Performance Payments (CORE)

Note to drafters: When preparing to develop this Annex, contact the PBC Directorate for advice and assistance

Note to tenderers: Annex C will consist of an amalgamation of the price schedules in TDR D, the successful tenderer’s response, and any negotiated adjustments.

1. Introduction
   1. This Annex C describes the basis on which Performance Payments are calculated and payable by the Commonwealth to the Contractor in accordance with the Contract.
2. At-Risk Amounts
   1. Allocating the At-Risk Amount to KPIs

Note to drafters: The At-Risk Amount needs to be completed before the release of the RFT. Careful consideration is required in order to not set the At-Risk Amount too high (thus increasing risk) or too low (thus being ineffective). Refer to the PPBC Guide for ASDEFCON (Support) V4.0 for more information. Delete or include […Subject to clause 4…] depending upon whether the Performance Implementation Period (PIP) will be included in the draft Contract.

* + 1. […Subject to clause 4…] the At-Risk Amount in respect of a Review Period is **[INSERT PERCENTAGE]**% of the Core Services Fee payable for the Review Period.
    2. The At-Risk Amount is allocated to each KPI in accordance with Table C-1.

Table C-1: At-Risk Amounts and Weightings for each KPI

|  |  |  |  |
| --- | --- | --- | --- |
| KPI | Weighting  (%) | Performance Incentive | |
| (a) | (b) | (c) | |
| KPI-01: [INSERT KPI NAME] | […]% |  | |
| KPI-02: [INSERT KPI NAME] | […]% |  | |
| KPI-03: [INSERT KPI NAME] | […]% |  | |
| TOTAL | 100% |  |

Notes for Table C-1:

1. KPI: The serial number and name of the KPI, as per Attachment P.
2. Weighting: The percentage of the At-Risk Amount allocated to the KPI.
3. Performance Incentive: Is a Performance Incentive offered for this KPI (“yes” or “no”?).
4. Performance Payments
   1. Calculation of Performance Payment
      1. The Commonwealth shall pay to the Contractor the Performance Payment, which is the sum of the amounts calculated in accordance with clause 3.2 and 3.3 (if applicable).
   2. Entitlement to the At-Risk Amount (Core)
      1. For each KPI and for each Review Period, the Contractor’s entitlement to the At-Risk Amount shall be calculated in accordance with the following formula:



where:

|  |  |
| --- | --- |
| PARA = | the Contractor’s entitlement to payment of the At-Risk Amount for the KPI for a Review Period |
| CSF = | the Core Services Fee payable for the Review Period |
| ARA= | the At-Risk Amount (expressed as a percentage) |
| W= | the percentage of the At-Risk Amount allocated to the KPI (the ‘weighting’) in accordance with clause 2 |
| APS = | the APS for the relevant KPI for the Review Period determined in accordance with Attachment P, but if the APS is more than 100%, it is taken to be 100% |

* 1. Entitlement to Performance Incentives (Optional)

Note to drafters: If Performance Incentives are included for one or more KPIs:

* Optional clause 3.3 provides for the payment of a Performance Incentive when the APS exceeds 100%.
* To include this option the drafter must structure the APS calculation, in Attachment P, to be able to exceed 100%.
* The amount of a Performance Incentive is based on the value of the APS exceeding 100%, subject to a maximum score cap (clause 3.3.2).

If Performance Incentives are not included in the Contract, replace the following clauses with a single ‘Not used’.

* + 1. Subject to clause 7.9 of the COC, if:
       1. the APS for a KPI for a Review Period is more than 100%; and
       2. a Performance Incentive applies to that KPI in Table C-1 under clause 2.1.2;

the Contractor is entitled to a Performance Incentive in relation to that KPI, as part of the Performance Payment, calculated in accordance with the following formula:



where:

|  |  |
| --- | --- |
| PI = | the Performance Incentive for the KPI for a Review Period |
| CSF, ARA and W = | are each as defined in accordance with clause 3.2 |
| APS = | the APS for the relevant KPI for the Review Period, determined in accordance with Attachment P, but subject to clause 3.3.2 |

Note to drafters: Insert a cap on the Performance Incentives for KPIs. The cap is achieved by setting a maximum for the APS (eg, 105%). Amend for each KPI with a Performance Incentive.

* + 1. For the purposes of clause 3.3.1, if the APS for a KPI for a Review Period is greater than the maximum score specified for that KPI in the following table, the APS is taken to be equal to the maximum score:

| KPI | Maximum score (%) |
| --- | --- |
| 1. KPI-01 |  |
| 1. KPI-02 |  |
| 1. KPI-03 |  |

* 1. Provisional Payments (Core)

Note to drafters: This clause provides for monthly payments representing the At-Risk Amount ‘on account’ of the Contractor’s future entitlement to a Performance Payment for a KPI at the end of the Review Period. The provisional monthly payments are made without evaluating the Contractor’s performance against the KPI. This clause is to be used in all contracts except those where the Review Periods are all monthly. If a month is not the final month of a Review Period for any KPI, then the Contractor will be entitled to claim the Core Services Fee (ie, Base Fee and the At-Risk Amount) defined in Annex B. Refer to PPBC Guide for ASDEFCON (Support) V4.0 for more information.

* + 1. Except for the final month in a Review Period for a KPI, the Contractor is entitled to claim in respect of each KPI a monthly payment (Provisional Payment) representing the At-Risk Amount attributable to that KPI for the month, on account of the Contractor's potential future entitlement to the At-Risk Amount for that KPI as determined under clause 3.2.
    2. At the Performance Assessment Review held in accordance with clause 3.4.5 of the SOW, the Commonwealth shall calculate the Contractor's entitlement to a Performance Payment for each KPI for the Review Period in accordance with clauses 3.2 and 3.3 (if applicable) and if the Performance Payment for the KPI for the Review Period is:
       1. more than the sum of the Provisional Payments claimed for the KPI during the Review Period, then the Contractor is entitled to submit a claim for the amount of the difference; or
       2. less than the sum of the Provisional Payments claimed for the KPI during the Review Period, then the Commonwealth may elect to recover the amount of the difference from the Contractor to the Commonwealth, and the Commonwealth may recover the amount from the Contractor under clause 13.7 of the COC. No amount shall be owing under this clause 3.4.2b until the Commonwealth elects to recover the amount.
  1. Suspension of Performance Assessment of a KPI (Core)
     1. The Commonwealth may, in its discretion and by notice to the Contractor, suspend the requirement to assess the Contractor’s performance against a specified KPI for a Review Period or part of a Review Period.
     2. If the Commonwealth suspends the requirement to assess a KPI for a period equal to or greater than 70% of a Review Period then, despite clause 3.2 the Contractor shall be entitled to a payment amount equal to the full At-Risk Amount allocated to that KPI for that Review Period in accordance with clause 2.
     3. If the Commonwealth suspends the requirement to assess a KPI for a period less than 70% of a Review Period then:
        1. the APS shall be determined in accordance with Attachment P except to the extent that the determination process defined in Attachment P shall be modified to account for the reduced period over which the KPI was required to be assessed, using a method determined by the Commonwealth Representative; and
        2. despite clause 3.2, the Contractor's entitlement to the At-Risk Amount for the KPI for the Review Period shall be calculated in accordance with the following formula:



where:

|  |  |
| --- | --- |
| 1. PARA = | 1. the Contractor’s entitlement to the At-Risk Amount for the KPI for a Review Period that has been affected by the suspension. |
| 1. CSF, ARA and W = | 1. are each as defined in accordance with clause 3.2. |
| 1. APS = | 1. the APS for the KPI for the portion of the Review Period that is not subject to suspension and determined in accordance with clause 3.5.3a, but if the APS is more than 100% it is taken to be 100% |
| 1. C = | 1. the number of days in the Review Period not subject to the suspension. |
| 1. D = | 1. the number of days in the Review Period. |

* + 1. If the Commonwealth suspends a requirement to assess a KPI for a given period, the Contractor shall continue to measure and report against the KPI during that period unless otherwise notified by the Commonwealth Representative.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Option: If Performance Incentives are included for one or more KPIs.   * + 1. If the Commonwealth suspends the requirement to assess a KPI for a period equal to or greater than 70% of a Review Period then, despite clause 3.3, the Contractor shall not be entitled to a Performance Incentive for that KPI in respect of that Review Period.     2. Subject to clause 7.9 of the COC, if the Commonwealth suspends the requirement to assess a KPI for a period less than 70% of a Review Period and:     3. the APS for the KPI, as determined for that part of the Review Period that is not subject to the suspension, is more than 100%; and     4. a Performance Incentive applies to that KPI under the table in clause 2.1.2,   then, despite clause 3.3:   * + 1. the APS shall be determined in accordance with clause 3.5.3a; and     2. the Contractor's entitlement to a Performance Incentive for the KPI shall be calculated in accordance with the following formula:     where:   |  |  | | --- | --- | | 1. PI = | 1. the Performance Incentive for the KPI for the Review Period | | 1. CSF, ARA and W = | 1. are each as defined in accordance with clause 3.2 | | 1. APS = | 1. the APS for the KPI and for that portion of the Review Period not subject to the suspension, determined in accordance with clause 3.5.3a and subject to the limits specified under clause 3.3.2 | | 1. C = | 1. the number of days in the Review Period not subject to the suspension | | 1. D = | 1. the number of days in the Review Period | |

1. Performance Implementation Period (OPTIONAL)
   1. Modifications during Performance Implementation Period (Optional)

Note to drafters: The PIP is undertaken to accommodate the build-up of the Contractor’s capability and capacity to provide Services relevant to the KPIs, before full implementation of the performance assessment process. Stages in a PIP normally follow an increase in Core Services, during Ramp Up, which enable new or expanded Services to be measured by KPIs.

Insert details of the PIP in the following clause, (eg, the PIP may continue for a “period of 18 months” or “six Review Periods”). The PIP must start with the first Review Period and, to be manageable, cease on a date that is the end of a Review Period in respect of the effected KPIs. Likewise, in a multi-stage PIP, changes from one PIP stage to the next should coincide with the end of one Review Period and the start of the next, where possible. The duration of each stage may be expressed in months or Review Periods. Details of the PIP included here must be consistent with Annex B to Attachment P.

* + 1. The Performance Implementation Period (PIP) shall commence at the start of the first Review Period and continue for **[INSERT NUMBER OF MONTHS OR REVIEW PERIODS]**.

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| Option: For a multi-stage PIP.   * + 1. The PIP comprises **[INSERT NUMBER]** stages, namely:        1. Stage 1: **[INSERT DURATION OF THIS STAGE]**; and        2. Stage 2: **[INSERT DURATION OF THIS STAGE]**. |

* + 1. During the PIP, the operation of clauses 2 and 3 are subject to the modifications in this clause 4. After the PIP has completed, clauses 2 and 3 have full effect in accordance with their terms.

Note to drafters:

* Select from the following options to draft either a single-stage PIP or multi-stage PIP.
* To preserve the formatting of Table C-1, copy and paste the tables out of the clauses below before converting the table (which contains the option) from ‘Table to Text’.
* Refer to PPBC Guide for ASDEFCON (Support) V4.0 for more information.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Option A: For a single-stage PIP.   * + 1. The At-Risk Amount during the PIP is [INSERT PERCENTAGE]% of the Core Services Fee.  * + 1. Table C-1 in clause 2.1.2 is modified during the PIP to read as follows:   Table C-1: Modifications to the KPI At-Risk Amounts   | KPI | Weighting (%) |  | Performance Incentive offered | | --- | --- | --- | --- | | (a) | (b) |  | (c) | | 1. KPI-01: [INSERT KPI NAME] | 1. [INSERT PIP WEIGHTING]% |  | 1. No | | 1. KPI-02: [INSERT KPI NAME] | 1. [INSERT PIP WEIGHTING]% |  | 1. No | | 1. KPI-03: [INSERT KPI NAME] | 1. [INSERT PIP WEIGHTING]% |  | 1. No | | 1. TOTAL | 1. 100% |  |   Note: Table C-1:   1. KPI: The serial number and name of the KPI, as per Attachment P. 2. Weighting: The percentage of the At-Risk Amount allocated to the KPI. 3. Performance Incentive: Is a Performance Incentive offered for this KPI (“yes” or “no”?). |

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| Option B: For a multi-stage PIP.  Note to drafters: For a multi-stage PIP, repeat the details from clauses 4.1.4 and 4.1.5 (as subclauses) for each PIP stage, modified to take account of the purpose of the relevant stage.   * + 1. For the first stage of the PIP (**[INSERT STAGE (STATE PERIOD)]**) the modifications are:        1. the At-Risk Amount during this stage of the PIP is **[INSERT PERCENTAGE]**% of the Core Services Fee; and        2. Table C-1 in clause 2.1.2 is modified as follows:   [DRAFTER TO INSERT TABLE]   * + 1. For the second stage of the PIP (**[INSERT STAGE (STATE PERIOD)]**) the modifications are:        1. the At-Risk Amount during this stage of the PIP is **[INSERT PERCENTAGE]**% of the Core Services Fee; and        2. Table C-1 in clause 2.1.2 is modified as follows:   **[DRAFTER TO INSERT TABLE]** |