



Contract Considerations for an IS Rating

Guidance by Proponents for Proponents

13 September 2024



Purpose, Acknowledgements, and Guidance on using this document

Purpose

- This guidance document has been developed to support Proponents in the process of setting the contract related requirements for an IS Rating.
- It has been developed based on the experience of larger Design and As-Built (D&AB) projects, and many aspects will apply to other Rating types.
- It has been developed by the Proponent Technical Working Group (TWG) for Proponents.
- The use of the document is optional.

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- Australian Rail Track Corporation (ARTC) Inland Rail
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- North East Link Program (NELP)
- Main Roads Western Australia
- Major Road Projects Victoria (MRPV)
- Sydney Metro
- Transport for NSW
- Waka Kotahi New Zealand Transport Agency

Guidance on using this document

- This guidance has been created to assist Proponents set the requirements for an IS Rating, and the ISC is not responsible for its usage.
- Use of this document does not guarantee verification.
- Should there be any discrepancies between the IS Technical Manual(s) and this guidance document, the Technical Manual overrules any other sources.

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GLOSSARY

Acronym / Term	Definition
BAU	Business as Usual
Client	See Proponent
IS	Infrastructure Sustainability
IS Rating	The IS Rating Scheme (IS) is Australia and New Zealand's only comprehensive rating system for evaluating economic, social, and environmental performance of infrastructure across the planning, design, construction, and operational phases of infrastructure assets.
ISC	Infrastructure Sustainability Council, also known as the IS Council
IS Project Manager	An ISC staff member assigned to the project or asset during the Registration stage of the rating process. The IS Project Manager is the first point of contact for the Assessor and provides support to the Assessor throughout the rating process.
KPI	Key Performance Indicator
Materiality Assessment	A compulsory first step in the IS Rating process and identifies the most important (material) sustainability issues for infrastructure projects and assets, and results in an adjustment to the default credit scores within the IS Rating Tool to focus the tool on delivering outcomes in the context of the project or asset
Principal	See Proponent
Proponent	The key person or organisation responsible for the infrastructure project or asset - also referred to as Client, Principal.
RFP	Request for Proposal
ROI	Registration of Interest
Specified	Included in project specifications or similar documentation prepared by or on behalf of Proponents
TWG	Technical Working Group
Weightings Assessment	See Materiality Assessment

Introduction

With an increased focus on sustainability across Australia and New Zealand, the value proposition and benefits of achieving an Infrastructure Sustainability Rating (IS) from the Infrastructure Sustainability Council (ISC) are as strong as ever.

The ISC has reported¹ that IS Ratings are projected to deliver a minimum of \$1.6 in benefit for every \$1 of cost over the period 2020-2040. This is in addition to the sustainable outcomes that are more intangible, such as the benefits of open space, health outcomes, and human capital development.

Once a decision has been made to seek an IS Rating on a project, the most effective way for a Proponent (Client organisation) to ensure that the rating is achieved is to include relevant requirements within its contract with the project design and delivery Contractor.

With the scope of projects varying in size, location, timing, asset type, and delivery model, there is no one-size-fits-all approach to setting the requirements for an IS Rating. However, a common theme is the need to start planning for Rating implementation as early as possible in the project life cycle. Undertaking an IS Planning Rating and using the ISC planning support services can help with this.

This document provides guidance from Proponents to Proponents on what works (and what doesn't), delivers an overview of the advantages and disadvantages of three main contracting approaches, and includes suggested principles for the development of contract requirements.

Note, this guidance has been based on the experience of larger scale Design and As-Built (D&AB) Ratings, but many aspects can be equally applied to smaller D&AB projects, as well as projects undertaking an IS Planning Rating or IS Operations Rating.

Guidance – “from Proponents for Proponents”

What Works and What Doesn't

There is a significant opportunity within the infrastructure industry to ensure that all projects deliver sustainable outcomes.

Major infrastructure projects can provide an opportunity to leverage investment to target specific outcomes for sustainability. Proponents often have the luxury of focusing beyond individual projects, considering a portfolio or pipeline of projects to generate outcomes that benefit multiple aspects of sustainability. When leveraging the IS Rating Tool as a mechanism to achieve sustainability outcomes, it is essential to consider how an IS Rating is specified in a contract so that outcome expectations are met.

Ultimately, Proponents should be clear about how much control they want to have in the IS Rating process, what they want to achieve, and how to communicate this to Contractors. Providing precise direction through organisational policy and specifications on how to plan and implement an IS Rating clearly and consistently are solid first steps.

As an industry, more can be done to ensure Contractors focus on outcomes, address specific sustainability targets, and deliver long-lasting impacts. Lack of clarity can leave intended objectives open to interpretation, increasing the risk of the Contractor deviating from critical goals.

However, there are times when a more flexible approach is warranted. There may be times when a Proponent is certain that a particular issue is important but uncertain about the solution. Being too prescriptive with contract requirements in such a scenario risks poor project and sustainability outcomes, as the Contractor may not have sufficient flexibility in a prescribed pathway to achieve the desired outcomes or have control over where these outcomes impact. Finding the right balance between prescribing requirements and providing flexibility is a crucial challenge when setting the

¹ https://www.iscouncil.org/wp-content/uploads/2021/08/ISCA_Exec_Summary_F3.pdf, accessed 6 October 2023

requirements for an IS Rating. This is particularly important if a target score is set. Proponents must determine whether a specific Infrastructure Sustainability Rating score is the desired outcome or if they require a particular set of sustainability outputs as a project outcome.



Proponents have a role in preparing and managing contracts and developing project-specific supporting processes and collateral that will assist the Contractor in achieving the required IS Rating.

Proponents have found the following issues challenging when setting the requirements for an IS Rating:

- Proponent lack of understanding of the IS Rating and its value in driving sustainability outcomes
- Not being clear on the scope and boundaries of the infrastructure project undertaking the IS Rating – under different contractual models.
- Not seeking ISC support during the initial stages of a project
- Not representing the Proponent organisation's sustainability requirements and ambitions in Request For Proposal and Tender Evaluation processes
- Unclear or contradictory contract wording
- Using the IS Rating score as a key performance indicator (KPI)
- Not clearly defining roles and responsibilities (for example, who signs the Ratings Agreement – Proponent or Contractor?)
- No clear sustainability resourcing requirements
- Lack of deadlines for IS Rating milestones.

Table 1 (below) provides suggestions for avoiding and managing these issues, developed by Proponents for Proponents based on actual experience. Not all points may be relevant to every project, and additional considerations may be needed based on the specific project or infrastructure type. Suggestions relate both to the contract itself and to supporting processes/documents the Proponent may develop.

Table 1: Setting the requirements for IS Ratings: Issues and Lessons Learned / Suggested Alternative

Issue(s)	Lesson learned / Suggested Alternative	Within Contract	Supporting Processes
<p><i>Lack of understanding of the IS Rating by a Proponent.</i></p> <p>Proponents should ensure a good level of understanding of IS Ratings within their own organisation when specifying IS Ratings in contract documents and specifications. A lack of knowledge of the rating process and framework can lead to poorly worded clauses in contract documents, failure to achieve desired sustainability outcomes, and contract disputes during project design and delivery. The contract and delivery model type may also impact the level of sustainability ambition and how an IS Rating is specified.</p>	<ul style="list-style-type: none"> • Explicitly specify the required sustainability outcomes, which may be driven by various factors such as Government directives or corporate responsibility initiatives. • Clearly articulate the commitment to the ISC and the IS Rating Scheme, ideally publicly, so it becomes a 'must have' rather than a 'nice to have'. • Support any IS Rating commitment with specifications or guidance material setting out the implementation framework, including eligibility criteria, roles and responsibilities, 'must have' credits, credit levels, and award levels. • Work with all Proponent teams (planning, procurement, transaction, design, and delivery) to set sustainability expectations early on, making contract inclusions and tender evaluation easier. • Be an informed and collaborative Proponent – in some cases, driving sustainable outcomes may require input and flexibility. • Allocate an internal ISAP accredited sustainability resource to provide oversight of sustainability and assist the delivery Contractors in driving sustainability outcomes. • Collect and access project data for sustainability reporting and benchmarking. • Provide Contractors with templates, frameworks, and guidelines to ensure clarity, consistency, and reduce documentation burden. For example, consider developing a Greenhouse Gas tool and guideline and a Climate Change Risk Assessment Framework and Risk Register template, to give Contractors a clear methodology and a range of risks and mitigations to tailor to the project. 		

Issue(s)	Lesson learned / Suggested Alternative	Within Contract	Supporting Processes
<p><i>Not being clear on the scope and boundaries of the infrastructure project undertaking the IS Rating – under different contractual models.</i></p> <p>Lack of clarity confuses all parties and may lead to disputes at later stages.</p> <p>Scenarios that make the scope of work more complex include:</p> <ul style="list-style-type: none"> • Separation of design and construction activities and teams • Small packages of work – should they be excluded or included? How will that be communicated to stakeholders? • Design scope delivery by multiple construction Contractors, resulting in the division of a single Design rating into several As-Built ratings OR combining several design packages into a single construction contract, resulting in multiple Design ratings combining into a single As-Built rating • Different geographic locations for parts of the contract/project/program, resulting in varying material sustainability impacts or issues. 	<ul style="list-style-type: none"> • Clearly communicate to construction Contractors which aspects of the Rating are their responsibility and clarify which aspects are inherited from the Design rating and which aspects need to be repeated for the As-Built rating. • Be consistent and clear within the contract documentation and supporting materials on what is included in the IS Rating scope and boundary and what is excluded e.g. small packages of work • Be consistent and clear within the contract documentation and supporting materials on Roles and Responsibilities for delivering the various phases of the IS Rating(s) e.g. when there is a different team undertaking the As-Built Rating (from the Design rating) and delays between the two have occurred. Or when combining multiple Design ratings (undertaken by different teams) into a single As-Built Rating. • For long linear infrastructure projects, such as railways, the Weightings/Materiality Assessment considers the worst-case scenario for each credit. This can mean a high noise impact weighting even when only a single dwelling is affected over several hundred kilometres of railway. • An experienced Infrastructure Sustainability Accredited Professional (ISAP) or Independent Sustainability Professional (ISP) may be able to provide valuable guidance when establishing delivery models and contractual requirements for delivery of ratings. 	✓	✓
<p><i>Not seeking ISC support during the initial stages of a project.</i></p> <p>Not engaging with the ISC during the initial stages of a project (including planning) could lead to early errors, such as applying an inappropriate rating type and version for the project's scope and context and the Proponent's desired level of ambition. Such errors could result in costly changes later in planning or design phases.</p>	<ul style="list-style-type: none"> • Actively engage with the ISC early in the project to ensure a smooth project rating. Communicate project plans, timings, or milestones to ensure appropriate resource allocation. Ideally, establish the IS Rating agreement as early as possible. 	✓	✓

Issue(s)	Lesson learned / Suggested Alternative	Within Contract	Supporting Processes
<p><i>Not representing the Proponent organisation's sustainability requirements and ambitions in Request For Proposal and Tender Evaluation processes.</i></p>	<ul style="list-style-type: none"> • Develop standard clauses for inclusion in procurement documents, including for ROI/RFP, to establish consistency across all projects. • Require a minimum score to set a minimum standard and consider stretch targets that encourage good Contractors to go further. Contract mechanisms such as 'bid backs' or 'priced options' may enable tenderers to showcase their sustainability innovations or initiatives. • Recommend that Business-As-Usual (BAU) Assumptions and Materiality Assessment are agreed upfront (and pre-verified by the ISC) so there is a level playing field for tenders. 	✓	
<p><i>Unclear or contradictory contract wording.</i></p> <p>There is a tendency to summarise or simplify IS Rating Technical Manual requirements for the sake of succinct contract or specification wording. Exercise caution, as doing so may result in unclear and/or contradictory language in project documentation, leading to unnecessary conflict or confusion later.</p>	<ul style="list-style-type: none"> • Develop a clear scope of works, sustainability objectives and targets, incorporating a strategy for their achievement. Secure commitment and responsibility from the Executive or Leadership team for delivering the strategy's objectives and targets, to empower leadership and facilitate implementation from the top down. For example, consider creating a Sustainability Strategy with quarterly reporting to the Leadership team. • Incorporate the IS Rating into the overall project sustainability requirements. This ensures communication of important issues and priority project credits to the market and that project targets align with the IS Rating credit requirements. When there is only a need to undertake an IS Rating, ensure project teams focus on outcomes rather than becoming overly engrossed in documentation. 	✓	✓
<p><i>Using the IS Rating score as a KPI.</i></p> <p>Be careful when employing an IS Rating score as a key performance indicator (KPI) in projects that adopt this method of contract performance assessment. Monetary risks and rewards are often associated with KPIs, and the focus tends to shift from broader sustainability outcomes to solely achieving the highest IS Rating score.</p>	<ul style="list-style-type: none"> • Establish specific performance levels for sustainability targets to help prioritise objectives. • Focus on outcomes when setting targets and use the IS Rating solely for result verification. Emphasising outcomes ensures that the IS Rating Tool is used as a supporting element for broader monitoring and measurement. This approach requires supporting data for benchmarking the targets. • Be cautious when defining elements and language for targets or outcomes in contract documentation. Overly broad definitions may lead to a diversion from key priorities. 	✓	
<p><i>Not clearly defining roles and responsibilities.</i></p>	<ul style="list-style-type: none"> • Develop a clear methodology to deliver sustainability across the project or program of works. Designate responsibilities (Proponent 	✓	✓

Issue(s)	Lesson learned / Suggested Alternative	Within Contract	Supporting Processes
<p>A good knowledge of the IS Rating by Proponents ensures that roles and responsibilities are clearly understood and defined and, therefore, reflected in contract documentation. Not clearly defining responsibilities upfront could lead to issues at later project stages.</p>	<p>or Contractor) for information, task delivery, and other processes that contribute to individual credits or the entire IS Rating – use a credit mapping process to assist. For example, consider creating an easily includable sustainability requirements specification for contracts.</p>		
<p><i>No clear sustainability resourcing requirements.</i></p> <p>For example, the project Environment Manager should not also be the Sustainability Manager. Both jobs require a full-time, experienced professional.</p>	<ul style="list-style-type: none"> Specify minimum years of experience as an ISAP or other desirable attributes for sustainability professionals delivering an IS Rating. Consider market conditions and transferrable skillsets when incorporating this element. 	✓	
<p><i>Lack of deadlines for IS Rating milestones.</i></p> <p>Not setting timeframes or deadlines by which IS Ratings must be certified could lead to a blowout in the delivery timeline. Consider when Ratings need to be verified and how this aligns with the broader project program.</p>	<ul style="list-style-type: none"> Mandate regular reporting (such as monthly or quarterly) to ensure that the Contractor is collecting evidence for an IS Rating submission. Align the reporting frequency with typical project reporting. As a minimum, the report should identify targeted credits, responsible parties, progress against credit achievement, and any risks or opportunities related to credit attainment. Set timeframes, milestones, or other criteria (such as a percentage of information available or deadlines) for submissions or certifications. This includes allowing a rating submission before practical completion. For example, by or before 100% Design or Practical Completion. Avoid unnecessary extensions in the submission and verification process, as the demobilisation of personnel poses a risk to submission content. Ensure the complete submission is accessible to the Proponent for monitoring, review, and future data retrieval. Consider Management review of submissions when establishing IS Rating deadlines. 	✓	

The Prescriptive, Flexible and Hybrid Approaches

As described in previous sections, many factors inform the best way to embed IS Rating requirements into a project contract. Three main approaches and their associated advantages and disadvantages are as follows:

A. Prescriptive approach

This details what is required, such as the rating award level, credits to be achieved, by whom, and by when. The advantage of a prescriptive approach is that it provides clarity and certainty to the Contractor from the outset, which assists with pricing, resourcing, and risk management. The disadvantage is that it may end up as a tick-box exercise or may limit opportunities unique to the project.

B. Flexible approach

This is where the Contractor is mainly responsible for achieving the required rating. The advantage of a flexible approach is that it allows Proponents to be hands off, which is beneficial if there are limited internal resources coupled with an **experienced** Contractor undertaking rating delivery. The disadvantage is that there is limited timeframe certainty from the outset and credit selection may focus on the 'easy wins' to gain points rather than pushing beyond business-as-usual (BAU). This approach may also prove challenging for a Contractor who is either under-resourced or inexperienced in delivering IS ratings.

C. Hybrid approach

This is a mix of prescriptive and flexible approaches developed on a 'best-for-Proponent-and-project' basis. The advantage of a hybrid approach is that award level, credit selection, and delivery of the rating can align with a Proponent's overarching sustainability priorities, capability, and what is best for the project. The flexibility element still leaves sufficient room for the Contractor to apply their own experience and innovation, allowing the Proponent to be involved. The disadvantage is that it offers less certainty from the outset, making it more difficult to price and resource.

Principles and examples for developing contract requirements – by approach

Contracting IS Ratings can take various forms, depending on a prescriptive, flexible, or hybrid approach. It is important to recognise that achieving sustainability outcomes involves many aspects that are not mandatory for attaining the IS Rating. However, these aspects support implementation and are often regarded as best practices for Proponents.

For example, Proponents may wish to specify the requirements for sustainability management systems, plans, and other deliverables such as opportunity analyses. Proponents can outline how sustainability integrates into other aspects of project delivery, such as specific governance requirements, construction programs, sustainability in design processes, and knowledge sharing. Proponents may also wish to specify key personnel and minimum qualifications over and above an ISAP.

In addition, there may be other sustainability requirements, depending on industry, sector, and government policy, such as recycled content, specific materials, social procurement, and requirements that result from Statutory and legal processes.

These additional requirements are not detailed here but must be considered by Proponents when developing contract clauses.

Prescriptive Approach

This approach provides a detailed outline of the necessary information, including the project type and value, rating award level, credits to be achieved, responsible parties, and deadlines. Note, the prescriptive approach is to be undertaken on a project by project basis to ensure requirements and targets are appropriate for the given context.

The following table (Table 2) provides typical requirements and examples [not exhaustive].

Table 2: Prescriptive Approach – Contract requirements to be considered with examples

Requirement	Example
Which party will enter into the IS Rating Agreement, and which party is responsible for delivering the rating	The Contractor acknowledges that the Principal [has/has not] entered into the ISC Rating Agreement for the Project, and the [Principal/Contractor] will pay all IS Rating Scheme fees to the ISC.
The rating and minimum score	The Contractor must achieve, at minimum, a score of ## [('Silver')] under the IS Rating Scheme for both the certified 'Design' and 'As-Built' Rating across all Works.
The version of the tool to be adopted	The Contractor must adopt [Version 2.1] of the IS [Design and As-Built] Rating Tool.
Adoption of any pre-prepared materials and the process for seeking approval to amend or update. Items to consider: <ul style="list-style-type: none"> • Risk and opportunity registers • Climate change risk registers • Weightings/Materiality Assessment / score card 	The Contractor must adopt [the materiality scores in the Scorecard provided by the Principal. Changes to the materiality scores are subject to approval by the Principal].
The Proponent's procedures that must be followed	The Contractor must adopt the Principal's [Climate Change Risk Management Procedure]
Engagement with the ISC	<p>The Contractor must invite the Proponent to [all meetings] with the ISC.</p> <p>The Contractor must hold a kick-off meeting within [x] months of contract award.</p> <p>The Contractor must hold regular meetings with the ISC for the duration of works [and must hold specific meetings to review the base case proposal and Weightings/Materiality Assessment.]</p>
General actions to deliver the IS Rating	<p>The Contractor must undertake all tasks necessary to achieve the certified IS [Design & As-Built] Rating, including the:</p> <ul style="list-style-type: none"> • Submission and verification of the IS Materiality Assessment; • Development, submission, and verification of the base case proposal form; • Development and submission of credit interpretation requests and technical clarifications, as necessary; • Development, submission, and verification of the IS [Design Rating] for the Works; and • Development, submission, and verification of the IS [As-Built Rating] for the Works; <p>The responsibility for achieving the IS Rating rests with the Contractor, irrespective of the source of the evidence. Some evidentiary requirements for IS Rating scheme credits may be provided by the Principal and other organisations. The Contractor must review and confirm suitability of documentation provided by the Principal and Third Parties in meeting IS Rating scheme requirements.</p>
Process and timing for submission of information to the Proponent and to the ISC	<p><i>#The following would be adjusted depending on the Proponent's willingness to review and oversee the ratings process#</i></p> <p>The Contractor must:</p>

Requirement	Example										
	<ul style="list-style-type: none"> • Provide the draft IS Weightings/Materiality Assessment and base case proposal form to the Principal for review and comment prior to their submission to the ISC; • Provide the Principal with all credit interpretation requests and technical clarifications to be submitted to the ISC; • Submit to the Principal for review the complete assessment submissions for the IS Design Rating as soon as practicable after completion of all IFC Documents; • Submit the IS Design Rating to the ISC once the IS Design Rating has been reviewed by the Principal; • Submit to the Principal for review the complete assessment submissions for the IS As-Built Rating; • Finalise the certification of the IS As-Built Rating with the ISC as a condition precedent to Close-out; • Make available to the Principal all information relating to the Works required to achieve the IS Rating, including the IS Rating credit summary reports, supporting information, technical clarifications, and credit interpretation requests; and • Provide in a timely manner any further information as requested by the ISC. 										
Relevant clauses from the IS Ratings Agreement	<i>#This will depend on whether the Principal or Contractor enters into the Agreement#</i>										
The nominated credits and credit levels	<p>The Contractor must achieve the minimum credits and associated levels as outlined in ####</p> <table> <tr> <th>Credit</th><th>Level</th></tr> <tr> <td>Lea-1</td><td>Level #</td></tr> <tr> <td>Lea-2</td><td>Level #</td></tr> <tr> <td>Lea-3</td><td>Level #</td></tr> <tr> <td>Etc...</td><td></td></tr> </table>	Credit	Level	Lea-1	Level #	Lea-2	Level #	Lea-3	Level #	Etc...	
Credit	Level										
Lea-1	Level #										
Lea-2	Level #										
Lea-3	Level #										
Etc...											
<p>Other requirements that may be considered, for example:</p> <ul style="list-style-type: none"> • Sustainability Management Systems • Resourcing • Reporting • Specific targets such as concrete carbon intensity, recycled content, renewable energy procurement, etc. 	<p>Example for resourcing:</p> <p>The Contractor must appoint a full-time Sustainability Manager who must:</p> <ul style="list-style-type: none"> • Have sufficient and relevant experience in the design and construction of infrastructure or buildings; • Fulfil the role of the ‘Assessor’; • Be an Infrastructure Sustainability Accredited Professional (ISAP) • Be responsible for meeting the Project’s sustainability requirements, including knowledge sharing, monitoring, and reporting requirements. <p>[The Contractor must appoint a Sustainability Coordinator who must have sufficient and relevant experience].</p> <p>[The Lead Designer must nominate a Sustainability Representative to ensure the design requirements set out in [the Contract], include design responses to ...address climate change risks.]</p> <p>[The Contractor must appoint a suitably qualified person with sufficient experience in the development of resource models.]</p> <p>Example for reporting:</p>										

Requirement	Example
	<p>The Contractor must submit the following as part of the [Monthly Progress Report]:</p> <ul style="list-style-type: none"> • An update on progress made towards achieving each of the Project's sustainability requirements, key milestones, and activities; • Key risks and opportunities associated with meeting sustainability requirements and milestones; • [A graphical summary of progress towards achieving all quantitative targets;] <p>[A data report to demonstrate the achievement of quantitative targets, that uses [Proponent's requirements/template]]</p> <p>Example for renewable energy supply: Where mains/grid electricity is procured [x%] must be from a [x%] renewable energy tariff [with/without] offsets.</p>

Flexible Approach

This approach involves achieving a rating with the Contractor primarily responsible for implementation. The following table (Table 3) provides typical requirements and examples [not exhaustive].

Table 3: Flexible Approach – Contract requirements to be considered with examples

Requirement	Example
Which party will enter into the IS Rating Agreement and which party is responsible for delivering the rating	The Contractor must enter into the ISC Rating Agreement for the Project and must pay all IS Rating Scheme fees to the ISC.
The rating and minimum score	The Contractor must achieve, at minimum, a score of ## ['Silver']) under the IS Rating Scheme for both the certified 'Design' and 'As-Built' Rating across all Works;
The version of the tool to be adopted	The Contractor must adopt [Version 2.1] of the IS [Design and As-Built] Rating Tool.

Hybrid Approach

The hybrid mix of prescriptive and flexible approaches is developed based on what best suits the Proponent and the project. Unlike a purely prescriptive approach, a hybrid approach incorporates some prescriptive requirements but places greater emphasis on the targeted IS Rating score. Alternatively, it may involve specifying only key credits and levels while retaining all other requirements.



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