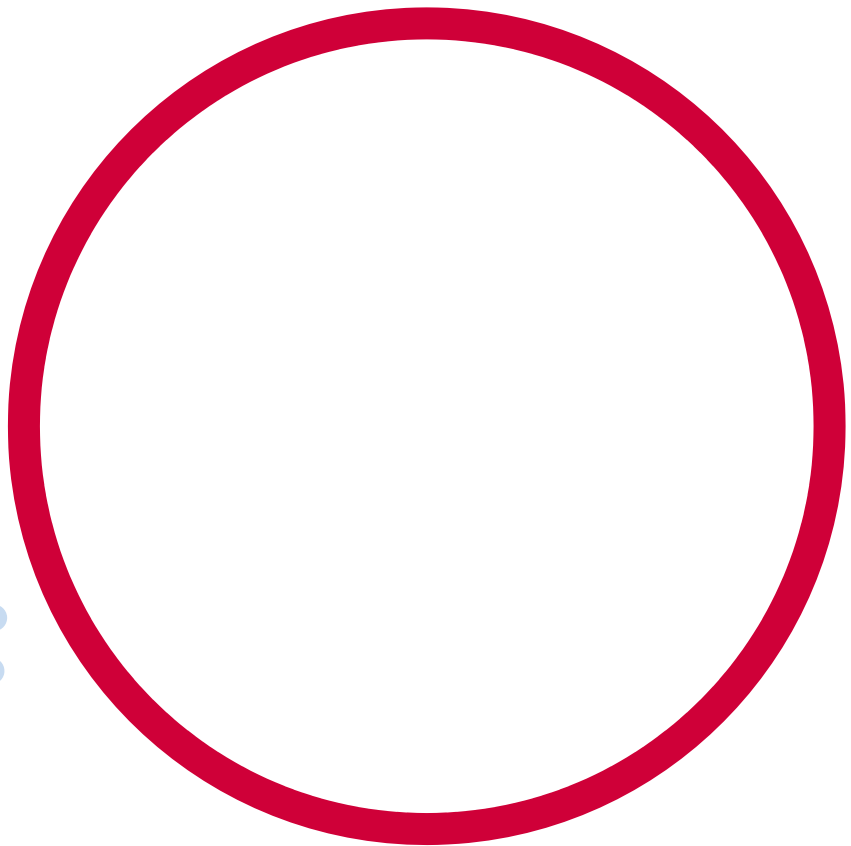
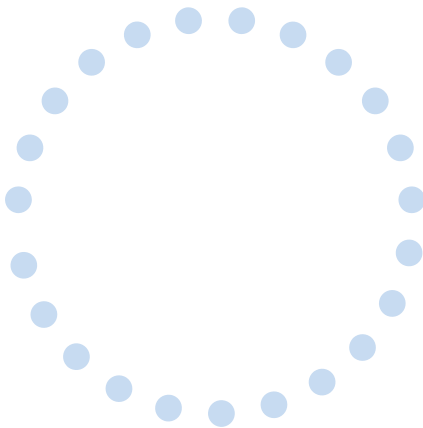
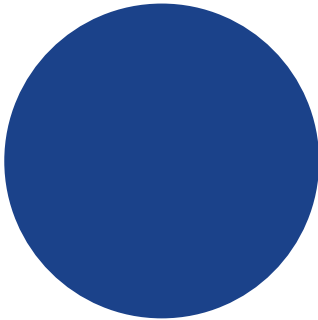


Smart and Skilled Application Terms and Conditions

Released December 2022



Definitions

Unless the context indicates otherwise the following terms, where used in these Conditions, have the meanings set out below:

Applicant	means an RTO who submits an Application.
Application	means an application made by an RTO to become a Smart and Skilled Provider for the Activity Period 2023-2024 and/or to be issued Activity Schedule(s) under a Smart and Skilled Contract for that Activity Period.
Activity Schedules	means a schedule(s) issued by the Department to the Provider for provision of a Subsidy under the Smart and Skilled Contract.
Conditions	means these terms and conditions (including any Annexures) and any additional terms and conditions that the Department may notify to the Applicant.
Department	means the State of New South Wales by its Department of Education.
Due Date and Time	means 5.00 pm AEDT 2 December 2022 (Cycle 1) and 14 December 2022 – 20 December 2022 11:59pm AEDT (Cycle 2).
Pre-Qualified List	means a list of RTOs who have submitted an Application and satisfy certain eligibility and assessment criteria, and are not Smart and Skilled Providers. The Pre-Qualified List may be used to introduce additional capacity for Subsidised Training should it be required.
Registered Training Organisation or RTO	has the meaning given to it in the National Vocational Education and Training Regulator Act 2011 (Cth).
Smart and Skilled Contract	means the contract to be entered into between a successful Applicant and the Department for the Activity Period 2023-2024 which includes: <ul style="list-style-type: none">• the 2023-2024 Contract Terms and Conditions• the Smart and Skilled Operating Guidelines and Activity Schedule(s), and• additional Smart and Skilled policies of the NSW government, including but not limited to:<ul style="list-style-type: none">◦ the Smart and Skilled Fee Administration Policy

-
- o the Smart and Skilled Policy for Market Management, and
 - o other Smart and Skilled policies as published on the [NSW Government](#) website.

Smart and Skilled Provider

means an RTO that is approved by the Department and has entered into a Smart and Skilled Contract.

Terms and Conditions

1. Application process

- 1.1** This Application process applies for all RTOs that wish to be appointed as Smart and Skilled Providers in 2023-2024 Activity Period, even if an RTO has in place an agreement under Smart and Skilled for 2022-2023 Activity Period, except for High Performing Providers who offer part qualifications only.
- 1.2** The Department is under no obligation to invite any RTO to apply for a Smart and Skilled Contract and complete an Application. All decisions in this regard are at the Department's absolute discretion.
- 1.3** Applications must be submitted:
- before the Due Date and Time (noting that once an Application is submitted it can be varied by resubmitting the Application prior to the Due Date and Time)
 - by a person who is authorised to do so on behalf of the Applicant
 - by completing the Application process, and
 - in accordance with these Conditions.
- The Applicant is encouraged to submit its Application before the Due Date and Time to avoid any difficulties successfully submitting its Application.*
- 1.4** Compliance with these Conditions is mandatory for each Applicant and an Application may not be considered by the Department if it does not comply with these Conditions. However, compliance with these Conditions does not guarantee success of an Application. The Department will assess each Application in accordance with the Department's eligibility and assessment criteria and retains the discretion whether or not to accept any Application, in whole or part. Further information regarding eligibility and assessment criteria is available on the [NSW Government](#) website.
- 1.5** The Department has undertaken a comparison of the Applications submitted as part of Cycle 1 against the NSW Market Assessment to determine any market gaps. Where gaps have been identified, Applicants will be offered the opportunity to add additional programs, qualifications and/or regions to their submitted Application as part of Cycle 2. To be clear, Applicants as part of both Cycle 1 and Cycle 2 will be subject to Clause 1.4 above.

2. Applications that do not comply with these Conditions may not be considered by the Department

- 2.1** The Applicant must obtain and keep written evidence to support each item of information provided, and representation made, in its Application.

-
- 2.2** The written evidence referred to in clause 2.1 must be stored by the Applicant in such a way that it can be easily accessible and provided to the Department, if requested by the Department. Within 7 days of a request by the Department, the Applicant must respond to questions and requests for information made by the Department (including but not limited to requests for financial information) and allow Department personnel access to any of its premises in relation to reviewing its Application.
- 2.3** The Applicant acknowledges that it will submit its Application at its sole risk and cost and that the Department is not liable to the Applicant for any expenses or costs incurred by it in connection with its Application including: where its Application is unsuccessful; these Conditions are changed by the Department; or the Department discontinues this Application process.

3. Eligibility to make Application

- 3.1** The Applicant may, in its Application, only apply for the program streams under Smart and Skilled that the Applicant is eligible for.
- 3.2** The Applicant's details, accessible on <https://training.gov.au/>, must be current and correct including national code, contact details, entity type, registration details and scope of registration.
- 3.3** An Application may only be submitted by a single RTO, in its own capacity, and may not be submitted by more than one RTO or an RTO and another person.

4. Submitting the Application

- 4.1** By submitting its Application, the Applicant will be deemed to represent and warrant that:
- a. it has read or viewed all Application documents, information, materials and notices provided by the Department in connection to its Application and these Conditions, including the Smart and Skilled Terms and Conditions, Smart and Skilled Operating Guidelines and Policies and all other material available on the [NSW Government](#) website
 - b. it has checked the accuracy and completeness of responses and documentation provided by it in its Application
 - c. it has sufficient financial and other resources to enter into and perform the Smart and Skilled Contract
 - d. it has not used the confidential information of any other person in its Application and it has acted ethically and in compliance with all laws in completing its Application, and
 - e. no conflict of interest, including perceived conflicts of interest, exists that would be relevant to the Applicant becoming a Smart and Skilled Provider.

4.2 The Applicant must retain a hard or electronic copy of its Application.

5. Requests for information

5.1 The Applicant may request information from the Department in relation to its Application by sending an email to SmartandSkilled.Application@det.nsw.edu.au prior to the Due Date and Time.

5.2 In its absolute discretion, the Department may, at any time, either before the Due Date and Time or after, request further information from the Applicant or request an opportunity to carry out physical inspections of the Applicant's facilities in order to consider its Application or verify the information that has been provided to the Department by the Applicant.

6. General information regarding Applications and further steps

6.1 If the Department determines that an Applicant's Application is successful, that Applicant will progress to the next stage of the Application process.

6.2 The Department may establish a Pre-Qualified List. Applicants will be advised if the Applicant has been placed on a Pre-Qualified List. Applicants are advised that the fact that it may be included on an established Pre-Qualified List will not mean that its Application has been successful.

6.3 A pre-qualified list may be activated by the Department if additional training capacity is needed in any particular training market.

6.4 The Applicant will not be a Smart and Skilled Provider until it is offered and accepts an offer for a Smart and Skilled Contract (if this occurs).

6.5 The Smart and Skilled Contract is not negotiable. The Applicant must accept the Smart and Skilled Contract and all Activity Schedule(s) issued by the Department in the event that its Application is successful. No Applicant may accept part of an Activity Schedule(s).

7. The Department's rights

7.1 The Department reserves the right to:

- a. discontinue the Application process
- b. accept or reject for assessment any Application that is not made in accordance with these Conditions, and
- c. alter, amend or vary these Conditions at any time before the Due Date and Time.