

Similarities and differences between the old and new eServices Contracts

May 2025

What are the similarities and differences?

1. The new eServices Contract includes IT infrastructure purchase order terms and conditions

The new eServices Contract has been updated and simplified to include terms for information and communication technology (ICT) services and infrastructure procurement.

2. Introducing a Short Form Contract and Long Form Contract

To simplify procurement of simple ICT goods and services, we have introduced a Short Form Contract. This contract will be appropriate for most low risk or simple procurement activities.

The Long Form Contract may be used if your procurement activity is complex, high risk or valued greater than \$1 million (exc. GST).

3. Most legal positions remain the same

The new eServices Contracts maintain the same or substantially similar positions on fundamental legal obligations and rights as in the old eServices Contract. This includes, for example, positions on liability, indemnification, liquidated damages, delay and insurance.

This means that if you've used the old eServices Contract before, the new Short Form Contract and Long Form Contract, with the new Ordering Document, will operate similarly to the old eServices contract and Contract Variables.

4. A lot less legalese – much more user friendly

We listened to your feedback and have removed a lot of the drafting 'legalese' to make the eServices Contract easier to use and more concise.

Many suppliers on the eServices Register are small-to-medium businesses who may not have in-house legal support. The previous contract was written in a formal, 'legal' style, which increased the need for legal assistance to understand the provisions. The new eServices Contracts are written in plain English to make it easier for purchasers and suppliers.

5. The 'Ordering Document' replaces the 'Contract Variables'

The old eServices Contract Variables document has been replaced by the new eServices Ordering Document. The Ordering Document has been made user friendly by including checkboxes and text fields for as many items as possible. In most cases, you will only need to click to fill in the text boxes or check the boxes on each item as necessary, and can leave all other drafting in the Ordering Document unamended.

6. Simplifying the process for varying the eServices Contract

You will no longer be required to use a specific form of 'Change Order' for contract variations. You are free to agree to vary the Short Form Contract or Long Form Contract in another written manner such as by simple variation letter.

7. Introducing software licensing

We listened to your feedback that when procuring software, suppliers often insisted that purchasers agree to their End User Licence Agreements (EULA), which often contained terms that did not align with the provisions set out in the old eServices Contract.

We have made provision in the new service schedules to allow purchasers to incorporate EULA or similar software licence terms, where agreed by the parties in the Ordering Document.

8. Third party software licences

Suppliers must now act as the single point of contact for all third party software licences. This includes for procurement and negotiation of third party software on terms that are acceptable to purchasers, resolution of defects, upgrades and new versions and escalation of issues.

The fees quoted to purchasers by suppliers are to include these services and the third party software fees. Suppliers must only procure third party software licences for purchasers, however, purchasers must contract directly with the third party supplier.

9. Use of generative artificial intelligence tools

We have included provision in the new eServices Contracts for suppliers to implement generative artificial intelligence tools when performing the services. Parties may agree acceptable generative artificial intelligence tools, and their permitted use cases, prior to execution, or otherwise by agreement during the term of the eServices Contract.

10. You can implement 'agile' or 'waterfall' implementation methodologies

If you're procuring software development or system implementation services under the new eServices Contract, Schedule 6 (Design, Development and Implementation Services) will allow you to use either an 'agile' or 'waterfall' implementation methodology.

11. ICT hardware

The new eServices Contracts now provide for the procurement and maintenance of ICT hardware. The old eServices contract's scope did not consider ICT hardware and was limited to IT servers, storage and networking infrastructure equipment.