1 Purpose of this document

1.1 Introduction

This Part B document describes at a high level the requirements that the ACCC/AER has when engaging Expert Consultants. Tenderers should take these requirements into consideration when preparing their response in Part E (for example, when nominating the categories that they wish to be considered for). The ACCC/AER makes no guarantee as to future volumes or value of work that may be provided to Expert Consultants included in this Panel, nor the number of Expert Consultants to be appointed as a result of this RFT process.

1.2 Service categories

The ACCC/AER seek to establish a non-exclusive panel of Expert Consultants who provide professional services across one or more of the following seven service categories:

A. Services required for competition and consumer protection matters
B. Services required for infrastructure regulation
C. Engineering & technical services
D. Services required for establishing allowed rates of return for regulated infrastructure
E. Retail and wholesale energy market services
F. Services related to behavioral economics/insights
G. Data and analytical services
H. Digital technology services
I. Digital forensic services.

The remainder of this document describes in more detail the types of requirements the ACCC/AER has in each of these categories.

1.3 Operation of the Panel

When the ACCC/AER requires consultancy services from a panellist, a Request for Quote (RFQ) will be sent to one or more Expert Consultants included on the Panel. The RFQ will outline the services required and the associated timeframes. The ACCC/AER will evaluate the responses and engage the Expert Consultant whose response represents best value for money. The Expert Consultant will be engaged to provide services to the ACCC/AER under the standard Commonwealth Contracting Suite Contract. Tenderers are to note that the AER is not a separate contracting entity. All contracts with the ACCC will include the AER.
1.4 General Service Requirements

When providing services under this panel, the Expert Consultants must at all times ensure that:

- the quality of the service and the deliverables produced are of the highest standard and align with the objectives and goals set by the ACCC/AER,
- the expert Consultant’s staff work collaboratively with the ACCC/AER,
- communication is open and timely,
- the status of the project is communicated frequently, including identification and management of any risks (such as risks to timelines, quality, budget, reputational),
- the way the Expert Consultant’s staff interacts with ACCC/AER staff and third parties is of a high level of professionalism and is reflective of the APS values (https://www.apsc.gov.au/aps-values-1),
- work is being completed to the ethical standards set by the ACCC/AER,
- work is delivered within the agreed timeframes and budgets,
- any potential, perceived or real conflicts of interest are raised with the ACCC/AER without delay and managed in the agreed manner,
- protocols to ensure confidentiality are in place and observed.

1.5 Contract and performance management

Contract and performance management arrangements will be defined for each project through the RFQ process or the Service Order. From time to time, panellists may further be required to provide the ACCC/AER with reports on projects delivered through this panel, feedback received, identified improvements that can be made to the process and relationship and other performance measures.

1.6 Panel refresh

The ACCC/AER reserves the right to refresh the Panel at its sole discretion every 12 months. If the ACCC/AER choses to exercise this right, existing suppliers will be notified. During the Panel refresh the ACCC will:

- assess the Expert Consultant’s performance under the Panel and may remove the Expert Consultant from the Panel if the ACCC/AER considers it appropriate, including for example where:
  - the ACCC/AER identifies issues with performance have not been addressed in a timely manner; or
  - the Expert Consultant can no longer provide the expertise required.
- invite parties who have registered an interest in joining the Panel, to submit a response which will be evaluated using substantially the same criteria and process as described in this RFT. If successful, the respondent will be added to the Panel.
1.7 Access from other agencies

The Panel will be available for other Commonwealth Agencies to request services (multi-agency access).
2 Description of the types of Services required in each category

A. Services required for competition and consumer protection matters

Service Providers would be expected to provide services such as:

A.1 Competition and market analysis;
A.2 Comparisons of international competition and consumer law systems;
A.3 Economic, accounting, actuarial and financial analysis and advice (including advice about conceptual and theoretical competition issues);
A.4 Economic, mathematical, financial, actuarial and econometric modelling;
A.5 Technical advice, including standard industry operating practices or procedures. This includes service and safety standards that may be applicable in industries, either generally or in connection with particular consumer goods or services; and
A.6 Service Providers may also be required to assist investigations and subsequent litigation in matters of contraventions of the CCA and other legislation that falls within the ACCC/AER’s jurisdiction.

B. Services required for infrastructure regulation

Service Providers would be expected to provide services such as:

B.1 economic, accounting, actuarial and financial analysis and advice (including advice about conceptual and theoretical regulatory issues);
B.2 economic, mathematical, financial, actuarial and econometric modelling;
B.3 accounting and tax advisory services;
B.4 demand management and demand forecasting;
B.5 monitoring of prices and existing demand in markets;
B.6 analysis or advice on price and non-price terms and conditions of access to services provided by regulated infrastructure;
B.7 accounting, technical and compliance auditing services for example in relation to regulatory accounting information, cost allocation methods, ring-fencing or operational separation issues and regulatory incentive schemes;
B.8 financial and insurance services, including asset and insurance premium valuations; and
B.9 Services may be required to assist the ACCC and AER’s decision-making functions under a range of industry-specific regulatory requirements, including in relation to
gas and electricity, telecommunications, water, airports, ports, rail, wheat and postal services.

C. Engineering & technical services
Service Providers would be expected to provide engineering and technical services such as:

C.1 Advice on investment governance frameworks and practice;
C.2 Advice on business investment and operational costs in light of applicable legislation, rules, regulations and licence conditions;
C.3 Advice on standard industry practices, including asset management and safety;
C.4 Advice on the safety of particular consumer goods or services, including review of previous risk assessments;
C.5 Advice on industry specific technologies and applications, the future technology outlook and its implications for regulated businesses in that industry (for example, in the energy industry implications of energy storage, renewable energy and electric vehicles);
C.6 Advice on or investigation of business conducts, market and/or operational incidents; and
C.7 Services may be required to assist the ACCC and AER's decision-making functions under a range of industry-specific regulatory requirements, including in relation to gas and electricity, telecommunications, water, airports, ports, rail, wheat and postal services.

D. Services required for establishing allowed rates of return for regulated infrastructure

D.1 Service Providers would be expected to provide financial or economic advice regarding rates of return, including but not limited to:

D.1.1 the required return on equity;
D.1.2 the required return on debt;
D.1.3 the value of imputation credits; or
D.1.4 inflation expectations.

D.2 While the above Services relate to regulated infrastructure more broadly, it is expected that the bulk of Services required will relate to the role of the AER in setting the allowed rate of return for regulated energy networks. In this role, specific services likely required include:

D.2.1 Expert advice to assist the AER in determining its approach to be set out in the rate of return instrument;
D.2.2 Reviewing rate of return proposals and submissions to those proposals, including supporting material. Where relevant, it is also expected that the consultant will engage with relevant academic literature or other research;

D.2.3 Advice relating to appeals concerning the AER’s determination of allowed rates of return. This includes, where relevant, submissions in response to AER decisions and submissions put before the Australian Federal Court; and

D.2.4 Advice on the potential impacts that approaches to estimating the rate of return may have on the market and on consumers of electricity and gas.

E. Retail and wholesale energy market services

Service Providers would be required to provide advice in relation to Australian electricity and gas markets. This may include:

E.1 Measuring the impact of short-term events on the electricity and gas supply chains;

E.2 Modelling retail and wholesale electricity and gas markets, including forecasting the impact of potential policy changes to electricity and gas markets on consumers and other market participants;

E.3 Analysis of risk management strategies used by electricity and gas wholesale and retail market participants;

E.4 Performing comparisons against international energy markets (both electricity and gas). Including assessment of different market designs on competition and efficiency;

E.5 Analysis of retail energy tariffs;

E.6 Analysis of market power in the electricity and gas supply chains including assessment and identification of market manipulation;

E.7 Analysis of the impacts of technological change on electricity markets, including greater penetration of renewable energy;

E.8 Experience analysing gas trading in domestic markets;

E.9 Analysis of domestic wholesale gas prices, in both contract markets and short-term trading markets;

E.10 Analysis of the LNG industry, including the global supply and demand outlook, LNG pricing, and their impact on the domestic gas market;

E.11 Analysis of the short and long-term domestic gas production outlook, including assessment of the cost of production; and

E.12 Analysis and modelling of emissions reduction and trading, including different models for emissions trading.
F. Services related to behavioral economics/insights

Behavioural insights draws on evidence-based research from behavioural economics and other social sciences to better understand consumer and business decision-making processes and behaviours.

The terms “behavioural economics” and “behavioural insights” are closely related and often used interchangeably. While they do not have exactly the same meaning, behavioural economics is generally understood as the incorporation of psychological insights into the study of economic problems. Behavioural economics reveals that consumers sometimes fail to behave rationally due to behavioural biases.

In particular, behavioural insights can explain consumer and business behavioural biases and limitations which can potentially lead to non-welfare maximising behaviours.

Service Providers would be required to provide the ACCC/AER with behavioural economics/insights research that will:

F.1 inform the ACCC/AER’s competition analysis of markets and market failure;
F.2 allow the ACCC/AER to design more effective communication and education programs targeted at consumers and business (e.g. information requirements for retailers to communicate with energy retailers about pricing, discounting and other practices); and
F.3 allow the ACCC/AER to consider more effective public policy interventions (or ‘nudges’) to shift behaviour toward more desirable outcomes.

G. Data and analytical services

Service providers would be expected to provide data and analytics services, including of very large data sets. Service providers may also be asked to provide expert advice in relation data and analytics.

Services may include delivery of or advice in relation to:

G.1 Data checking and cleaning;
G.2 Amalgamation of disparate data sets;
G.3 Data analysis, including statistical analysis;
G.4 Interpretation of results;
G.5 Data visualisation; and
G.6 Algorithm review, interrogation and analysis.
H. Services relating to digital technology

H.1 Service providers would be expected to provide advice on digital technologies and applications and their implications for business and personal users. This may include algorithms and machine learning and their review, interrogation and analysis.

H.2 Service providers may also be asked to provide expertise on the operation of particular aspects of the data economy, including online advertising.

I. Digital forensic services

I.1 Service providers would be expected to provide digital forensic services, including:

I.1.1 Assistance with the forensic capture of electronically stored information under search warrants;

I.1.2 Assistance with identifying the range of different sources of electronically stored information relevant to particular circumstances;

I.1.3 Preparation of reports and statements, and giving evidence in court; and

I.1.4 Retrieval, analysis and storage services.

I.2 Forensic specialities required may include:

I.2.1 Forensic capture of electronically stored information;

I.2.2 Digital forensic analysis;

I.2.3 Technology Assisted Review;

I.2.4 Fraud detection; and

I.2.5 Financial accounts analysis.