annual] basis or when otherwise directed by the Customer to do so.</i></p> <p><b>Main clause – sustainability plan obligations</b></p> <p><i>The Environmental Sustainability Plan must describe:</i></p> <p>a. <i>[add sustainability plan requirements]</i></p>
<p><b>Add the sustainability plan requirements as needed:</b></p> <ul style="list-style-type: none"> <li>• <i>How it will work with suppliers and the Customer to minimise or avoid waste to landfill throughout the life cycle of Goods delivered or consumed in delivery of Services under the Contract, including what happens to Goods at end of life;</i></li> <li>• <i>How it proposes to use Recycled Content in Goods and/or Services delivered under the Contract to the maximum extent possible without compromising quality, safety or capability;</i></li> <li>• <i>A list of Recycled Content products proposed for use under the Contract, including the proportion of Recycled Content used in each product and Recycled Content product supplier details;</i></li> <li>• <i>How any Recycled Content proposed to be used under the Contract will be recorded, reported and verified;</i></li> <li>• <i>How it will work with the Customer to continually improve the environmental sustainability of Goods and/or Services delivered under the Contract over the term of the Contract;</i></li> <li>• <i>Any standards or specifications specific to use of Recycled Content in Goods and/or Services delivered under the Contract;</i></li> <li>• <i>Any whole-of-life and /or life cycle costing tools proposed to be used under the Contract; and</i></li> <li>• <i>Any risks associated with the Environmental Sustainability Plan, and proposed risk management methodology.</i></li> </ul>	

### **An Ideal Response to the ATM Requirement**

An Environmental Sustainability Plan that addresses all the applicable points, allowing the Customer to clearly understand the environmental risks and opportunities associated with the procurement. The evaluation team should have confidence that the Potential Supplier understands their environmental impacts and has processes in place to manage its environmental impacts, and to monitor and continually improve their environmental performance.

The Response may include:

- A Waste Management Plan in which the Potential Supplier details their approach to manage waste associated with their goods and/or services
- Innovative end of life opportunities for goods, such as buy-back schemes or options for re-use or re-purpose.
- Information on the financial costs and environmental impacts associated with suggested end of life options
- Recycled Content product options applicable to the procurement, including the proportion of Recycled Content used in the product, therefore detailing the proportion of waste the Potential Supplier will divert from landfill in the delivery of their Goods and/or Services.

## D. Waste Management

Best suited to procurements of good or material-intensive services. For example:

- Catering (reduce food wastage)
- Uniforms (use recycled fabrics and recycle clothing at end of life)
- ICT hardware (use recycled metals and dismantle product at end of life to reuse or recycle components)

ATM requirement	Contract Terms
<p>Use the single clause:</p> <p><b>Minimising waste to landfill</b></p> <p><i>The Potential Supplier should detail how it will minimise waste to landfill over the term of the Contract, including how it will work with suppliers and the Customer to reduce waste and increase use of Recycled Content.</i></p> <p><i>The Potential Supplier should also detail end of life disposal pathways for products to be used over the term of the Contract, through resale, reuse, repurpose or other product stewardship activities.</i></p>	<p>Use the single clause:</p> <p><b>Continuous improvement</b></p> <p><i>The Supplier must review and report to the Customer on further opportunities to improve its waste management performance through the term of the Contract as opportunities arise and at regular intervals with a frequency of no less than <b>annually</b>. The Supplier must utilise these opportunities when directed by the Customer to do so, subject to the parties agreeing any reasonable amendments to the fees and payment arrangements directly associated with the relevant opportunities.</i></p>

An Ideal Response to the ATM Requirement
<p>An ideal response would include:</p> <ul style="list-style-type: none"> <li>• A Waste Management Plan in which details how the Potential Supplier intends to manage waste associated with their Goods and/or Services.</li> <li>• Innovative end of life opportunities for goods, such as buy-back schemes or options for re-use or re-purpose.</li> <li>• Information on the financial costs and environmental impacts associated with suggested end of life options</li> <li>• Detailed Recycled Content product options applicable to the procurement, including the proportion of Recycled Content used in the product, therefore detailing the proportion of waste the Potential Supplier will divert from landfill in the delivery of the goods and/or services.</li> </ul>



## E. Use of Recycled Content

Best suited to primarily goods, though some services over \$80,000 (GST inclusive) where the Customer can identify high opportunities to use Recycled Content through market research. For example:

- Office stationery (recycled paper and plastic in pens, notepads, document trays and folders)
- Laying roads (recycled glass in road base or recycled rubber in asphalt)
- Building fit out (recycled plastic or metal in chairs, desks and dividers)

Refer to Products made with Recycled Content for more examples.

ATM requirement	Contract Terms
<p>Use one or both requirements as needed:</p> <p><b>Request Recycled Content products and data</b></p> <p><i>The Response should include the:</i></p> <ul style="list-style-type: none"> <li>• products containing Recycled Content;</li> <li>• mass and proportion of Recycled Content used in each product;</li> <li>• overall mass and proportion of Recycled Content which could be used in the procurement;</li> <li>• country of origin for Recycled Content; and</li> <li>• supplier of the Recycled Content product</li> </ul> <p><b>Environmental sustainability or Recycled Content Standards and Specifications</b></p> <p><i>The Response should include any known environmental sustainability or Recycled Content Standards and Specifications associated with delivery of Goods and/or Services under the Contract including, but not limited to, the following:</i></p> <ul style="list-style-type: none"> <li>• <i>[Insert key environmental sustainability and Recycled Content standards and specifications relevant to this procurement here]</i></li> </ul>	<p>Use one or a combination of clauses as needed:</p> <p><b>Optimising appropriate use of Recycled Content</b></p> <p><i>Recycled Content must be used where reasonably practicable and where that use will not compromise the safety, quality or capability of the Goods and/or Services.</i></p> <p>Recycled Content Standards and Specifications</p> <p><i>The Supplier must comply with all relevant Recycled Content Standards and Specifications associated with delivery of Goods and/or Services under the Contract including, but not limited to, the following:</i></p> <p>a. <i>[Insert key environmental sustainability and Recycled Content standards and specifications relevant to this procurement here]</i></p> <p><b>Reporting use of Recycled Content</b></p> <p><i>The Supplier provide a [monthly] report on the use of Recycled Content under the Contract, that includes at least the following information:</i></p> <p><i>A list of products containing Recycled Content and the mass and percentage of Recycled Content within each product.</i></p> <ul style="list-style-type: none"> <li>• <i>[Add Recycled Content reporting requirements as required]</i></li> </ul>

An Ideal Response to the ATM Requirement
<p>An ideal Response would:</p> <ul style="list-style-type: none"> <li>• Outline how the Potential Supplier intends to incorporate Recycled Content into the Goods and/or Services.</li> <li>• Detail Recycled Content product options applicable to the procurement, including the proportion of Recycled Content used in the product, and the product supplier.</li> <li>• Provide an outline of how the Potential Supplier will report on its use of Recycled Content in Goods and/or Services to the Customer, including what information will be reported, and when.</li> <li>• Advise how the Potential Supplier will monitor and improve its use of Recycled Content over the term of the contract to use Recycled Content to the maximum extent possible.</li> </ul>

